

50/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 174/2004.....

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SECTION OFFICER (Judl.)

*Kahli*  
10.11.17

FORM NO. 6  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUJARATI BENCH

ORDER NO. 2

Org. App/..... Petn/Cont. Petn/Rew. App..... 174/04.....

In O.A.

Name of the Applicant(s) Ponitosh Das Gupta

Name of the Respondent(s) H.O.I. 90MS

Advocate for the Applicant B.M. Sarma, A.D. Chandan  
D.N. Bhattacharya  
Counsel for the Railway/C.G.S.C.

OFFICE NO.	DATE
206/112215	11.8.2004
Date 5.8.04	
<i>ASR</i> Dy. Registrar	

ORDER OF THE TRIBUNAL

Heard Mr.B.M.Sarma, learned counsel for the applicant.  
The application is admitted, call for the record, returnable by four weeks List for orders on 13.9.2004.

*KV Prahadan*  
Member (A)

Steps taken with  
envelopes.

13.9.04

bb

None for the applicant. Mr A.B. Roy, learned Sr.C.G.S.C seeks four weeks time to file written statement. Stand over to 3.11.04 for order.

*KV Prahadan*  
Member

*R*  
Vice-Chairman

pg

Notice & order dt. 11/8/04,  
sent to D/Section for  
issuing to resp. Nos.  
1 to 4, by regd. with  
A/D post.

*CCS*  
16/8/04.

3.11.04. Present: Hon'ble Mr.R.K. Batta,  
Vice-Chairman.

Hon'ble Mr.K.V.Prahadan, Administra-  
tive Member.

None for the applicant. Mr. A.B. Roy, Sr.C.G.S.C. seeks 8 weeks time to file written statement. Stand over to 6th January, 2005 for filing written statement.

*KV Prahadan*  
Member

*R*  
Vice-Chairman

2-11-05

1/ S/R. awaiting.  
2/ No. A/S has been filed.

06.01.2005 None present for the parties.  
List on 14.2.2005 for hearing.

*KV Pillai*  
Member (A)

mb

14.2.2005 None appears. List on 16.2.2005  
before Division Bench.

*SG*  
Member (J)

mb

16.2.2005

None appears for the parties.  
A perusal of the order sheets  
dated 6.1.2005 as well as  
14.2.2005 shows that none appeared  
even on the said dates. Hence  
under Rule 15(1) of the Central  
Administrative Tribunal  
(Procedure) Rules, 1987 we reserve  
for orders.

*KV Pillai*  
Member (J)

11.2.05

Written Statement  
filed by the Resps.

nkm

15.6.2005

Judgment delivered in open Court  
kept in separate sheets. The applica-  
tion is dismissed. No order as to  
costs.

*KV Pillai*  
Member (A)

Member (J)

pg

20.6.05  
Copy of the  
Judgst has been  
sent to the Applic.  
for issuing the  
time to the Applic  
as well as to the  
Resps No. 2 & 3 by  
Post.  
*JKH*

CENTRAL ADMINISTRATIVE TRIBUNAL ::GUWAHATI BENCH.

O.A. No 174 of 2004.

DATE OF DECISION: 15-6-2005 •

Shri Paritosh Dasgupta

APPLICANT(S)

None present for the applicant

ADVOCATE FOR THE  
APPLICANT(S)

- VERSUS -

U.O.I. & Ors.

RESPONDENT(S)

None present for the respondents.

ADVOCATE FOR THE  
RESPONDENT(S)

THE HON'BLE MR M.K.GUPTA, JUDICIAL MEMBER

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

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the judgment?

4. Whether the judgment is to be circulated to the other Benches?

Judgment delivered by Hon'ble Administrative Member.

**CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.**

Original Application No.174 of 2004.

Date of Order : This the 15th Day of June 2005.

**THE HON'BLE MR M.K. GUPTA, JUDICIAL MEMBER.**

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

Sri Paritosh Dasgupta  
Son of Late Phanindra Bhusan Dasgupta,  
Resident of Banamali (Deultilia) Road,  
Ward No.14, P.O. P.S. and dist. Karimganj, Assam ...Applicant

None present for the applicant.

**- Versus -**

1. Union of India,  
Represented by the Secretary to the  
Govt. of India,  
Ministry of Communications,  
New Delhi.
2. The Director of Postal Services,  
Dibrugarh Region, Dibrugarh,  
Assam -786001.
3. The Senior Superintendent of Post Offices,  
Dept. of Posts, Cachar Division,  
Silchar-788001.
4. The Postmaster,  
Karimganj Head Post Office,  
Karimganj.

None present for the respondents.

## **ORDER (ORAL)**

**K.V.PRAHLADAN MEMBER(A)**

The applicant was initially appointed as a Postal Assistant and then as a Ledger Clerk in the sub post office Savings Bank (SOSB) Branch of Karimganj Head Post Office from 1.4.1995 to 7.4.1995 and 17.4.1995 to 15.5.1995. While working as Ledger Clerk he was issued a Memo No.F1-3/96-97/DA/VIII dated 1.7.2002 by the respondent No.3. The memo was on the action to be initiated against the applicant under Rule 16 of CCS (CCA) Rules, 1965. The statement of

Imputation of misconduct on which action was proposed to be taken was also annexed to the above memorandum. The imputation of misconduct was that when he was working as a Ledger Clerk on the dates mentioned above he failed to call for the savings bank pass books of Bidyanagar EDBO (in account with Anipur SO under Karimganj HO) for verification of balances and entry of interest after 31<sup>st</sup> March. This failure on his part enable the Branch Post Master, Bidyanagar EDBO to commit a fraud to the extent of Rs.1,15,445.38. The applicant had acted in violation of the provisions of Rule 74 and 75 of the POSB Manual Vol I. The applicant has claimed that he had called for all pass books of Bidyanagar EDBO (in account with Anipur SO under Karimganj HO) where there were transactions after 31<sup>st</sup> March. He was claimed that this was the practice adopted to call for only those Pass Books where transactions were taken place after March 31<sup>st</sup>. This Rule 74 and 75 of POSB stipulates that Pass Books are not required to be called for verification of balance before 30<sup>th</sup> June. The applicant says that the fraud was committed from 1992-96 and was apparently detected in 1996. The respondents took action against all officials who had worked for April to June during the period for violation of rule 74 and 75 of the POSB Manual. The applicant says that the respondents had not explained why the penalty of Rs.9000/- was imposed on him. The applicant claims that the impugned order dated 2.9.2002 and 6.10.2003 are patently illegal and unconstitutional.

2. The respondents claimed that the Branch Post Master, Bidyanagar EDBO accepted cash deposits entered the amount in pass books of the depositors with his initials and rubber stamp of the BO and returned those pass books to the depositors. These amount were not entered and deposited into the Government account and neither entries were made in the relevant record of Branch office. The respondents alleged that the applicant failed to call for and verify the pass books of the Bidyanagar EDBO. Had he done so the fraud committed could have been detected. The applicant working as Ledger Clerk also did not maintain

*bwd*

savings bank and the prescribed register as required under the rules. His failure lead to the loss of Government money.

3. None appeared either for the applicant or for the respondents. We have gone through the materials produced before us. As per Rule 75(3) of the POSB Vol.I (Annexure-1) which reads as under :

"To monitor whether the Branch Offices have actually sent all the pass books to the Head Office, the Head Post Office should maintain a register of accounts standing open at each Branch Post Office and use it for checking the receipt of pass books at the Head Office. From 1<sup>st</sup> April onward each Ledger Assistant should maintain a register of accounts of the Branch Offices in the charge. [One register may contain particulars of accounts of several Branch Post Offices. The register in manuscript will be maintained in the following form

No.	No. of A/C	Date of receipt of pass book	Initials of Ledger Asstt./APM	Date of receipt of pass book	Initials of Ledger Asstt./APM
1	2	3	4	5	6

"The 3<sup>rd</sup> and 4<sup>th</sup> columns of the register should be repeated for a number of years according to the space available in the register. Thus, one register can be used for a minimum period of 5 years. As and when any pass book is received from the Branch P.O from 1<sup>st</sup> April onwards, the date of receipt will be noted] in column 3 and initials put in column 4. The register should be scrutinized on 20<sup>th</sup> July. The absence of any entry [in column 3 and 4] will indicate the non-receipt of the pass book and the HPO for entry of interest. The number of all such accounts should be listed and action taken to obtain the pass books through the Sub Divisional Inspectors when the pass books of these accounts are received at the H.O., interest will be posted in them and columns [3 and 4] of the register of accounts of Branch Offices referred to above completed".

The Special Error Book is a vital document to monitor daily and verify the pass books for any discrepancy or irregularity. The respondents has claimed without being rebutted that the applicant was not maintaining the Special Error Book. It becomes clear on a reading of Rule 75 of POSB that the successful completion of the entire sequence of events from receipt of pass books at the Head Office to the furnishing of certificates to the Heads of Circles by the Divisional Superintendents depend on the efficiency and sincerity with which the register of Accounts is maintained by the Ledger Assistant.

Rule 75(ii) says that :

"The Branch Postmaster should collect the pass books of all savings account which were not presented for transaction by 30<sup>th</sup> June of the year and send them to the Head Office through the Account Office with a list in duplicate for entry of interest by 15<sup>th</sup> July at the latest."

The applicant interprets Rule 75(ii) to state that there is no stipulation to call for pass books prior to 30<sup>th</sup> June. A close reading of the Rule 75 will show that 30<sup>th</sup> June is the limit set for the Branch Post Master to collect the pass books. The Ledger Assistant who is to maintain the Register of Accounts should have called for pass books every day starting with 1<sup>st</sup> April. The role of any official in charge of any accounts register is to keep all postings current and not wait till last moment. Rule 75 does not say that an official should let work pile up till 30<sup>th</sup> June. It depends on the integrity and efficiency of the implementing official to make any organization efficient. The applicant himself has claimed that posting in the ledger was going on for the months January and February when the applicant was a ledger clerk at sub office savings bank of Karimganj Head Post Office. The respondents has also claimed that the applicant did not maintain records like the Special Error Book and accounts Register. This contention of the respondent have never been refuted by the applicant. The duties and responsibilities of the Ledger Assistant is elaborated in 74(3) as under :

*lend*

"If any transaction is noticed by the ledger Assistant to have taken place in an account at a time-scale and its BO in account after 31<sup>st</sup> March and the pass book has not been received and its not submission is not suitably explained (vide sub rule (2) above) he should note the fact in the special Error Book maintained in the following form :

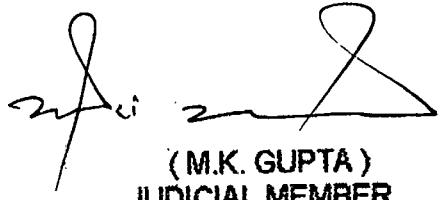
Name of Sub Office	Number of Account	Date of transaction	Date of call	Date & No. of registered letter sent to Depositor	Initials of P.M	Date of receipt of the Pass Book	Initials of P.M
1	2	3	4	5	6	7	8

"The SPM should be asked to obtain and submit the pass book within a week and a copy thereof should be sent to the Superintendent for noticing the irregularity. If the SPM has not started submitting the pass books then the irregularity may be noted as a general one. If the pass book is still not received, the HO should address the depositor by registered post in the proforma given below. Particulars will be noted in column 5 of the Error Book against the account concerned."

Annual interest was not credited in the pass books for the years 1989-90 to 1995-96, which covered the period when the applicant was posted as Ledger Clerk. Thus the negligence of the applicant contributed to the fraud committed by the BPM, Bidyanagar. His failure to act in the fact of an affirmative duty to act was an example of clear misconduct in office. The applicant did not follow the procedures laid down in POSB 75 in a timely manner, failed to maintain records and registers and thus it was an example of misconduct in performing the Government duty. We therefore, see no reason to interfere with the punishment awarded to the applicant. The application is therefore liable to be dismissed and stands dismissed accordingly.

No order as to costs.

KV Prahladan  
(K.V.PRAHLADAN)  
ADMINISTRATIVE MEMBER

  
(M.K. GUPTA)  
JUDICIAL MEMBER

-9 AUG 2004

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

ORIGINAL APPLICATION NO. 174 /2004

Sri Paritosh Dasgupta, ---Applicant.

-Versus-

Union of India and Ors --- Respondents

Synopsis of the case

- The applicant was initially appointed as Postal Assistant.
- He Was assigned the duty of Ledger Clerk-I in S.O.SB ( Sub Office Savings Bank) Branch of Karimganj Head Post Office during the period from 01-4-1995 to 07-4-1995, 17-4-1995 to 10-5-1995 and 13-5-1995 to 15-5-1995.
- One of his duties was that of making entries of interest in the Pass Books. The procedure of making such entry is laid down in Rules 74 and 75 of the POSB(Postal Office Savings Bank) Manual Vol. 1. (ANNEXURE:- I, Pages-14 to 17 )
- On 1/7/2002 vide Memorandum issued under Memo No.F1-3/96-97/DA/VIII dated 1-7-2002 by the Respondent No.3 the applicant was informed that the authority concerned proposes to take action against the applicant under Rule 16 of CCS (CCA) Rules, 1965.
- Along with the said Memorandum, the statement of the imputation of misconduct or misbehavior on which action was proposed to be taken, was also forwarded and the applicant was given an opportunity to make representation against the proposal. (ANNEXURE: II, Pages 18 &19)
- The allegation was that the applicant while working as Ledger Clerk-I of S.O.S.B. Branch during the period from 01-4-1995 to 07-4-1995, 17-4-1995 to 10-5-1995 and 13-5-1995 to 15-5-1995 failed to call for the S.B. Pass Books of Bidyanagar E.D.B.O (in a/c with Anipur S.O. under Karimganj H.P.O)for verification of balances and entry of interest after 31<sup>st</sup> March and as such the E.D.B.P.M., Bidyanagar E.D.B.O thereby got the scope to commit SB/RD fraud unchecked involving loss to the extent of Rs.1,15,445.38 in settlement of the claims of the defrauded depositors etc. The applicant was therefore considered to have acted in

a manner violating the provisions of Rule 74 and Rule 75 of P.O.S.B. Manual Vol.1 and also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 3 (1) (i) (ii) of C.C.S (Conduct) Rules 1964 and as such was responsible for the loss of the Government money.

- The accounts in which transactions were held after 31<sup>st</sup> March, were noted by the applicant in a Special Error Book maintained in the Branch. It was duly verified and thereafter signed by the Supervisor and once in a week checked by the Post Master.
- It is the usual practice adopted and has also become a convention in the Department that only those Passbooks of SO's and BO's are called for verification and for adding interest in which transactions take place and accordingly in the case in hand all the pass books where there were transactions after 31<sup>st</sup> March were called for.
- The other pass books, which are not received for entry of interest by the 30<sup>th</sup> June, Rule 75 of the P.O.S.B. Manual Vol.1 lays down the procedures to be followed. The applicant in compliance with the aforesaid procedures discharged his duty..
- In most of the accounts of Bidyanagar B.O. in a/c with Anipur S.O in which fraud was stated to be committed, there were no transactions after 31<sup>st</sup> March.
- Furthermore, the Postmaster Karimganj HPO himself admitted the fact of maintenance of Special Error Books in SOSB Branch when he intimated the Divisional Office vide his letter No. D1/BDN/EDBO dated 9-5-2000 about misplacement of the Special Error Book that was maintained in those relevant periods.
- The applicant narrating the aforesaid facts submitted his reply on 15-7-2002 before the respondent No. 3 praying for absolving the applicant from all the charges.(ANNEXURE:- III, Pages- 20& 21)
- That thereafter, the respondent No.3 vide order issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 came to the purported conclusion that the violation of Rule 75 by the applicant stood proved and accordingly ordered for punishment of recovery

of a sum of Rs.9000/- from the pay and allowances of the applicant in 30 monthly installments @Rs.300/- per month commencing from the pay bill of September 2002.(ANNEXURE: -IV, Pages-22 &23 )

- The interpretation of the concerned respondent of Rule 75 of the P.O.S.B. Manual Vol.1 is that each and every pass book of SB A/cs is to be called for verification of balances after 31<sup>st</sup> March, each year irrespective of there having any transactions or not is apparently not correct interpretation.
- As per the Rule 75 of the P.O.S.B. Manual Vol.1 the pass books are to be deposited by the depositors themselves for interest posting once in a year and when the depositors fail to produce the pass books at least once within a year for interest posting by the 30<sup>th</sup> June, then Rule 75 lays down the procedure. As such, Rule 75 does not stipulate that prior to 30<sup>th</sup> June, the SB Pass books are required to be called for verification of balances. The aforesaid stipulation as laid down in Rule 75 was not considered by the Respondent No.3, while passing the impugned order.
- The respondent No.3 failed to consider the fact that the date of posting in ledger in SOSB branch was in arrears and at the time of when the applicant was rendering his service as ledger Clerk, posting was going on for the month of January and February of that relevant year and the said fact would be clear if the relevant returns submitted by SOSB branch to SB Cachar Branch is sought for by this Hon'ble Tribunal.
- That the alleged fraud was committed during the period from 1992 to 1996 and was stated to be detected in 1996. The authorities arbitrarily took a particular period from April to June of each year and charged the officers who served during that period alleging violations of Rules 74 and 75.
- That no reason has been assigned as to why the applicant was imposed with the punishment of recovery of a sum of Rs.9000/-

- That being aggrieved by impugned order dated 2-9-2002, the applicant preferred an appeal before the Respondent No.2 on 2/11/2002. (ANNEXURE:- V, Pages 24-26 )
- That the respondent No.2 vide order issued under Memo. No. Staff/2/24-7/03/RP dated 6-10-2003 confirmed the punishment order issued by the respondent No.3 (ANNEXURE:- VI, Pages 27-29)
- Being aggrieved by such action of the respondents, the applicant has preferred this instant application under Section 19 of the Administrative Tribunals Act, 1985 before this Hon'ble Tribunal with a prayer to:

  - Set aside and quash the impugned orders issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 by the Sr. Supdt. Of Post Offices, Cachar Dt. Silchar -788001 (Annexure IV) and Memo No. Staff/2/24-7/03/RP dated 6-10-2003 by the Respondent No. 2(Annexure -VI ) respectively.

- As an interim measure the applicant prays for:

  - Stay the operation of the impugned orders issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 and Memo No. Staff/2/24-7/03/RP dated 6-10-2003 by the Respondent No.3 and 2 respectively during the pendency of the Original Application)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

ORIGINAL APPLICATION NO. 174 /2004

Shri Paritosh Dasgupta --Applicant

-VERSUS-

Union of India & ors --Respondents

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- 9 AUG 2004

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNALS ACT, 1985

ORIGINAL APPLICATION NO. 174 /2004

Sri Paritosh Dasgupta, S/o of Late Phanindra Bhushan  
Dasgupta resident of Banamali (Deulitilla) Road,  
Ward No.14, P.O., P.S. and District:- Karimganj, Assam-  
788710---Applicant.

-Versus-

1. Union of India, represented by the Ministry of Communications, New Delhi.
2. The Director of Postal Services, Dibrugarh Region, Dibrugarh, Assam.-786001.
3. The Senior Superintendent of Post Offices, Deptt of Posts, Cachar Division Silchar-788 001
4. The Postmaster, Karimganj Head Post Office, Karimganj.

----Respondents.

DETAILS OF THE APPLICATION:-

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

That the instant application is preferred against the arbitrary, illegal and discriminatory action meted out to the applicant by the respondent authorities, particularly by the Respondent No. 3 namely the Senior Superintendent of Post Offices, Cachar Division Silchar vide impugned Order

Paritosh Dasgupta  
through Ami Dew Chhunay, Adv.

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Paritosh Dasgupta

issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 awarding the punishment of recovery of a sum of Rs.9000/- from the pay and allowances of the applicant in 30 monthly installments @Rs.300/- per month commencing from pay bill of September 2002 and the impugned Appellate Order issued under Memo No. Staff/2/24-7/03/PP dated 6-10-2003 by the respondent No.2 namely the Director of Postal Services, Dibrugarh Region, Dibrugarh confirming the award of punishment issued by the Respondent No.3.

## 2. JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter regarding which the applicant seeks redressal is within the jurisdiction of this Hon'ble Tribunal.

## 3. LIMITATION

The instant application is within the period of limitation.

## 4. FACTS OF THE CASE

1. That the applicant is a citizen of India and a permanent resident of India residing at the address shown in the cause title and as such is entitled to all the rights and protections guaranteed under the Constitution of India and the laws framed thereunder. The applicant is presently serving as a Postal Assistant, Karimganj Head Post office.
2. That the applicant who was initially appointed as Postal Assistant was assigned the duty of Ledger Clerk-I in S.O.SB ( Sub Office Savings Bank) Branch of Karimganj Head Post Office during the period from 01-4-1995 to 07-4-1995, 17-4-1995 to 10-5-1995 and 13-5-1995 to 15-5-1995.
3. That the applicant states that one of the functions which are required to be discharged by a Ledger clerk-I is that of making entries of interest in the Pass Books. The procedure of making such entry is laid down in Rules 74

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and 75 of the POSB (Postal Office Savings Bank) Manual Vol. 1. The applicant in accordance with the said procedures discharged his duties while serving as Ledger Clerk-I in S.O.SB Branch of Karimganj Head Post Office.

Extract of Rules 74 and 75 of the POSB Manual Vol 1 is annexed hereto and marked as **ANNEXURE:- I** (4 sheets)

4. That after about more than 7 years, to the utter surprise of the applicant, he was served upon a Memorandum issued under Memo No.F1-3/96-97/DA/VIII dated 1-7-2002 by the Respondent No.3, whereby the applicant was informed that the authority concerned proposes to take action against the applicant under Rule 16 of CCS (CCA) Rules, 1965. Along with the said Memorandum, the statement of the imputation of misconduct or misbehavior on which action was proposed to be taken, was also forwarded to the applicant and by the said Memorandum the applicant was given an opportunity to make such representation as he may wish to make against the proposal.

Copy of the Memorandum issued under Memo No.F1-3/96-97/DA/VIII dated 1-7-2002 is annexed hereto and marked as **ANNEXURE:- II**

5. That the allegation as stated in the statement of the imputation of misconduct or misbehavior was that the applicant while working as Ledger Clerk-I of S.O.S.B. Branch during the period from 01-4-1995 to 07-4-1995, 17-4-1995 to 10-5-1995 and 13-5-1995 to 15-5-1995 failed to call for the S.B. Pass Books of Bidyanagar E.D.B.O (in a/c with Anipur S.O. under Karimganj H.P.O) for verification of balances and entry of interest after 31<sup>st</sup> March and as such the E.D.B.P.M., Bidyanagar E.D.B.O thereby got the scope to commit

Paritosh Dasgupta

Paritosh Deshpande

SB/RD' fraud unchecked involving loss to the extent of Rs.1,15,445.39 in settlement of the claims of the defrauded depositors etc. The applicant was therefore considered to have acted in a manner violating the provisions of Rule 74 and Rule 75 of P.O.S.B. Manual Vol.1 and also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 3 (1) (i) (ii) of C.C.S (Conduct) Rules 1964 and as such was responsible for the loss of the Government money.

6. That the applicant states that from a bare perusal of the statement of the imputation of misconduct or misbehavior, it is apparent that the same suffers from glaring errors and omissions and the same is based on no evidence and the allegations are made in disregard of and by overlooking material facts.

7. That the applicant states that the allegations brought against the applicant are not maintainable in as much as the applicant had discharged his duties maintaining all formalities and norms of the department. Furthermore, the allegation to the effect that the applicant during the period from 01-4-1995 to 07-4-1995, 17-4-1995 to 10-5-1995 and 13-5-1995 to 15-5-1995 failed to call for the S.B. Pass Books of Bidyanagar E.D.B.O (in a/c with Anipur S.O. under Karimganj H.P.O) for verification of balances and entry of interest after 31<sup>st</sup> March is not tenable in as much as all the accounts in which transactions were held after 31<sup>st</sup> March, were noted by the applicant in a Special Error Book maintained in the Branch, which were duly verified and thereafter signed by the Supervisor i.e., Assistant Postal Manager and once in a week checked by the Post Master. It be stated herein that it is the usual practice adopted and has also become a convention in the Department that

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Paritosh Dangat

only those Passbooks of S.O's and B.O's are called for verification and for adding interest in which transactions take place and accordingly in the case in

hand all the pass books where there were transactions after 31<sup>st</sup> March were

74/32  
called for. With regard to other pass books, which are not received for entry of interest by the 30<sup>th</sup> June, Rule 75 of the P.O.S.B. Manual Vol.1 lays down the procedures to be followed. The applicant in compliance with the aforesaid procedures discharged his duty and as such the allegations brought against the applicant are untenable. It is relevant to state herein that in most of the accounts of Bidyanagar B.O. in a/c with Anipur S.O in which fraud was stated to be committed, there were no transactions after 31<sup>st</sup> March. Furthermore, the Postmaster Karimganj HPO himself admitted the fact of maintenance of Special Error Books in SOSB Branch when he intimated the Divisional Office vide his letter No. D1/BDN/EDBO dated 9-5-2000 about misplacement of the Special Error Book that was maintained in those relevant periods.

8. That the applicant narrating the aforesaid facts submitted his reply on 15-7-2002 before the respondent No. 3 praying for absolving the applicant from all the charges.

Copy of the reply dated 15-7-2002 is annexed hereto and marked as ANNEXURE: - III

9. That the applicant states that the respondent No.3 vide order issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 in a most illegal and whimsical manner and without application of mind came to the purported conclusion that the violation of Rule 75 by the applicant stood proved and accordingly ordered for punishment of recovery of a sum of Rs.9000/- from

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Paritosh  
Dasgupta

the pay and allowances of the applicant in 30 monthly installments @Rs.300/- per month commencing from the pay bill of September 2002.

Copy of the order issued vide Memo No. F1-3/96-

97/DA/VIII dt'd. 2-9-2002 is annexed hereto and marked

**as ANNEXURE:-IV**

10. That the applicant begs to state and submit that the impugned order issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 is liable to be set aside and quashed as the same is based on conjectures and speculation. It is the settled principle of law that inferences from the evidence and circumstances must be carefully distinguished from conjectures and speculation, however in the instant case the respondent authorities having failed to distinguish the same caused grave prejudice to the applicant.

11. That the applicant states that the interpretation of the concerned respondent of Rule 75 of the P.O.S.B. Manual Vol.1 is that each and every pass book of SB A/cs is to be called for verification of balances after 31<sup>st</sup> March, each year irrespective of there having any transactions or not. Such an interpretation is apparently not correct interpretation. The aforesaid interpretation being inconsistent with the Scheme of the Rules in as much as Rule 75 of the P.O.S.B. Manual Vol.1 does not stipulate any such procedures, the conviction imposed on the applicant on the basis of the erroneous interpretation of 75 of the P.O.S.B. Manual Vol.1 is liable to be set aside and quashed.

12. That the applicant submits that the Rule 75 of the P.O.S.B. Manual Vol.1 contemplates two scenario. The pass books are to be deposited by the depositors themselves for interest posting once in a year and when the

N<sub>7</sub>

depositors fail to produce the pass books at least once within a year for interest posting by the 30<sup>th</sup> June, then Rule 75 lays down the procedure. As such, Rule 75 does not stipulate that prior to 30<sup>th</sup> June, the SB Pass books are required to be called for verification of balances. The aforesaid stipulation as laid down in Rule 75 was not considered by the Respondent No.3, while passing the impugned order, and therefore the impugned order issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 is liable to be set aside and quashed.

13. That the impugned order dated 2-9-2002 was passed in total disregard of the materials facts in as much as the respondent No.3 failed to consider the fact that the date of posting in ledger in SOSB branch was in arrears and at the time of when the applicant was rendering his service as ledger Clerk, posting was going on for the month of January and February of that relevant year and the said fact would be clear if the relevant returns submitted by SOSB branch to SB Cachar Branch is sought for by this Hon'ble Tribunal.

14. That the applicant states that the alleged fraud was committed during the period from 1992 to 1996 and was stated to be detected in 1996. The authorities arbitrarily took a particular period from April to June of each year and charged the officers who served during that period alleging violations of Rules 74 and 75. The aforesaid action of the authorities is based on no sound rationale and the said arbitrary criterion has been adopted with a motive to shift the blame. Furthermore, no reason has been assigned as to why the applicant was imposed with the punishment of recovery of a sum of Rs.9000/- and as such the impugned order dated 2-9-2002 is liable to be set aside and quashed.

16. That being aggrieved by the aforesaid illegal and arbitrary action on the part of the respondent No.3 in passing the impugned order dated 2-9-2002, the applicant preferred an appeal before the Respondent No.2.

Copy of the Appeal Memorandum dated 2-11-2002 is annexed hereto and marked as ANNEXURE:- V

16. That the applicant states that the respondent No.2 vide order issued under Memo No. Staff/2/24-7/03/RP dated 6-10-2003 in an absolutely illegal manner and without application of mind confirmed the punishment order issued by the respondent No.3

Copy of the order issued under Memo No. Staff/2/24-7/03/RP dated 6-10-2003 is annexed hereto and marked as ANNEXURE:- VI

#### **5. GROUNDS FOR RELIEF WITH LEGAL PROVISION**

A) For that the attendant facts and circumstances of the case clearly demonstrate a casual disregard to the principle of service jurisprudence and natural justice by the respondent authorities, which are fundamental in conducting any departmental proceeding. That apart, the impugned orders being vitiated by malafide exercise of power also suffers from malice in fact as well as malice in law and in that view of the matter the impugned orders are patently illegal, unconstitutional and as such the impugned orders issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 and Memo No. Staff/2/24-7/03/RP dated 6-10-2003 by the Respondent No.3 and 2 respectively are liable to be set aside and quashed.

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B) For that the respondent authorities passed the impugned orders issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 and Memo No. Staff/2/24-7/03/RP dated 6-10-2003 on the basis of no evidence and solely on the basis of conjectures and surmises and as such the impugned orders dated 2-9-2002 and dated 6-10-2003 issued by the Respondent No.3 and 2 respectively are liable to be set aside and quashed.

C) For that the impugned orders issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 and Memo No. Staff/2/24-7/03/RP dated 6-10-2003 by the Respondent No.3 and 2 respectively are liable to be set aside and quashed as the same are based on conjectures and speculation. It is the settled principle of law that inference from the evidence and circumstances must be carefully distinguished from conjectures and speculation, however, in the instant case the respondent authorities having failed to distinguish the same caused grave prejudice to the applicant.

D) For that the respondent authorities erred in interpreting Rule 75 of the P.O.S.B. Manual Vol.1 to mean that each and every pass books of SB A/cs is to be called for verification of balances after 31<sup>st</sup> March, each year irrespective of there having any transactions or not. The aforesaid interpretation being untenable in as much as Rule 75 of the P.O.S.B. Manual Vol.1 does not stipulate any such procedures, the conviction imposed on the applicant on the basis of the erroneous interpretation of 75 of the P.O.S.B. Manual Vol.1 is liable to be set aside and quashed.

E) For that Rules 75 of the P.O.S.B. Manual Vol.1 contemplates two scenario. The pass books are to be deposited by the depositors themselves for interest posting once in a year and when the depositors fail to produce the

pass books at least once within a year for interest posting by the 30<sup>th</sup> June, then Rule 75 lays down the procedure. As such, Rule 75 does not stipulate that prior to 30<sup>th</sup> June, the SB Pass books are required to be called for for verification of balances. The aforesaid stipulation as laid down in Rule 75 not having been considered by the Respondents, the impugned orders issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 and Memo No. Staff/2/24-7/03/RP dated 6-10-2003 by the Respondent No.3 and 2 respectively are liable to be set aside and quashed.

F) For that the alleged fraud was committed during the period from 1992 to 1996 and was stated to be detected in 1996. However, the authorities arbitrarily took a particular period from April to June of each year and charged the officers who served during that period for violating Rules 74 and 75. The aforesaid action of the authorities is based on no sound rationale and the said arbitrary criterion has been adopted with a motive to shift the blame. Furthermore, no reason has been assigned as to why the applicant was imposed with the punishment of recovery of a sum of Rs.9000/- and in view of the aforesaid illegalities, the impugned order issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 and Memo No. Staff/2/24-7/03/RP dated 6-10-2003 by the Respondent No.3 and 2 respectively are liable to be set aside and quashed.

G) For that in the facts and circumstances of the case the penalty imposed is too severe, excessive and not warranted and as such the impugned orders issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 and Memo No. Staff/2/24-7/03/RP dated 6-10-2003 by the Respondent No.3 and 2 respectively are liable to be set aside and quashed.

Dangrepan

Paritosh

H) For that in any view of the matter the impugned orders issued under Memo No.

F1-3/96-97/DA/VIII dated 2-9-2002 and Memo No. Staff/2/24-7/03/RP dated 6-10-2003 by the Respondent No.3 and 2 respectively are liable to be set aside and quashed.

**6. DETAILS OF REMEDIES EXHAUSTED:-**

The applicant preferred an appeal before the respondent No.2 as per the CCS(CCA) Rules 1965.

**7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT OR TRIBUNAL**

The applicant declares that the subject matters of this application are not pending before any court of law, any other authority or any other branch of the Hon'ble Tribunal.

**8. RELIEF SOUGHTS**

That in the premises aforesaid, the applicant prays that Your Honour may be pleased to call for the records, issue notices on the respondents to show cause as to why the impugned orders issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 and Memo No. Staff/2/24-7/03/RP dated 6-10-2003 by the Respondent No.3 and 2 respectively shall not be set aside and quashed and upon hearing the parties may be pleased to set aside and quash the impugned orders issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 and Memo No. Staff/2/24-7/03/RP dated 6-10-2003 by the Respondent Nos.3 and 2 respectively and/or pass such further or other order(s) as Your

Paritosh Dasgupta

Lordships may deem fit and proper in the facts and circumstances of the case.

**9. INTERIM ORDER IF ANY PRAYED FOR:-**

That the applicant prays that this Hon'ble Tribunal may be pleased to stay the operation of the impugned orders issued under Memo No. F1-3/96-97/DA/VIII dated 2-9-2002 and Memo No. Staff/2/24-7/03/RP dated 6-10-2003 by the Respondent No.3 and 2 respectively during the pendency of this application and/or pass such further or other order(s) as Your Honour may deem fit and proper in the facts and circumstances of the case.

**10. DETAILS OF I.P.O**

No. of I.P.O 20 & 112715

Name of the issuing Post office:- G.P.O. Guwahati

Date of issuing Postal Orders:- 5-08-04

Post office at which payable:- Guwahati

**11. LIST OF ENCLOSURES:-** As per Index.

### VERIFICATION

I, Sri Paritosh Dasgupta, S/o of Late Phanindra Bhusan Dasgupta, aged about 47 years, resident of Banamali (Deulitilla) Road, Ward No.14, P.O., P.S. and District:- Karimganj, Assam-788710, do hereby declare and verify as under:

1. That I am the petitioner of the instant petitioner and as such I am well aware of the facts and circumstances of the case.
2. That the statements made in the accompanying petition at para 1, 2, 3, 4(1, 2) 4(5, 6, 7) 4(10, 11, 12, 13, 14), 4(6, 7 and 8 are true to my knowledge and belief and those made in paras 4(3) 4(4), 4(8) 4(9) 4(15, 16) and 9 being matters of records I verily believe those to be true and the rests are my humble submissions before the Hon'ble Tribunal.

And in verification whereof, I sign this verification today dtd. 9th August, 2012 at Guwahati.

Paritosh Dasgupta

Signature

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**ANNEXURE -I**

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(7) If during examination of the interest calculations the SBCO detects mistakes in more than 5% of the amounts checked in each binder, the binder will be returned to the HO for getting the calculations of all the amounts rechecked by the ledger assistant who had previously calculated the interest.

(8) The rechecked binder will be sent to the incharge, SBCO for test check in order to see that the rechecking by the ledger assistant has been done satisfactorily. If during the course of test check, the incharge SBCO finds more than 5% mistakes in the rechecked binder irrespective of the number of accounts in it, the incharge admissible for the calculation of interest for his binder will be disallowed to the ledger assistant due to unsatisfactory performance of the work. The incharge, SBCO will get the binder rechecked 100% by the UDC of SBCO.

**ENTRY OF INTEREST IN PASS BOOKS IN HEAD OFFICES AND TIME SCALE SUB OFFICES  
AND THEIR BRANCH OFFICES**

(1) In HOs the first time a pass book is presented after the 31st March for any purpose the amount of interest should be entered in the pass book in the same manner as in the ledger card striking the revised balance to the credit of the depositor. The pass book should then be placed with the ledger card before the Postmaster who should verify the entry of interest and resultant balance in the pass book with the entry in the ledger card and put his dated initials in the ledger card and the pass book in token of having carried out this check. The pass book should then be returned with as little delay as possible to the person who presented it.

(2) In time scale SOs, the first time a pass book is presented after the 31st of March, whether it is presented for any purpose, the account bears interest or not, the SPM should retain the pass book and give the depositor a receipt for it in form SB-28 except in cases where depositor expresses his inability in which case he should be requested to give it in writing stating the balance to his credit. The statement should be sent to the HO with a suitable remark in the List of Transactions against the particular entry. The SPM will be held personally responsible for the observance of this rule. The pass books taken from the depositors should be entered in a list along with the pass books to be prepared in triplicate. Two copies of the list along with the pass books should be sent to HO by first mail invoiced in the list of documents. Similarly the Sub Office will receive Pass Books for entry of interest which will be entered in the list in duplicate from the Branch Offices in account with it. These lists along with the Pass Books will be forwarded to Head Office entered in the list of documents. No objection should be raised to receiving or repaying deposits pending the entry of interest, but after the last entry of the year one line should be left blank for the entry of interest before making the entry of transaction in the next line, leaving the balance column blank, as for time scale sub-offices it will be noted by the Ledger Assistant of the HO after making the entry of interest.

(3) If any transaction is noticed by the ledger Assistant to have taken place in an account at a time-scale and its BO in account after 31st March and the pass book has not been received and its non-submission is not satisfactorily explained (vide sub rule (2) above) he should note the fact in the special Error Book maintained in the following form:

Postmaster के आधार	Name of Sub Office	Number of Account	Date of transaction	Date of call registered letter sent to depositor	Initials of P.M. of the Pass Book	Date of receipt	Initials of P.M.
8	1	2	3	4	5	6	7

The SPM should be asked to obtain and submit the pass book within a week and a copy thereof should be sent to the Superintendent for noticing the irregularity. If the SPM has not started submitting the pass books then the irregularity may be noted as a general one. If the pass book is still not received, the HO should address the depositor by registered post in the proforma given below. Particulars will be noted in column 5 of the Error Book against the account concerned. The Superintendent of Post Offices will take serious notice of the irregularity. Care should be taken to see that the address on the registered letter is complete. The special error book will be

**CERTIFIED TO BE TRUE**

Advocate

From

## The Postmaster

To

Shri.....

No.....Dated.....

Dear Sir,

Pass Book of your Savings Account No....., from which a deposit/wididrawal of Rs.....,was made.....,was not received for addition of interest. Kindly send the pass book for inspection and addition of interest. If nothing is heard from you within a fortnight, the balance of Rs.....,shown in the HO ledger in respect of the above noted Savings account will be taken as correct and the post office will not be responsible for any discrepancy. A self addresses service cover on which no postage is necessary is enclosed for a reply.

भद्रदीय  
पौस्टमास्टर

Yours faithfully,  
Postmaster

#### VERIFICATION OF BALANCES

35. Verification of balances of accounts standing at Branch Offices, the pass books of which are not received for interest posting in the Head Post Office. (i) Receipt of the pass book at the Head Post Office at least once a year for posting of interest in respect of savings accounts at Branch Offices is necessary. In respect of pass books which are not received for entry of interest by the 30th June at these Offices, the following procedure will be followed in collecting them from the depositors.

लिए प्रस्तुत नहीं किए गए। (ii) The Branch Postmasters should collect the pass books of all savings accounts which were not presented for transaction by 30th June of the year and send them to the Head Office through the Account Office with a list in duplicates for entry of interest by 15th July at the latest.

राधान डाकघर के (iii) To monitor whether the Branch Offices have actually sent all the pass books to the Head Office, the शुल्कों के प्राप्ति में Head Post Office should maintain a register of accounts standing open at each Branch Post Office and use it for डाकघरों के खाते checking the receipt of pass books at the Head Office. From 1st April onward each Ledger Assistant should maintain a register of accounts of the Branch Offices in his charge. One register may contain particulars of accounts of several Branch Post Offices. The register in manuscript will be maintained in the following form:—  
 Name of Branch Office ..... Name of the A/c office ..... year 19 ..... 19 ..... year 19 ..... 19 .....

No.	No. of A/C	Date of receipt of pass book	Initials of Ledger Asstt./APM.	Date of receipt of pass book	Initials of Ledger Asstt./APM.
ब्र सहायक/ स्टमास्टर के याक्षर	2	3	4	5	6
6					

the 3rd and 4th columns of the register should be repeated for a number of years according to the space available in the register. Thus, one register can be used for a minimum period of 5 years. As and when any pass book is received from the Branch P.O. on 1st April onwards, the date of receipt will be noted in column 3 and the date of receipt will be noted in column 3 and 4 will indicate the non-receipt of the pass book and the HPO for entry of interest. The number of all such accounts should be listed and action taken to obtain the pass books through the Sub Divisional Inspectors when the pass books of these accounts are received at the H.O., interest will be posted in them and columns 3 and 4 of the register of accounts of Branch Offices referred to above completed.

(iv) For preparing the register of accounts of Branch Offices at the H.O., the following procedure will be followed by the Branch Post Offices.

Each Branch Postmaster should prepare a list in duplicate in the following form showing the number of each

and every account standing at his office, sign it and forward it to the H.O. through his Account Office:

Sl. No.	Savings Account Number
1	
2	

Signature of the Branch Postmaster

टार के हस्ताक्षर The Sub Postmaster of the Account Office will check the list to ensure that the Branch Postmaster has not omitted to include in the list any account of his office. Certify that the list is complete under his signature and forward one copy to the Head Office, keeping the other copy as office record.

तथा दूसरी प्रति (v) The Head Post Office, with reference to the lists of accounts received from the sub offices, will prepare register of accounts standing at each branch office as mentioned in para (iii). After the existing accounts are entered in the register, it should be kept upto date by entering the number of new accounts opened or accounts received by transfer. Entries of numbers of accounts closed or transferred to other post offices should be deleted.

तरित, बंद होने वालों की संख्या (vi) The work of preparation of the list of accounts by the Branch Postmaster, its checking by the Sub Postmaster of the Account Office and preparation of Branch Office-wise register of accounts by Head Office is "one time" Job. Once the register is prepared by Head Office on the basis of the lists, the Head Office has only to keep it up-to-date as and when new accounts are opened and accounts are transferred, closed etc.

जांच का काम (vii) The Divisional Supdts. should furnish a certificate to the Heads of Circles by 30th September that the work of verification of balance in respect of all accounts in the manner prescribed has been duly completed. The Divisional Supdts. should be held responsible for carrying out this important check by the post offices under their control.

(viii) The Heads of Circles will furnish a completion certificate of this work to the Directorate in a quarterly report.

Note:— In selection grade and gazetted sub post offices, procedures as outlined above will be followed.

(2) Verification of balances of accounts of Departmental Single Handed Sub Post Offices the pass books of which are not received for interest posting in the H.Os.

धान डाकघर में (i) The balances in the pass books in respect of accounts standing at single handed Departmental Sub Post Offices which are not received in the Head Office for posting of interest by 30th June should be verified. For this purpose about 20 to 25 selected accounts of each such office will be verified. In the month of July every year, the Head Office will prepare a list of accounts of each sub office the pass books of which have not been received for posting of interest. The lists will be sent to the Inspector of Post Offices/SBDOs concerned for verification of balances. The following procedure will be followed for preparing these lists.

नाकित आद्यक्षर योजना की प्रविधि (ii) When interest is added in the pass book, the Postmaster puts his dated initials in the ledger card against the entry of interest. The ledger cards which do not bear the initials of the Postmaster against the entry of interest will relate to those accounts the pass books of which have not been received for the entry of interest. Each Ledger Assistant will pick out such accounts of these sub offices from the binders in which the interest has been posted in the pass books. He will prepare the list in duplicate for each office separately in the following

Name of sub office.....

Sl. No.	A/C No.	Balance as in the Pass Book.	Date of last transaction	Result of Verification	Remarks
6	2	3	4	5	6

संबंधित नियमिक (iii) Each list will be signed by the Postmaster, column (3) to (5) of the list will be left blank to be filled

(iv) These lists will be prepared on honorarium basis by the ledger Assistant in the Head Post Offices.

(v) On receipt of the lists the Inspector of Post Offices/SBDO will select at random 15 accounts from this list at the time of Inspection/visit of the sub office. He will prepare the statement in duplicate in the following form.

Sl. No.	Account No.	D.L.T.	Balance as per last transaction in the SB Ledger	Remarks.
1	2	3	4	5

He will then contact the depositor of each of these 15 accounts personally and verify whether the date of last transaction and the balance shown in the pass books agree with the entries in the list. If any of the depositors are not available, he will record the fact in his inspection list note. He will prepare notice in form (SB-46) and have the same delivered personally at the address of the depositor along with the service cover addressed to the Postmaster. He will indicate this in the remarks column of the list received from the Head Office against the account concerned. A remark should also be made about the notice issued in the statement to be sent to the Head Office so that the Head Office should watch the reply and verify the balance noted in the reply with that in the ledger card. One copy of statement prepared will be sent to the Head Office by registered post for verification with records and for intimating the result of verification.

(vi) If nobody is available at the address in respect of the notice to be delivered in form (SB-46), this should be sent through the mail overseer when he visits the office next.

(vii) In addition to checks prescribed above, a complete verification of all accounts standing open in one or two single-handed departmental sub offices under each head office should be carried out every year. For this purpose, every Divisional Supdt. of Post Offices shall select one or two single-handed sub offices in each year at random in the first week of August. The Head Office will prepare a complete list of accounts whose pass books have not been received in the Head Office for entry of interest even after the lapse of 3 months after pass books are called for interest posting. From the list prepared, the Postmaster should issue notice in form SB-46 to the depositors by registered post. Service reply covers should be enclosed for reply confirming/objection to the ledger balance shown in the notices. The Divisional Supdt. should watch that this action is taken by the Head Offices in the concerned Division. If no reply is received from the depositor in response to the notice issued, no further action is to be taken as the onus of reply to the notice SB-46 rests with depositor. The result of this verification in respect of these accounts the replies of which have been received from the depositors should be intimated to the Divisional Superintendent by the Head Office who will in turn send a special report on the result in respect of each head office to the Circle Office.

(viii) Postmaster will submit a report to the effect that the lists have been duly prepared by the Head Office and sent to the Inspector of Post Offices/SBCO. The Divisional Superintendent who will in turn furnish a certificate of compliance to the circle office by the end of July each year.

(ix) The Heads of Circles will furnish a certificate of compliance to the Directorate in a quarterly report.

**EXAMINATION OF AND ENTRY OF INTEREST IN PASS BOOKS RECEIVED IN HO'S FROM TIME SCALE  
SUB AND THEIR BRANCH OFFICES**

(a) (1) The balance in the pass book should be compared with the ledger balance at the time of posting of interest. The interest should be added in the pass book and if there are any balances relating to transactions before the 31st March to be entered in the pass book, they should be entered by the Head Office before the pass book is returned to the SO/BO. The pass book should then be put up to the Postmaster alongwith the list of transactions and the ledger card. The Postmaster should himself compare the last balance entered in the pass book by the Sub or branch Postmaster with the corresponding balance in the ledger card, initial the pass book and the ledger card in token of having made this comparison. The Postmaster should carefully see whether there are any suspicious erasures or alterations in any of the entries in the pass book since their last examination in the HO. The pass book should after check by the Postmaster be made over the ledger Assistant.

DEPARTMENT OF POSTS: INDIA  
OFFICE OF THE SR. SUPDT. OF POST OFFICES;  
CAUCHAR DIVISION, SLECHAR-788 001.

Memorandum No. F1-3 /96-97/DA/VIII

Dated at Silchar the 1-7-2002

MEMORANDUM

Sri Paritosh Dasgupta, P/A Karimganj H.O. is hereby informed that it is proposed to take action against him under Rule 16 of CCS (CCA) Rules, 1965. A Statement of the imputation of misconduct or misbehaviour on which action is proposed to be taken as mentioned above, is enclosed.

2 Sri Paritosh Dasgupta P/A Karinganj H.O is hereby given an opportunity to make such representation as he may wish to make against the proposal.

3. If Shri Paritosh Dasgupta P/A Karimganj H.O fails to submit his representation within 10 days of the receipt of this memorandum it will be presumed that he has no representation to make and orders will be liable to be passed against Sri Paritosh Dasgupta ex parte.

501-

( J.K. BARBHUIYA )  
Sr. Supdt. of Post Offices,  
Cachar Dn: Silchar-788 001

Regd. A/I:-

Sri Paritosh Dasgupta ,  
P/A Karimganj H.O

Copy to:-

1. Vigilance file.
2. Personal file
3. ASP(HQ)
4. Spare.

Sr. Supdt. Of Post Offices,  
Cachar Dist:Silchar-788 001

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Statement of the imputation of misconduct or misbehaviour on which action is proposed to be taken against Sri Paritosh Dasgupta, PA Karimganj H.O.

Sri Paritosh Dasgupta , PA , Karimganj HO , while working as such in the share of L.C.-I of SOSB Branch of Karimganj HO during the period from 1-04-95 to 7-04-95 , 17-04-95 to 10-05-95 , 13-05-95 and 15-05-95 had failed to call for the SB Passbooks of Bidyanagar EDBO (in account with Anipur SO under Karimganj HO) for verification of balances and entry of interest after 31<sup>st</sup> March . The EDBPM , Bidyanagar EDBO thereby got the scope to commit SB/RD fraud unchecked involving loss of this Deptt to the extent of Rs.1,15,445.38 in settlement of the claims of the defrauded depositors etc.

Sri Paritosh Dasgupta , PA , Karimganj HO is therefore considered to have acted in a manner violating the provisions of Rules 74 and 75 of the POSB Manual Vol I . Thereby said Sri Paritosh Dasgupta is also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 3(1)(i)(ii) of CCS(Conduct) Rules , 1964 and as such responsible for the loss of the Govt money as mentioned above .

## ANNEXURE - III

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To The Senior Superintendent of P.O's.  
Cachar Division, Silchar-1.

Through proper channel.

Sub:- Humbly reply of Charge- sheet.

Ref:- Your No. F1-8/96-97/DA/VIII add. Silchar  
• The 1/7/02.

Reverend Sir,

Most humbly and respectfully I say  
before you the following few lines for favour of your  
kind consideration.

That,

I have been held responsible while doing the duty  
of Ledger Clerk-I in S.O. S.B. Branch of Xaringanj  
H.P.O. from 01-4-95 to 07-4-95, 17/4/95 to 10/5/95,  
and 13/5/95 to 15/5/95 for non calling of S.B. Pass Books  
for verification of balance and entry of Interest after  
31st March, violating Rule 74, 75 of S.B. Manual Vol-I  
and as result loss of Govt. money of Rs. 1,15,445.38.

In reply I have something to say:-

That, i) While working as L.C-I in S.O.S.B Branch  
of Xaringanj H.P.O. I performed my duty maintaining  
all formalities and norms of the department.

ii) All the a/c's in which transactions were held  
after 31st March, noted their number in special  
error book maintained in the branch, which was  
daily signed by the supervisor i.e. APM and once  
in week used to check by the Postmaster himself.

iii) Pass Books of S.O's and B.O's are called for  
verification and adding of Interest, especially  
those in which transactions were held after 31st March  
even long before completion of calculation of  
interest as the interest used to complete in July  
every year.

iv) In most of the a/c's of Baidyanagar B.O. in  
all with Arupur S.O. in which fraud was stated to be  
committed, transactions did not held after 31st  
March when I worked in S.O.S.B Branch. So far  
I re-collect on this day even after long 6 years.

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Advoca.t

The Postmaster, Xerimangal HPO himself admitted the fact of maintenance of special error book in SO SB Branch when he intimated divisional office Vizie his no - DS/BDN/EDBO dtl 9/5/00 that the special error book was misplaced which proof that special error book was maintained in these periods.

Hence question of maintaining the Rule 74 & 75 not at all arise in case of me and therefore request before you to free me of the charge as no fault of mine.

Dated, Xerimangal  
The 15th July 2002.

Yours faithfully,  
Panjorh Danguta  
P/A, Xerimangal HPO.

D. B. Danguta

## ANNEXURE - IV

22

DEPARTMENT OF POSTS INDIA:  
OFFICE OF THE SENIOR SUPDT. OF POST OFFICES  
CACHAR DIVISION : SILCHAR - 788 001

Memo No. F1-3/96-97/DA/VIII

Dated at Silchar the 2-09-2002

In this office memo of even No. dated 1-7-02 Shri Paritosh Das Gupta P/A of Karimganj H.O. was informed that it was proposed to take action against him under Rule 16 of the CCS(CCA) Rules, 1965 on the basis of the statement of imputation of misconduct or misbehaviour enclosed thereto which is enclosed herewith in Annexure "A".

In the aforesaid memo dated 1-7-02 Shri Paritosh Das Gupta was given an opportunity to make such representation as he might have wished to make against the proposal within 10 days of receipt of the said memo dated 1-7-02

Above memo was received by said shri Paritosh Das Gupta on 3-07-02 and in his application dated 12-7-02, he prayed to allow him another 10 days time for preparation and submission of his representation, which was granted and he submitted the written representation of his defence under his letter dated 15-7-02, which is enclosed herewith in Annexure "B"

I have gone through the above representation submitted by the above official along with the statement of imputation of misconduct or misbehavior framed against him as mentioned in para 1 above very carefully and given due consideration it deserves.

In his representation dated 15-7-02 Sri Das Gupta stated that he had noted the numbers of the SB a/cs in which there were transactions after March but Pass Books were not received and that such Pass Books were called for verification of balance and posting of interest Rule 75 of the PO SB Manual Vol. I provides for calling/collection of each and every pass books of SB A/cs for verification of balances after 31<sup>st</sup> March, each year irrespective of having any transaction or not. But the charged official has admitted in his above representation that he called for the SB Pass Books only in which there were transactions after 31<sup>st</sup> March i.e. he had failed to call for all the SB Pass Books for verification of balances after 31<sup>st</sup> March, as prescribed in Rule 75 ibid and as such violation of the above Rule 75 by Sri Paritosh Das Gupta stand proved. Thus it is also proved that said Sri Paritosh Das Gupta by his above acts did not maintain absolute integrity and devotion to duty as required under Rule 3(1) (i) (ii) of CCS(Conduct) Rules, 1964. However, in consideration of his past services and to give him a scope to mend his conduct in future performance of his official duties, I am inclined to decide the case leniently and issue the following orders.

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Advocate.

ORDER

I Shri J.K. Barbhuiya, Sr. Supdt Post Offices, Cachar Dn: Silchar hereby award the punishment of recovery of a sum of Rs. 9000/- being the part of loss sustained by the Govt. from the pay and allowances of Sri Paritosh Das Gupta P/A Karimganj HO in 30 monthly instalments @ Rs. 300/- per month commencing from pay bill of Sept,2002 to meet the end of justice.

5d/-

(J.K. BARBHUIYA )  
Sr. Supdt. of Post Offices,  
Cachar Dn: Silchar-788 001

Copy to:-

REGD/AD

1. Shri Paritosh Das Gupta, P/A Karimganj H.O.
2. The Postmaster Karimganj H.O. for information and necessary action.
3. The DA (P) Kolkata ( through the Postmaster Karimganj H.O.)
4. P/F (Staff Branch) Divl. Office.
5. Punishment file (ASP /HQ) Divl. Office.
6. C.R. file (Steno to SSP, Silchar)
7. Vigilance Register (Fraud Branch)
- 8-9. Spare,

Sr. Supdt. of Post Offices,  
Cachar Dn: Silchar-788 001

From : Sri Paritosh Dasgupta, LL.B.  
P. A., Karimganj H. P. O.  
Dated at Karimganj H. P. O.  
The 2nd Nov' 2002.

Received  
20/11/02  
B  
24

To,  
The Director Of Postal Services  
Assam Circle, Guwahati -1

**ANNEXURE -V**

THROUGH PROPER CHANNEL.

Sub : Appeal against order of imposition of minor punishment of recovery of Rs. 9,000.00 (nine thousand) by the S. S. P. Os' Cachar Division, Silchar in connection with Bidyanagar SB/RD fraud case.

Ref. : S. S. P. Os', Cachar Div. Silchar memo no. F1-3/96-97/DA/V.II dated 02/09/02.

Respected Sir,

Most humbly and respectfully I lay before your honour the following a few lines for favour of your kind and sympathetic consideration.

1. That Sir, the statement of imputation of misconduct or misbehaviour under Rule 16 of the CCS (CCA) Rules 1965 on which action was proposed to be taken against your humble appellant, in brief that- while I was working as L.C-1 of S.O. S. B. Branch during the period from 01-04-1995 to 07-04-1995, 17-04-1995 to 10-05-1995 and 13-05-1995 and 15-05-1995 had failed to call for the S. B. Pass Books of Bidyanagar E.D.B.O. (in a/c with Anipur S.O. under Karimganj H. P. O.) for verification of balances, and entry of interest after 31st March. The E. D. B. P. M., Bidyanagar E.D.B.O. thereby got the scope of to commit SB/RD fraud unchecked involving loss of this department to the extent of Rs. 1, 15,445.38 in settlement of the claims of the defrauded depositors etc.

I was therefore considered to have acted in a manner violating the provisions of Rule 74 and Rule 75 of P. O. S. B. manual vol. 1. Thereby, I was also considered to have failed to maintain absolute integrity and devotion to duty as required under Rule 3 (1) (i) (ii) of C. C. S (conduct) Rules 1964 and as such responsible for the loss of the Govt. money as mentioned above (copy of the statement is enclosed in annexur-1).

2. That Sir, I in ~~any~~ representation against the proposal for imposing minor penalties, have denied the allegations and explained in detail the fact and circumstances in my defence but the Disciplinary Authority has had in his mind to punish me only and apparently to that end the Disciplinary Authority did not apply its judicious mind and

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contd. to P/2.



**Advocate.**

imposed penalty of recovery of Rs. 9,000.00 (nine thousand) from my salary @ Rs. 300.00 (three hundred) per month arbitrarily. Copy of my representation dated 15-07-2002 is enclosed as annexure-2.

3. That Sir, the S.S.P. Os', Cachar Div., Silchar the Disciplinary Authority, on receipt my representation dated 15-07-2002, communicated me the impugned order of punishment vide his memo. Ibid and awarded the punishment of recover of a sum of Rs. 9,000.00 (nine thousand) being the part of loss sustained by the Govt. , from my pay and allowances in 30 monthly instalments @ Rs. 300.00 (three hundred) per month commencing from Pay Bill of Sept' 2002. Copy of order is enclosed as annexure B-3.

4. That Sir, the penalties against me is not maintainable at all in the eye of service ethics and the recovery of the defrauded amount is an adjustment simpliciter making me a scape goat.

5. That, the Disciplinary Authority misinterpreted Rule 74 and 75 of the P. O. S. B. Manual Vol.1 in my case and blatantly traced the said Rules to enmesh me against my impeccable duty as L. C. 1 and as such impugned punishment may kindly be set aside.

6. That, the Disciplinary Authority in the name of justice imposed penalty on me is nothing but an explicit spel, and the said penalty would have to be quashed for, inter alia, the following grounds -

(i) for that Rule 74 and Rule 75 of P. O. S. B. Manual Vol. 1 have been mentioned in Rule 16 chargesheet but in the order of punishment violation of Rule 75 is highlighted.

(ii) for that your humble appellant has in no way violated provision of Rule 74 ibid.

(iii) for that your humble appellant has worked as per Rule 75 ibid. The contention of the Disciplinary Authority in his finding dated 02/11-9-2002 as regards to Rule 75 vis-a-vis charges against me is that " Rule 75 of P. O. S. B. Manual Vol. 1 provides for calling/ collection of each and every Pass Book of S. B. A/c. for verification of balances after 31st March, each year irrespective of any transaction or not." But Rule 75 of P. O. S. B. Manual Vol. 1 does not say so. The said Rule mentions procedure for Pass Book which are not received for entry of interest 30th June instead. I did not worked in the said branch on or after 16-05-1995, and as such I am not responsible to call remaining Pass Books. As such the impugned order of penalty for recovery of Rs. 9,000.00 (nine thousand) or any other penalty can not be upheld or imposed and desires to be set aside ab initio.

(iv) for that since I have not violated the provision of Rule 74 and Rule 75 ibid and since I have worked to my fullest satisfaction and while my supervisor categorically accepted that I maintained special error book, there would not be any sort of short comings / irregularities on my part that would have augmented or helped in any manner the accused for committing a fraud involving a huge sum, and for that reasons the question of violation of Rules 3(1)(i) (ii) of the C. C. S. (conduct) Rules

contd. to P/3..

1964 does not arise at all. Copy of Rule 75 of P. O. S. B. Manual Vol. 1 is enclosed as annexure II-A.

I, therefore in the premises, beg most fervently to your justice self would graciously be kind enough to consider my case in my favour by passing an order of acquittal from the penalty and the amount recovered till to the date of cancellation of order of punishment be refunded.

And

For the act of your kindness your humble appellant, a true disciplined official as in duty bound shall ever pray.

*Yours faithfully,*

*Pantosh Zangrath*  
*Pantosh Pant*

Enclosed :- As above.

Department of Posts  
O/o Postmaster General, Dibrugarh Region,  
Dibrugarh-786001.

Memo No. Staff/2/24-7/03/RP

Date : 6.10.03.

**APPELLATE ORDER**

A Charge Sheet under Rule 16 of CCS(CCA) Rules 1965 was issued to Shri Paritosh Das Gupta, Postal Assistant, Karim Ganj HPO, Cachar Division, Silchar (herein after referred as appellant) vide disciplinary authority memo No. F1-3/96-97/DA/VII dated 1.7.2002. The statement of imputation of misconduct and misbehavior on the basis of which the action was proposed to be taken was also furnished to the appellant. The appellant was given an opportunity to submit representation if any within 10 days against the proposed action was given to him.

2. It was alleged that the appellant while working as P.A. and Ledger Clerk-I in SOSB at Karimgant HPO from 1.4.95 to 7.4.95, from 17.4.95 to 10.5.95 and from 13.5.95 to 15.5.95 failed to call the SB pass books of Bidyanagar EDBO in account with Anipur SO under Karimganj HPO for verification of balances and posting of interest after 31<sup>st</sup> March. The ED BPM of above said BO thereby got opportunity to commit a fraud to the extent of Rs.1,15,445.38/- (RS. One lakh fifteen thousand four hundred forty five and thirty eight paisa). It was alleged that the appellant violated the provision of Rule 74 and 75 of POSB Manual Volume I. It was further alleged that the appellant failed to maintain absolute integrity and devotion to duty as required under Rule 3(1)(I)(ii) of CCS(Conduct) Rules 1964.

3. The statement of imputation of misconduct and misbehavior was received by the appellant on 3.7.02 and he submitted her written statement of defense dated 15.7.02. After going through the statement of defense, the disciplinary authority imposed a penalty of recovery of Rs.9000/- from the pay and allowances of appellant in 30 installments each @ Rs.300/- per month commencing from the pay of September'2002 vide memo no. F1-3/96-97/DA/VII dated 4.9.2002. The appellant on 19.9.02 received the punishment order.

**4. The brief facts of the case are as follows;**

- that a Rule 16 Charge Sheet was issued to the appellant for his failure to call the SB pass books of Bidyanagar EDBO in account with Anipur SO under Karimganj HPO for verification of balances and posting of interest after 31<sup>st</sup> March. The ED BPM of above said BO thereby got opportunity to commit a fraud to the extent of Rs.1,15,445.38/- (RS. One lakh fifteen thousand four hundred forty five and thirty eight paisa).

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Advocate.

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- o that the statement of imputation of misconduct and misbehavior was received by the appellant on 3.7.02 and she submitted her written statement of defense dated 15.7.02.
- o that after going through the statement of defense, the disciplinary authority imposed a penalty of recovery of Rs.9000/- from the pay and allowances of appellant in 30 installments each @ Rs.300/- per month commencing from the pay of September 2002 vide memo no. FI-3/96-97/DA/VII dated 4.9.2002.
- o that the punishment order was received by the appellant on 19.9.02.

5. The present appeal dated 2.11.02 is against the punishment order of disciplinary authority. The appeal is submitted well in time and I am considering this appeal. **The appellant has assailed the punishment order on following grounds;**

- o that in the statement of imputation of misconduct and misbehavior, Rule 74 and 75 of POSB Manual Vol. I is cited but in the punishment order the violation of Rule 75 is only highlighted. The appellant has worked as per Rule 75 which provides for calling / collection of each and every passbook of AS account for verification of balance after 31<sup>st</sup> March every year irrespective of any transaction. The said rule mentions the procedure for pass books which have not been received for entry of interest up to 30<sup>th</sup> June each year. As the appellant did not function in the branch after 16.5.1995, therefore, he is not responsible to call the remaining pass books which were not received for entry of interests. Therefore the penalty imposed is required to be set aside ab initio.
- o that the appellant has not violated the provision of Rule 74 and 75 ibid and worked with the fullest satisfaction to the superiors. The records like special error book indicating the short comings was maintained by the appellant which in no way have either augmented or helped the accused in any manner to commit fraud to such an extent. The violation of rule 3(1)(i)(ii) of CCS(Conduct) Rules does not arise at all.

6. I have carefully gone through the appellant's representation submitted through this appeal, parawise comments, disciplinary file of the case and other connected records of this case. I have considered the appeal with due application of mind together with grounds contained in besides consulting the relevant records.

7. The appellant has cited the provision of Rule 75 of POSB Manual in his defense in this case. The careful reading of this Rule states "Verification of balance of accounts standing at Branch Offices, the pass books of which are not received for posting of interest in the Head Post Office. (i) Receipt of Pass Books at Head Post Office at least once in a year for posting of interest in respect of savings Bank accounts at Branch Office is necessary. In respect of Pass Books which are not received for entry of interest by 30<sup>th</sup> June at these offices, the following procedure will be followed in collecting them

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from the depositors". The procedure is defined in subsequent paras. The Rule does not give any discretion to the appellant to not to take any action between 1<sup>st</sup> April to 30<sup>th</sup> June. Infact the appellant has very important duty to perform with regards to the Pass Books in which transactions have taken place at the Time Scale SOs/Bos.

8. The question here is that the Pass Books are to be collected from the Branch Offices from 1<sup>st</sup> of April itself each year for verification and posting of interests. In this case there has been no efforts on the part of appellant to collect the Pass Books and verify the balances. The appellant is only waiting for 30<sup>th</sup> June to happen and further say that as he did not work up to 30<sup>th</sup> June, therefore, he is not responsible for the irregularities.

9. It is for the information of appellant that he also had act carefully during 1<sup>st</sup> April to 30<sup>th</sup> June. It is his duty to make sure that each pass book in which transaction has taken place at Branch Office or Time Scale Sub Post Office is called for verification and posting of interest. The statements of imputation of misconduct and misbehavior clearly state so. I am not convinced with the defense taken by the appellant in his appeal and hold the view that the appellant is at fault of careless working further contributing to massive fraud. In view of position explained above in this case. I issue following orders;

#### ORDER

I, Rajinder Kashyap, DPS, Dibrugarh Region, Dibrugarh-786001 in exercise of power conferred in Rule 27(2)(1) of CCS(CCA) Rules 1965 hereby "**CONFIRM**" the punishment order issued in this case.

(Rajinder Kashyap)  
DPS, Dibrugarh Region,  
Dibrugarh-786001.

#### Copy to:-

- 1: Shri Paritosh Das Gupta, Postal Assistant, Karimganj HPO, Karimganj.
- 2-3: Shri J.K. Barbhuiya, SSPO, Cachar Division, Silchar A copy of the appellate order shall be delivered to the appellant under clear receipt and a copy of receipt should be sent to AD(Staff), O/o PMG, Dibrugarh Region, Dibrugarh within a week positively.
- 4-5. Office Copy / Spare.
6. PA to DPS, Dibrugarh.

Pl. 9 Day 44  
Date 29/11/04  
(A. D. B. R. O. P.)  
S. C. C. S. C.  
C. A. T. Guwahati Bench

Central Administrative Tribunal

29 NOV 2004

मुख्यमंत्री विभाग द्वारा  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI

O.A. NO. 174 OF 2004

Shri P. Dasgupta

..... Applicant.  
- Vs -

Union of India & Ors.

..... Respondents.

In the matter of :

Written Statement submitted by  
the respondents.

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

( BRIEF HISTORY OF THE CASE )

I(A) The then EDBPM, Bidyanagar EDBO in account with  
Anipur SO under Hailakandi HO (during the period of loss/  
fraud at the Bidyanagar BO the above EDBO was in under account  
jurisdiction of Anipur SO under Karimganj HO ) committed Cash,  
SB, ED, MSY fraud to the extent of Rs. 91,206.68 ( Rupees  
Ninety one thousand two hundred six and paise sixty eight ) only  
during the period from 16.07.89 to 24.05.96. The modus  
operandi followed by the then EDBPM was that he accepted

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SB/RD/MSY deposits in cash from the depositors in his official capacity for deposit into their respective accounts, entered the amounts in the Passbooks of the said depositors with his initial and date stamp impressions of the Branch Office and returned the Pass books to the said depositors but failed to credit the amounts to Government account and to enter the amounts into the records of the branch office for subsequent entries of the amounts at Ledger Cards of Sub Office and Head Office. Due to failure in detection of the said fraud case committed by the then BPM, he ( i.e. the said BPM ) was even emboldened to commit cash and stamp fraud at the BO. After completion of Departmental enquiry the claims of the defrauded depositors of 6 SB/RD/MSY accounts had to be settled along with due interest, default fine etc with effect from the dates of there actual deposits made in the respective Pass books, as per date stamp impressions of Bidyanagar EDBO in the Pass books, but not available in the records and accounts of the said EDBO, as detailed below :-

Sl. No.	Class of account	Total no of defrauded accounts	Defrauded amount (in Rs.)	Interest/ default fine etc. ( in Rs. )	Total (in Rs.)
1	RD	34	46,710.00	14,613.40	61,323.40
2	SB	28	43,627.35	9,436.30	53,063.65
3	MSY	16	758.00	189.00	945.00
<u>4. Cash/Stamps etc -</u>			113.33	-	113.33
<u>Total</u>			91,206.68	24,238.70	1,15,445.38

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2(A). Thus, the Department of Posts, India had sustained loss to the extent of Rs. 1,15,445.38 ( Rupees One-lakh fifteen thousand four hundred forty five and paise thirty eight ) only in the said fraud case committed by the then EDBPM, Bidyanagar EDBO during the period from 16.07.1989 to 24.05.1996.

3(A). Rule 74 and 75 of Post Office Savings Bank Manual Vol-I prescribed the procedure for posting of annual interest in the Savings Bank accounts and annual verification of balances of Pass books of the SB Accounts standing open at Sub Post Offices and Branch Post Offices in account with Sub Post Offices by the Head Post Offices. The very purpose of posting of annual interest after verification of balances of the Pass books, if balances are found tallied with that of Ledger Cards maintained at HO is to prevent/to guard against any fraudulent activities by Sub-ordinate Sub and Branch Post Offices. Photocopies of the above Rules are sent herewith wherefrom it may kindly be seen that the Rules have prescribed self-sufficient procedures to be followed by Head Post Offices each and every year by maintaining a Register in prescribed format to watch over the receipt of each and every Pass books standing open at SOs and BOs for verification of balances to prevent commissioning of fraud and for sending of lists of the Pass books not received for verification to the concerned Inspector of Post Offices for enquiry into the matter.

-4-

4 (A). It revealed during departmental enquiries made that the required Register, Special Error Book etc were not maintained at Karimganj HO and Pass books of Sub and Branch Post Offices were not called for, as required under above cited rules during the period of fraud i.e. after 31st March, as after 30th June each year i.e. from 1.04.1990 to 24.05.1996. Had all the SB Passbooks been called for and collected by Karimganj HO from Bidyanagar EDBO (through account office Anipur SO) the defrauded Pass books of SB Accounts in which fraud were committed between the periods of 16.07.89 to 31.03.90/1.04.90 to 31.03.91/1.04.91 to 31.03.92 and so on each year could have been detected much more earlier and the Department of Posts, India would not had sustained such huge amount of loss, as mentioned in para (2) above but would have been within a reasonable amount to be adjusted from the Security Bond valued Rs. 4,000 and from other dues payable to the then KDBPM, Bidyanagar EDBO.

5 (A). Departmental enquiries made at Karimganj HO revealed that Sri Paritosh Dasgupta, PA, Karimganj HO had worked as Postal Assistant in the share of Ledger Clerk-I of Karimganj HO (having Anipur SO in that share) during the periods from 1.04.95 to 7.04.95, 17.04.95 to 10.05.95 and from 13.05.95 to 15.05.95 but during Departmental enquiries had failed to produce any proof as to the maintenance of Special Error Book and prescribed Register etc as required by above cited rules and as such identified as subsidiary offender in respect of

-5-

above mentioned loss of Department of Posts, India by not following the above cited rules.

It may not perhaps be out of place to mention here that a good number of Postal Assistants and Assistant Postmasters of Karimganj HO who had worked in the SO SB Branch of Karimganj HO during different spells between 1.04.90 and 24.05.96 have also been identified as subsidiary offenders and have been punished with recovery of proportionate amount of the loss of the Department of Posts, India taking into consideration of the actual numbers of days they have worked either as Postal Assistants or as Assistant Postmasters in that particular share of Karimganj HO and found to have failed to observe the rules and procedures prescribed in Rule 74 & 75 of POSB Manual Vol-I, as mentioned in para (3) above.

Parawise comments :

1. That with regard to the statement made in para 1, of the application, the respondents beg to state that the punishment order issued under SSPOs, Silchar memo no. F1-3/96-97/DA/VIII dated 2/11-09-2002 (vide Annexure-II to OA) was not at all an arbitrary etc as alleged by the applicant but he was given sufficient scope to defend himself by issue of a memo of charges and allowing him sufficient time to submit his representation against the proposed action. The applicant submitted appeal to the DPS Dibrugarh Region.

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Dibrugarh who decided the case and issued final order under PMG, Dibrugarh memo no. Staff/2/24-7/03/EP dated 6.10.2003.

Copy of Silchar memo no. dated 2/11-09-02 is annexed herewith and marked as Annexure-II.

Copy of Dibrugarh memo no dated 6.10.03 is annexed herewith and marked as Annexure-VI.

2. That with regard to para 2 & 3, of the application the respondents beg to offer no comments.

3. That with regard to the statement made in para 4(1-6), of the application, the respondents beg to state that "Brief history" of the case sent herewith is considered to be sufficient to prove that none of the involved officials of Karimganj HO could produce any sorts of records/documentary evidence in support any of the say that each and every Passbooks were called for by that office for verification of balance and entry of interest. Relevant Ledger Cards of the SB Accounts of Bidyanagar BO ( in account with Anipur SO ) proved that annual interest for the years 1989-90 to 1995-96 was not posted in the Passbooks. Lists of SB Accounts the Passbooks of which were not received up to 30th June each year were also not sent to the Inspector of Post Offices, as revealed during departmental enquiry, violating the provisions of Rules mentioned in the O.A.

-7-

4. That with regard to the statement made in para 4(7-8), of the application, the respondents beg to state that the rules cited by the applicant in his OA are quite clear. The plea of "CONVENTION", as stated by the applicant in his OA is nothing but far away from truth. There is no provision of "CONVENTION" in the Departmental rules and regulations. But, in this particular case the applicant, it appears, did not work as per prescribed rules, instead he had worked as per his self-made formula "CONVENTION" and thereby encouraged and emboldened the BPM, Bidyanagar BO to commit fraud in the SB Accounts for years together unchecked raising the loss of the Department of Posts, Government of India to Rs. 1,15,445.38.

5. That with regard to the statement made in para 4(9), of the application, the respondents beg to state that for his utter failure to work as per prescribed rules this Department had to suffer such huge amount of monetary loss and as such a small portion of the total loss was ordered to be recovered from him, in partial adjustment of the loss, taking into consideration of the actual number of days he had worked in that particular share of duty and the residual amount of loss was ordered to be recovered, after observing same procedure from other officials who had also worked in that particular share of duty on the basis of the same formula and calculation.

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6. That with regard to the statement made in para 4(10) of the application, the respondents beg to state that the decision of the punishing authority is, as such appears to be impartial and based on a justified formula since the Department of Posts, Government of India is bound to settle the justified and proved claims of the defrauded depositors of SB, RD & MSY Accounts and should not bear the loss caused only due to irregular functioning of some of the workers such as Postal Assistants and Assistant Postmasters. In view of the above facts, there appears to be no justification of setting aside the punishment, as prayed by the applicant.

7. That with regard to the statement made in para 4(11-13), of the application, the respondents beg to state that the procedure prescribed for the purpose of verification of balances of all the Passbooks and maintenance of a Register for the purpose in Head Post Offices have been vividly and elaborately prescribed in Rule 75 particularly in Sub Rule (iii) of Rule 75 vide page 15 of Annexure-I to the OA of the applicant and as such there appears no scope to set aside the punishment, as prayed for by the applicant in the OA.

8. That with regard to the statement made in para 4(14), of the application, the respondents beg to state that the circumstances under which the official/

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official/applicant who had worked in that particular share of duty during the period from April to June each year were taken into consideration for identification as subsidiary offender is based on the Rule 74 & 75 of the PO SB Manual Vol -I.

Copy of the PO SB Manual Vol-I is annexed herewith and marked as Annexure-I.

The formula under which the applicant ( and other responsible PAs & M APMs ) was punished with recovery of Rs.9,000/- only in partial adjustment of the total amount of loss has been detailed in Sub-Para (f9) of para 4 of the OA and as such it was based on impartial calculation and need not considered to be set aside.

9. That with regard to the statement made in para 4(15-16), of the application, the respondents beg to state that in view of what has been stated above the OA is liable to be rejected, which is not at all covered by any rules but on the "mere Convention" of the said applicant.

10. That with regard to the statement made in para 5(A-H), of the application, the respondents beg to state that in the circumstances stated in the Brief - History of the case as well as Para-wise comments against paras 1 to 4 ( with Sub-paras ) there appears no ground for granting any relief to the applicant.

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11. That with regard to para 6 and 7, of the application, the respondents beg to offer no comments.
12. That with regard to the statement made in para 8 & 9, of the application, the respondents beg to state that in view of what has been stated in the foregoing paras the OA is liable to be rejected with costs in ~~f~~ favour of the defendants.
13. That with regard to para 10 & 11, of the application, the respondents beg to offer no comments.

Verification.....

**VERIFICATION**

I, Jay Kishore Dasgupta, Senior

Supdt. of Post offices, Cachar Division, Silchar,  
do hereby verify that the statements made in paragraph  
1(A), 2 to 7, 9 to 13 of the written statement are true to  
my knowledge, those made in paragraphs 1, 8 being  
matter of records are true to my information derived  
therefrom which I believe to be true and those made in  
the rest are humble submissions before the Hon'ble  
Tribunal. I have not suppressed any material facts.

And I sign this verification on this 11th  
day of November 2004.

Jay Kishore Dasgupta

Deponent:  
जय किशोर दासगुप्ता 783001  
Sr. Supdt. of Post Offices  
Cachar Division Silchar-783001