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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 312/2004

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SECTION OFFICER (Judl.)

haha

FORM NO. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 312/2004

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants: Sri Liban Chandra Boro

Respondents: U.O.I. & ORS.

Advocate of the Applicants: Mr B.C. Das, A.R. Sikdar, N. Mathib,
G.K. Samra & R. Islam.

Advocate for the Respondents: CASE.

Notes of the Registry

Date

Order of the Tribunal

2.12.04.

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

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

Heard learned counsel for the applicant and Mr. A. Deb Roy, Sr. C.G.S.C. for the Respondents. According to the applicant he has preferred an appeal dated 15.9.2004 (Annexure 9 to the application) and the same has not been disposed of so far. In our opinion the application can be disposed of with direction to the competent authority to dispose of the appeal by reasoned and speaking order, within a period of four months from the date of receipt of this order. In view of this, we are not ^{inclined to} entertained to this application. Accordingly, application is disposed of with directions as aforesaid. The respondents shall file compliance report to this Tribunal at the end of expiry of 4 months period and the matter be listed for that

This application is in form is filed with 50/- deposited vide I.P.O 206 135538 dated 25.11.2004 with copies of petition for Respondents.

Laid before Hon'ble Court for orders.

Dy. Registrar

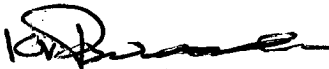
30/11/04


R - contd/-

2.12.04. purpose only after 5 months.

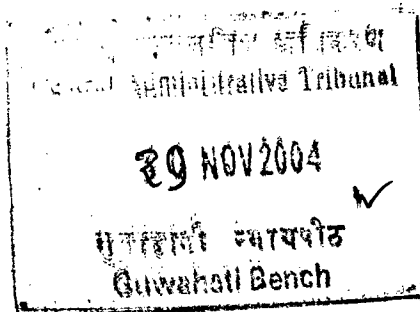
13/12/04

Copy of the
has been sent
to the Office
for issuing the
due to the applicant
as well as to
the Dr. C.G.S.C. for
the Respon.


Member


Vice-Chairman

2/12/04



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI.

(An application under Section 19 of the Central Administrative
Tribunal Act, 1985)

ORIGINAL APPLICATION NO. 312/2004

Sri Liban Chandra Baro

... Applicant

-Versus-

Union of India & Others

... Respondents

SYNOPSIS

The applicant in the above noted case, while was serving as Postal Assistant (P.A.) Barpeta Head Office, received an order dated 25.9.2003 (Annexure-1) issued under the signature of the Superintendent of Post Offices, Nalbari-Barpeta Division placing him under suspension on certain allegations committed during his service period as SPM at Bhella S.O. A disciplinary proceeding was initiated against him vide Memo No.F1-01/NSC/A/02-03. The reply to show cause ^{Submitted and} the Enquiry Officer instructed to him to appear before him for preliminary hearing and asked him to sign some papers. On good faith and submissive nature, the applicant signed the said papers without knowing the contents wherein it is allegedly admitted the applicant of his guilt. The applicant

thereafter by representation dated 23.7.04 prayed for fresh enquiry but without fresh enquiry the applicant is dismissed from service by the impugned order dated 29.7.04. The applicant also represented that since all the defaulted/alleged misappropriated amount has been deposited, extreme punishment depriving of retirement benefit shall not be imposed upon him. It is further contended by him that no where in the enquiry report as well as dismissal order adjustment of the money (Rs.6,63,422/-) deposited against irregularities committed by him is shown. Hence this appeal.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI.

ORIGINAL APPLICATION NO. 312/2004

Sri Liban Chandra Baro

... Applicant

-Versus-

Union of India & Others


... Respondents

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Date : 22.11.2004

Filed by :-


(A. MATLIB)
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI.

(An application under Section 19 of the Central Administrative
Tribunal Act, 1985)

ORIGINAL APPLICATION NO. 312/2004

Sri Liban Chandra Baro ... Applicant

-Versus-

Union of India & Others ... Respondents

DETAILS OF THE APPLICANT :

1. Name of the Applicant : Sri Liban Chandra Baro,
S/o Late Gangaram Baro
Resident of Vill. & P.O. Narua
P.S. Mukalmua,
Dist. Nalbari, Assam.
2. Designation : P.A. (Postal Assistant)
(Dismissed), Barpeta Head
Office, Barpeta.

PARTICULARS OF RESPONDENTS :

- Name & Designation of the
respondents :
1. The Union of India,
through the Secretary,
Ministry of Communication
(Post), Govt. of India, New
Delhi - 110 001.

Filed by the applicant-
through
A. Mathib
Advocate
28-11-04

Liban Chandra Baro

2. The Director of Postal Services (H.Q.), Assam Circle,
3. The Chief Post Master General (CPMG), Meghdoot Bhawan, Guwahati-1.
4. The Superintendent of Post Offices, Nalbari, Barpeta Division, Nalbari - 781 335.
5. The Inspector of Posts, Barpeta Sub Division, P.O. & P.S. Barpeta, Assam.

Lilian Chasobry Bara

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

- 1) Against order No. Staff/37-28/04 dated 29.7.04 under the signature of the Director of Postal Services (HQ), Assam Circle, Guwahati - 781 001 dismissing the service of the applicant.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the cause of action has arisen within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The applicant declares that the application is filed before this Hon'ble Tribunal within time limit prescribed under Sec. 21 of Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :

- 4.1. That the applicant is a citizen of India and permanent resident of Vill. & P.O. Narua, P.S. Mukalmua in the district of Nalbari, Assam.

The applicant passed H.S.L.C. Examination in the year 1963 and thereafter he was in search of job to maintain his family. Having eligibility and requisite qualification the petitioner was appointed as Postal Assistant under the respondent authority in the year 1964 and was posted at Tezpur Postal Head quarter. During the service period the applicant was transferred and posted at various places. In the year 2000 the petitioner was posted as SPM at Bhella Sub-Post Office where he worked upto 7.1.2003 in which date he has been again posted at Barpeta HQ in the same capacity.

- 4.2. That the applicant begs to state that while he was serving and functioning as P.A. at Barpeta HQ an order of suspension dated 25.9.2003 issued under the signature of Sri S. Das Superintendent of Post Offices, Nalbari-Barpeta Division contemplating a disciplinary proceeding against the applicant on 4 (four) nos. of charges with certain allegations allegedly committed during his service period as SPM at Bhella. The aforesaid suspension order contemplating a disciplinary proceeding against the applicant was issued in exercise of power conferred by the Sub-Rule (I) of Rule 10 of the Central Civil Service (CCA Rule), 1965.

Luban Charba Baro

4.3. That in pursuance of the aforesaid suspension, a disciplinary proceeding was initiated against him. A Memorandum of charges dated 16.1.04 was served upon the applicant directing him to submit a written statement within 10 days. Accordingly a reply dated 4.3.04 to the charges was submitted denying all the allegations.

A copy of Memorandum of charges dated 16.1.04 is annexed as Annexure-1.

A reply dated 4.3.04 is annexed as Annexure-2.

4.4. That the applicant begs to state that in the aforesaid proceeding an Enquiry officer as well as a Presenting Officer were appointed. The applicant was directed to appear before the enquiry officer for preliminary hearing of the charges. The applicant appeared before the Enquiry officer on 27.5.2004, who asked him to sign some papers. The applicant without understanding the contents noted in the papers he sign wherein it is written and recorded as if the applicant admitted the charges and pleaded him guilty of the charges. The Enquiry Officer accordingly decided not to hold any further enquiry and enquiry report was submitted to the applicant directing to submit his representation within 10 days. In this connection the applicant submitted a representation dated 23.7.04 stating inter-alia that the enquiry held dated 27.5.04 was

Lilam Chandra Boro

conducted while he was suffering from illness and what he stated before the said Enquiry Officer on that day stated without understanding the facts and circumstances because of his ailing body and unsound mind and also urged a fresh enquiry.

A copy of the Enquiry report is annexed as Annexure-3.

A copy of the representation dated 23.7.04 is annexed as Annexure-4.

- 4.5. That the applicant begs to state that the Enquiry Officer without holding any detailed enquiry and without paying any consideration upon his representation dated 23.7.2004 concluded the proceeding holding him guilty on the charges and dismissed him from his service by the impugned order dated 29.7.04 issued by the Director of Postal Services (HQ), Assam Circle, Guwahati. The impugned dismissal order although issued on 29.7.2004 but the same was delivered to him on 6.8.2004.

A copy of the Dismissal order dated 29.7.04 is annexed as Annexure-5.

- 4.6. That the applicant begs to state that the aforesaid dismissal order issued on 29.7.04 was received by him on 5.8.04 and after receipt of the same submitted representation dated 6.8.04 enclosing the detailed statement of deposition of amount by the applicant, copy of letter 19.12.03 received from SPO, Nalbari-Barpeta Division, copy of Memo dated 26.7.04 by SPO, Nalbari-Barpeta Division and a representation dated 23.7.2004. The

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brief statements made inter-alia in the representation dated 6.8.04 was that the disciplinary proceeding was effected with the suspension order dated 25.9.03 as the charges of financial irregularities, displaying lack of absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Govt. servant. The 2nd charge is, he accepted money from the depositors of SB/RD accounts on different date for deposit in their account, but the amount so collected were not credited to the Govt. Account. The other two charges are also similar nature. The applicant during his suspension period received some communications from the SPO, Nalbari-Barpeta Division directing him to deposit the misappropriated amount within 15 days failing which disciplinary action may be taken against him besides reporting the matter to the police and such demand letters were served on number of times without verifying the exact total amount. The applicant on apprehension of police harassment he deposited an amount of Rs. 6,63,422/- (Rupees six lakhs sixty three thousand four hundred twenty two) only. No where in the enquiry report as well as in the dismissal order statements have been made as regards depositing the aforesaid amount or adjustment of the same. Petitioner's contention is that during the period of his service as a SPM in Bhella S.O. was admittedly his physical health as well as mental condition was not good and for

Laban Chandra Bara

that some financial irregularities may have occurred and since such defect was made good immediately after notice, so he may be exonerated and may be allowed to enjoy his retirement life without awarding extreme punishment of dismissal. He also prayed for that after deducting the amount deposited against the misappropriated amount the balance amount if any may be deducted from his gratuity etc. but no consideration was paid and he was dismissed from his service. The applicant craves the leave of this Hon'ble Tribunal in not annexing the copies of all the demand letters except that of the letter dated 19.12.04 for convenience and the rest may be produced before this Hon'ble Tribunal at the time of hearing if so called for.

Copy of the letter dtd.19.12.04 is annexed as Annexure-6.

Copy of the statement of depositing of amount of Rs.6,63,422/- is annexed as Annexure-7.

7(A)

Copy of the representation dated 6.8.04
is annexed as Annexure-8.

- 4.7. That the applicant begs to state that he also preferred an appeal dated 15.9.2004 before the Chief Post Master General, facts and circumstances under which he has dismissed and prayed for interference of the appellate authority. But it is respectfully submitted that no order has been passed as yet upon the said appeal.

A photocopy of the Appeal dated
15.9.2004 is annexed as Annexure No.9.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:-

- i) For that the learned Director of Postal Services (HQ) Assam Circle, Guwahati committed grave error in law and facts in passing the impugned order of dismissal dated 29.07.04 vide Annexure-5 and the same is liable to be set aside and quashed.

Deban Chandra Bose

- ii) For that the learned authority passed the impugned order of dismissal without any basis or provisions of law and procedure.
- iii) For that, the learned disciplinary authority miserably failed to consider the vital aspects of the matter as regards the Enquiry proceeding and connected facts and circumstances regarding alleged financial misappropriation and deposition of the said misappropriated amount by the applicant. The learned disciplinary authority absolutely failed to read out the background of facts and circumstances of the case before imposing major punishment upon the applicant and as such the impugned order of dismissal is bad in law and liable to be set aside and quashed.
- iv) For that, the disciplinary authority imposed penalty in the nature of dismissal from service on the basis of a enquiry report which is ⁱⁿ made out of absolutely malafide exercise of powers, fraudulent manner misleading the applicant out of his mental infirmity, ill health and lack of knowledge and his too much submissive nature to senior officers. The enquiry report was concluded with the preliminary hearing dated 27.5.04. During the course of said preliminary hearing, the applicant was suffering from physical and mental illness and the enquiry officers took signature of the applicant upon some papers without knowing the statements made therein. Therefore the decision of the enquiry officer concluded the enquiry on the

Liban Choudhary Bada

basis of the preliminary hearing dated 27.5.04 is not proper and the applicant also claimed a fresh enquiry by submitting representation dated 23.7.04. The enquiry report dated 28.6.04 is not a Enquiry report in the eye of law and its finding cannot have legal effect. The Enquiry report itself is disputed in the aforesaid representation and the same being not disposed of before passing the dismissal order on the basis of the said enquiry report, the impugned order of dismissal is bad in law and liable to be set aside and quashed.

- v) For that the applicant begs to submit that the learned SPO, Nalbari-Barpeta Division on many occasions issued letters (vide Annexure-6) to the applicant instructing him to deposit the alleged non deposited collected Govt. money, failing which disciplinary action will be taken against him besides reporting the matter to the police. The applicant accordingly deposited the whole amount so far claimed to be misappropriated by the applicant with immediate effect. The applicant's humble submission is that the financial irregularities committed by him was not intentional but because of his physical and mental ill health during the relevant time and his such fault and irregularities have been made good with immediate effect. As such he may not be subjected to extreme punishment by way of dismissal of service. But it is regretted that the disciplinary authority did not pay consideration and hence the

Liban Chandray Baro

impugned dismissal order vide Annexure-5 is bad in law and liable to be set aside and quashed.

- vi) That the applicant submits that under sub-rule 9 of Rule 14 of the CCS (CCA) Rules provided as follows :-

"If the Govt. servant who has not admitted any of the articles of charge in his written statement of defence or has not submitted any written statement of defence, appears before the Enquiring Authority, such authority shall asking whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge the Inquiring authority shall record the plea, sign the records and obtain the signature of the Govt. servant thereon".

In the instant case the applicant did not admit any of the article of charges by submitting written statement to show cause vide Annexure-2. Since the applicant neither admit his guilt nor remained abstain in making written statement the attempt of the Enquiry authority asking him whether he is guilty or not is beyond the scope of the provisions of law in the aforesaid Rule, hence, the action of the Enquiry authority in taking signature of the applicant on some papers showing his confession is bad in law and thus the entire enquiry proceeding is vitiated.

- vii) That the applicant submits that no where in the Enquiry proceeding or in the impugned dismissal order statement has been made as regards the adjustment of the amount

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Libam Chandra Boro

(Rs.6,63,422/-) deposited by the applicant against the alleged irregularities/misappropriation committed by him. The applicant's apprehension is that the concerned authority has not recorded the payment made by him.

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- viii) That the applicant submits that he represented the authority by way of preferring appeal dated 15.9.2004 (vide Annexure-9) with a prayer that since all the defaulted/alleged misappropriated amount had been deposited by him, extreme punishment depriving of his retirement benefit shall not be imposed but the authorities have not considered at all on this score. The applicant during his entire service period was free from any other stigma or blemish except the instant case. He has discharged his duty with sincerity, dedication and without any adverse remarks except the present case which has caused only because of his weak memory and infirm health on ground of old and ailing condition. And hence the disciplinary authority ought to have taken a lenient view in imposing punishment upon him but the same was not done.
- ix) For that the respondent authority ought to have disposed of the appeal preferred by the applicant and non consideration and non disposal of the appeal has amounted by violation of principles of natural justice.
- x) For that the Enquiry authority as well as the disciplinary authority acted beyond their jurisdiction.
- xi) For that in any view of the matter the impugned dismissal order is not sustainable under the provisions of law and facts and hence the same is liable to be set aside and quashed.

6. DETAILS OF REMEDIES :-

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Deban Chandra Barua

The humble applicant submitted his representation/appeal dated 25.10.03 not considered.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT/TRIBUNAL :

The applicant declares that he has not filed any application, writ petition or suit regarding the present matter in any Court of law or Tribunal and no case is pending before any court.

8. RELIEF SOUGHT FOR :-

Under the facts and circumstances of the case as stated above, the humble applicant most respectfully prays for following relief:-

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- (i) That his Hon'ble Tribunal may kindly be pleased to pass an order setting aside the impugned dismissal order dated 29.7.2004 (vide Annexure No.5) issued under the signature of the Director of Postal Services (HQ), Assam Circle, Guwahati-1 in the interest of justice.
 - (ii) To pass any other order or orders as deem fit and proper by the Hon'ble Tribunal in the interest of justice.
 - (iii) To grant pension and other retirement benefit in the interest of justice.

9. INTERIM RELIEF PRAYED FOR :

In the interim, the applicant prayed for :

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Lubam Chandra Boro

There shall not be any bar to consider and disposed of the representation dated 6.8.2004 made by or alternatively to grant his pensionary benefit in the interest of justice.

10. DETAILS OF POSTAL ORDER :

Postal Order No. : 20 G 1355 38
 Date of Issue : 23.11.2004
 Issued from :
 Payable at :

11. LIST OF ENCLOSURES :

As per Index

VERIFICATION

I, Sri Liban Chandra Baro, s/o Late Gangaram Baro, resident of village & P.O. Narua, P.S. Mukalmua, District - Nalbari, Assam, P.A. (Postal Assistant) Barpeta Head Office, Barpeta do hereby verify that the contents in paragraphs 1, 2, 3, 4, 6, 7, 10 and 11 are true to my knowledge and paragraphs 5, 8 and 9 are believed to be true as legal advice and I have not suppressed any material fact.

And I sing this verification on this 22nd day of November 2004 at Guwahati.

Date : 22.11.2004

Place : Guwahati

Liban Chandra Baro
Signature of Applicant

DEPARTMENT OF POSTS : INDIA

REGD/AD

Office of the Superintendent of Post Offices Nalbari Barpeta Dn. N
Nalbari-781335

Annexure-1

No : F1-01/NSC/A/02-03

Dated at Nalbari the 16.1.04

MEMORANDUM

The president/undersigned proposes to hold an inquiry against Sri Liban Ch. Baro, PA Barpeta HO (U/S) under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1955. The substance of the imputation of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which, and a list of witness by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

2. Sri Liban Ch. Baro is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Sri Liban Ch. Baro is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuse to comply with the provisions of Rule-14 of the CCS (CCA) Rules, 1965 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him exparte.

5. Attention of Sri Liban Ch. Baro is invited to Rule-20 of the CCS (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Sri Liban Ch. Baro is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule-20 of the CCS (Conduct) Rules, 1964.

6. The receipt of the Memorandum may be acknowledged.

16/1/04
(S. Das)
Superintendent of Post Offices
Nalbari Barpeta Division
Nalbari-781335

To

Sri Liban Ch. Baro
PA, Barpeta HO (U/S)

Certified to be true copy
my

Advised

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ANNEXURE-I

Statement of articles of charge framed against Sri Liban Ch. Baro, then SPM, Bhella SO now PA, Barpeta HO(U/S).

Article I

That the said Sri Liban Ch. Baro, while functioning as SPM, Bhella SO during the period from 6.12.99 to 7.1.03 accepted applications and money from the purchaser of National Savings Certificates (VIII Issue) on different dates, issued necessary NSC against the amount to them, duly signed and placing office date stamps on them, but the amounts so collected were not credited to the Govt account on those days or later and misappropriated the entire amount. Again he misused the NSC worth Rs 43,000/- from his office stock. Thereby Sri Baro violated the provisions of Rule 103 of FHB Vol I, Rule 20(1)(i)(ii), Rule 4 and note 5 below Rule 20 of POSB Man Vol II and Rule 84 of Postal Man Vol VI Part III. Thus Sri Baro displayed lack of integrity, devotion to duty and acted in a manner which is unbecoming of a Govt servant as enjoined in Rule 3(1)(i)(ii)(iii) of CCS(Conduct) Rules, 1964.

Article-II

That the said Sri Liban Ch. Baro, while functioning as such during the aforesaid period accepted money from the depositors of SB/RD accounts, on different dates, for deposits into their accounts, noted the deposits, placed date stamps in the pass book, but the amounts so collected were not credited to the Govt accounts on those dates or later and the amount was misappropriated. Again Sri Baro fraudulently withdrawn Rs 15000/- from SB a/c No 1501911 on 6.12.99 by forging the signature of the depositor and allowed withdrawal of Rs 2500/- in SB a/c No 1502144 on 23.11.01 without entry in long book and a/c book. Thereby Sri Baro violated the provisions of Rule 103 of FHB Vol I, Rule 33(5) and 46(6) of POSB Man Vol I and Rule 84 of Postal Manual Vol VI Part III. Sri Baro by his above acts displayed lack of integrity, devotion to duty and acted in a manner which is unbecoming of a Govt servant as enjoined in Rule 3(1)(i)(ii)(iii) of CCS(Conduct) Rules, 1964.

Article-III

That the said Sri Liban Ch. Baro, while functioning as such during the aforesaid period issued order to Md. Fazlul Haque, GDS Packerman, Bhella SO irregularly to perform all office works on 2.4.00 as a result of which Md. Fazlul Haque got the chance to commit fraud in SB/RD accounts and TRC collection. Sri Baro also failed to credit the amounts of SB/RD deposit ~~and TRC~~ to the Govt account which was handed over by Md. Fazlul Haque to him on different dates. Thereby Sri Baro violated the provisions of Rule 103 of FHB Vol I and by the above act he failed to maintain absolute integrity and devotion to duty and acted in a manner which is unbecoming of a Govt servant as enjoined in Rule 3(1)(i)(ii)(iii) of CCS(Conduct) Rules, 1964.

Article-IV

That the said Sri Liban Ch. Baro while functioning as such during the aforesaid period accepted Telephone bills with money from the telephone subscribers on different dates, issued receipts in Eng-9 impressed office date stamp on receipts and handed over to the subscribers, but the amounts so collected were not deposited to the Govt account on those days

Contd2

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or later and misappropriated the entire amount of collection. He also did not credit the TRC collection handed over to him by Md. Fazlul Haque, GDS Packer, on different dates. Thereby Sri Baro violated the provisions of Rule 103 of FHB Vol I and Rule 84 of Postal manual Vol VI Part III and by his above act he displayed lack of integrity and devotion to duty and acted in a manner which is unbecoming of a Govt servant as enjoined in Rule 3(1)(i)(ii)(iii) of CCS(Conduct) Rules, 1964.

ANNEXURE-II

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Sri Liban Ch. Baro, then SPM, Bhella SO now PA, Barpeta HO(U/S).

Article -I

That the said Sri Liban Ch. Baro, while functioning as such during the aforesaid period accepted applications for purchase of NSC (VIIIth Issue) from the following purchaser on the dates shown against each, collected the amounts mentioned against each and issued prescribed NSCs equivalent to the said amounts to them. The NSCs were impressed with Bhella SO date stamps, made the required entries in the NSCs and application form, signed and handed over to the purchasers. But the sale proceeds of NSCs were not accounted for in the SO account on those dates or later and misappropriated the entire amount of Rs 3,38,500.00 (Rupees three lakhs thirty eight thousand five hundred only). No NSC issue journals also prepared against those sales and the amounts were not credited to his a/c. Thereby he violated the provisions of Rule 103 of FHB Vol I, Rule 20(1)(i)(ii) and Note 5 below Rules of 20 of POSB Man Vol II and Rule 84 of Postal Man VI Part III.

<u>Name of holder</u>	<u>Particulars of NSC</u>	<u>Amount</u>	<u>D/o purchase</u>	<u>Regn No</u>
1. Sri Chandramohan Das	6NS/23DD906468	Rs 5000/-	28.2.01	06
2. Sri Narayan Ch. Sarma	6NS/43CC804545-47	Rs 3000/-	28.2.01	07
	6NS/32EE791652	Rs 10000/-	28.1.02	21
3. Sri Rameswar Das	6NS/20DD729511	Rs 5000/-	16.2.01	44
4. Syed Nazemuddin Ahmed	6NS/34CC149311	Rs 1000/-	21.2.01	73
5. Nurmohammad	6NS/43CC804548	Rs 1000/-	1.3.01	07
6. Syed Wahidur Rahman	6NS/43CC804549-51	Rs 3000/-	28.2.01	09
7. Nurul Haque	6NS/32EE791640-41	Rs 20000/-	2.3.01	10
8. Amarjyoti das	6NS/34CC149312-14	Rs 23000/-	30.3.01	13
	6NS/32EE991642-43:			
9. Bhabesh Das	6NS/34CC149315-16	Rs 2000/-	31.3.01	12
10. Ms Jahanara Begum	6NS/23DD906969	Rs 5000/-	18.4.01	13
11. Md. Siddique Ali	6NS/32EE791645	Rs 10000/-	18.8.01	14
12. Md. Sundar Afi	6NS/34CC149334:	Rs 6000/-	13.9.01	15
	6NS/23DD906470:			
13. Md. Manjur Rahman	6NS/34CC149335-38	Rs 4000/-	6.10.01	16
14. Md. Babul Ojha	6NS/32EE791644:	Rs 20000/-	6.12.01	17
	6NS/32EE791646:			
15. Syed Abular Rahman	6NS/32EE791647-48	Rs 20000/-	8.12.01	18
16. Md. Tajin Ali	6NS/32EE791649-50	Rs 20000/-	20.12.01	19

Contd.....3

17. Md Farid Ali	6NS/32EE791651	Rs 10000/-	17.1.02	20
18. Smt Jaymati Talukdar	6NS/34CC149339: 6NS/23DD906471:	Rs 6000/-	30.1.02	22
19. Ms Joytun Nessa	6NS/32EE791653-54	Rs 20000/-	xxx	23
20. Md. Farid Ali	6NS/23DD906472	Rs 5000/-	19.2.02	24
	6NS/43CC804552	Rs 1000/- :	21.2.02	25
	6NS/34CC149317	Rs 1000/- :		
21. Mohimuddin Ahmed	6NS/23DD906473	Rs 5000/-	22.2.02	26
	6NS/23DD906482	Rs 5000/-	13.4.02	28
	6NS/23DD906483	Rs 5000/-	2.8.02	28
22. Md. Safiqur Rahman	6NS/23DD906475	Rs 5000/-	25.2.02	27
23. Md. Safiur Rahman	6NS/23DD906474	Rs 5000/-	25.2.02	28
24. Md. Nayan Ali Ahmed	6NS/32AA791655	Rs 10000/-	25.2.02	29
25. Sri Niron Pathak	6NS/34CC149318-20	Rs 3000/- :	26.2.02	30
	6NS/23DD906476	Rs 5000/- :		
26. Sri Arabinda Pathak	6NS/23DD906477	Rs 5000/-	26.2.02	31
27. Ms Iman Khatun	6NS/34CC149326	Rs 1000/- :	11.10.02	32
	6NS/23DD906484	Rs 5000/- :		
28. Syed Wahidur Rahman	6NS/18BB027796	Rs 500/- :	27.2.02	33
	6NS/34CC149321-22	Rs 2000/- :		
	6NS/23DD906479	Rs 5000/- :		
29. Sri Debraj Das	6NS/34CC149323	Rs 1000/-	28.2.02	34
	6NS/23DD906478	Rs 5000/-	26.2.02	32
	6NS/23DD906480	Rs 5000/-	28.2.02	35
30. Md. Abdul Latif	6NS/23DD906481	Rs 5000/-	11.4.02	27
31. Ms Suriya Begum	6NS/32EE291656	Rs 10000/-	1.8.02	29
32. Md. Tajel Ali	6NS/32EE791657-58	Rs 20000/-	2.8.02	30
33. Md. Mahmudur Rahman	6NS/32EE791636-37	Rs 20000/-	20.2.01	1
34. Miss Baby Ahmed	6NS/32EE791638	Rs 10000/-	23.2.01	x
35. Md. Abbas Ali				
Total		Rs 3,38,500/-		

Again Sri T.C. Kalita, SDIPOs, Barpeta visited Bhella SO and verified the stock of NSC of the SO on 11.12.02 Sri Baro could not furnish the disposal of the following NSCs received by him from Barpeta HO. Sri Baro made some fictitious entries in the stock book to tally the balance somehow. Neither the credit particulars in SO account nor the application for purchase of NSC could be produced by Sri Baro against these NSCs. Thereby he failed to keep his office NSC in his personal safe custody as envisaged in Rule 4 of POSB Man Vol II.

Deno Rs 1000/-	6NS/34CC149324-25 = 2 No x 1000= Rs 2000.00
	6NS/43CC 804544 = 1 Nox1000 = Rs 1000.00
Deno Rs 5000/-	6NS/23DD906466-67= 2 No x 5000= Rs 10000.00
Deno Rs 10000/-	6NS/32EE791639 = 1 Nox10000= Rs 10000.00
	6NS/32EE791659-60 = 2 Nox 10000= Rs 20000.00
	Total Rs 43,000.00

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Thus by his above acts Sri Baro displayed lack of integrity, devotion to duty and acted in a manner which is unbecoming of a Govt servant as enjoined in Rule 3(1)(i)(ii) & (iii) of CCS(Conduct) Rules, 1964.

Article-II

That the said Sri Liban Ch. Baro, while functioning as such during the aforesaid period accepted money from the depositors of SB/RD accounts mentioned below on different dates, for deposits in their respective accounts, but the amount so collected were not deposited in the SO accounts on those days or later and the entire collection of Rs 43,850.00 was misappropriated by him, violating the provisions of Rule 103 of FHB Vol I. Sri Baro made the entries of deposits in the respective pass books, impressed office date stamp in them and signed, but the transactions were not noted in the long books/RD journals and list of transactions on those days and also not included in day's account. Thereby Sri Baro violated the provisions of Rule 46(6) of POSB Man Vol I and Rule 84 of Postal Man Vol VI Part III.

Ser	A/C No	Name of depositor	D/o non credit	Total amt of non credit
1.	RD 9028	Miss Margina Begum	30.9.00, 1.12.00 31.7.01, 17.6.02 30.10.02	Rs 350.00
2.	RD 9117	Md. Moksed Ali	25.8.01	Rs 300.00
3.	RD 9237	Md. Zakir Hussain	23.5.00, 30.3.01 23.5.01	Rs 1200.00
4.	RD 9268	Sri Prafulla Das	2.8.00	Rs 200.00
5.	RR 9281	Md. Milan Hussain	10.7.01, 18.10.01	Rs 600.00
6.	RD 9306	Mrs Mazedra Begum	2.6.00	Rs 100.00
7.	RD 9348	Md. Hashim Ali	28.9.01, 26.6.02 31.7.02, 31.12.02	Rs 4000.00
8.	RD 9380	Miss Jarifa Yasmin	31.5.02	Rs 150.00
9.	RD 9383	Sri Manabendra Pathak	31.3.01, 15.6.01	Rs 900.00
10.	RD 9389	Miss Kakoli Sarma	5.4.02	Rs 200.00
11.	RD 9397	Md. Ritu Ali	18.8.01, 18.12.02	Rs 300.00
12.	RD 9398	Miss Rajina begum	9.6.01, 18.8.01,	Rs 600.00
13.	RD 9405	Smt Era Devi	20.4.01	Rs 100.00
14.	RD 9413	Masikan Nessa	25.5.01, 5.9.01	Rs 1500.00
15.	RD 9497	Miss Mridula Begum	11.6.02	Rs 300.00
16.	RD 9518	Jyotisman Sarma	10.10.02	Rs 200.00
17.	RD 9533	Umesh Ch. Deka	27.3.02	Rs 50.00
18.	RD 9539	Anil Patowary	10.8.02	Rs 200.00
19.	RD 9545	Smt Makhyada Talukdar	28.2.02, 28.6.02	Rs 300.00
20.	RD 9558	Noor Mohammad	11.12.02	Rs 100.00
21.	RD 9169	Md. Ashif Ahmed	25.8.01	Rs 50 .00
22.	RD 9116	Smt Bhabani Pathak	28.4.01, 24.9.01 30.9.02	Rs 800.00
23.	RD 9323	Sri Ugra Sen Das	31.3.01, 18.3.02	Rs 100.00

Contd....5

24.	SB 1502189	Smt Jili Begum	16.6.01, 5.12.02 11.12.02, 23.12.02 18.12.02	Rs 9200.00
25.	SB 1501957	Smt Syeda Babi Ojha	6.10.00, 18.1.01 10.4.01, 20.10.01 14.11.02 10.1.03(Advance date)	Rs 1000.00
26.	SB 1501013	D.P. Amuthi Soul Samabaya Samittee	16.6.00	Rs 1000.00
27.	SB 1502049	Md. Nazibur Rahman	28.10.00, 25.5.01	Rs 7700.00
28.	SB 1502144	Sajati Mahila Samittee	23.10.01, 23.11.01	Rs 350.00
29.	SB 1502211	Miss Eliza Begum	29.12.01	Rs 9000.00
30.	SB 1501930	Mrs Suriya Begum	22.9.00, 10.10.00	Rs 3000.00
				Total Rs 43,850.00 ✓

Again Sri Baro fraudulently withdrawn Rs 15000/- on 6.12.99 from SB a/c No 1501911 held by Md. Latif Ali without entering the amount in the pass book. The depositor denied the withdrawal. Another withdrawal of Rs 2500.00 was allowed from SB pass book a/c No 1502144 on 23.11.01 without charging the amount in the a/c book or long book. Thereby Sri Baro violated the provisions of Rule 33(5) of POSB Man Vol I and Rule 84 of Postal man Vol VI Part III.

Thus by his above acts Sri Baro displayed lack of integrity, devotion to duty and acted in a manner which is unbecoming of a Govt servant as enjoined in Rule 3(1)(i)(ii)(iii) of CCS(Conduct) Rules, 1964.

Article-III

That the said Sri Liban Ch. Baro, while functioning as SPM, Bhella SO during the aforesaid period issued an order in plain paper on 2.4.00 directing Md. Fazlul Haque, GDS Packerman Bhella SO to perform all office work and mentioning the fact that Sri Baro will be held responsible if some mistake is committed by Md. Fazlul Haque in performance of the office duty. The appointing authority of GDS Packerman, Bhella is SDIPOs, Barpeta, who can only issue such order in exigency of public service. Sri Baro also did not obtain any permission from the said SDIPOs, for issuing such irregular order. Moreover allowing to perform such financial transaction to an unauthorized person is highly objectionable for which the Dept had to suffer loss. Thereby Sri Baro misused his official position by issuing irregular order. Taking advantage of such order Md. Fazlul Haque, GDS Packerman, performed SB/RD transactions, telephone revenue collections and handed over the day's collection under receipt to Sri Baro on the following dates. But the said amounts neither entered in the SB long book/RD journal/ORDERS nor accounted for in the SO accounts on those dates or later. Thereby Sri Baro violated the provisions of Rule 103 of FHB Vol I.

- ✓ (1) Receipt dated 30.6.01 for Rs 1500.00
- (2) " dated 31.7.01 for Rs 1500.00
- (3) " dated 31.8.01 for Rs 1500.00
- (4) " dated 29.9.01 for Rs 1500.00
- (5) " dated 31.10.01 for Rs 1500.00
- (6) " dated 28.11.01 for Rs 1000.00

Contd6

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|------|---|-------------------------------|
| (7) | " | dated 29.12.01 for Rs 2200.00 |
| (8) | " | dated 29.1.02 for Rs 2200.00 |
| (9) | " | dated 31.5.02 for Rs 500.00 |
| (10) | " | dated 28.6.02 for Rs 1500.00 |
| (11) | " | dated 29.7.02 for Rs 12100.00 |
| (12) | " | dated 26.8.02 for Rs 1750.00 |
| (13) | " | dated 30.9.02 for Rs 3600.00 |
| (14) | " | dated 30.10.02 for Rs 3500.00 |
| (15) | " | dated 12.11.02 for Rs 4200.00 |
| (16) | " | dated 27.11.02 for Rs 3000.00 |
| (17) | " | dated 20.12.02 for Rs 500.00 |
| (18) | " | dated 31.12.02 for Rs 3500.00 |

Thus Sri Baro by his above acts failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Govt servant as enjoined in Rule 3(1)(i)(ii)(iii) of CCS(Conduct) Rules, 1964.

Article-IV

That the said Sri Liban Ch. Baro, while functioning as such during the aforesaid period received 5 telephone revenue receipts book (Eng-9) from Barpeta HO for use at Bhella SO. The Nos of the receipt books were GH-1685, GH-1690, GH-1846, GH-1429 and GH 1436, out of the above receipt book he used receipt book No GH-1685, GH-1690, GH-1846 and GH-1429 during his period and rest was used by his successor as per record. But the office copy of only receipt book No GH-1685 could be traced out in the office and others were either destroyed or hid by Sri Baro. On collecting the subscribers original receipts with telephone bills, and checking their credit particulars with the office copies of TRC journal it appears that Sri Baro did not credit the TRC amount on the date of collection. Moreover, the date of issue in the original receipts (Party's copy) does not tally with the date of office copies of receipt, as shown in the enclosed ANNEXURE-A. Thereby Sri Baro credited the TRC money very late in violation of the provisions of Rule 103 of FHB Vol I and Rule 84 of Postal Manual Vol VI Part III. Sri Baro, also did not credit the TRC collection from receipt No 81 of receipt book No 1690, entire TRC collections received in r/o receipt book No GH-1846, and upto receipt No 127 of receipt book No GH-1429 as shown in the said ANNEXURE-A and thus he misappropriated an approximate amount of Rs 1,57,072.00 of TRC collection. The actual amount of misappropriation could not be ascertained due to non-availability of party's copy or office copy of the TRC receipts. He also did not credit the TRC collection handed over to him by Md. Fazlul Haque, GDS Packerman, Bhella SO on different dates as shown in enclosed ANNEXURE-C. By non-crediting the Govt money to the Govt account Sri Baro violated the provision of the above Rules.

Thus by the above acts Sri Baro displayed lack of integrity, lack of devotion to duty and thereby acted in a manner which is unbecoming of a Govt servant as enjoined in Rule 3(1)(i)(ii)(iii) of CCS(Conduct) Rules, 1964.

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ANNEXURE-III

List of documents by which the articles of charges framed against Sri Liban Ch. Baro, then SPM, Bhella SO now PA, Barpeta HO(U/S) are proposed to be sustained.

1. Original NSC Purchase Application Guard file of Bhella SO from 12.2.00 to 27.2.03(2 Nos)
2. Stock Book of NSC/KVP, Bhella SO from 6 1999 to Jan/03
3. SO a/c book of Bhella SO from 6.12.99 to Jan/03
4. Original Applications for purchase of NSC in r/o purchasers mentioned in article I of ANNEXURE-II.
5. SB long book of Bhella SO from 12.5.00 to 31.3.03(8 Nos)
6. RD journals of Bhella SO from 6.10.99 to 24.6.03
7. Original SB/RD pass books mentioned in Article II of ANNEXURE-II.
8. SB/RD LOT of Bhella SO for the dates mentioned in Article II of ANNEXURE-II.
9. Photo copy of order issued by Sri L.C. Baro, SPM, Bhella to Md. Fazlul Haque dt 2.4 00
10. Photo copies of RD money receipt handed over by Md. Fazlul Haque to Sri L.C. Baro mentioned in Article III of ANNEXURE-II.
11. Original telephone bills with PO receipts(Eng-9) mentioned in Article IV of ANNEXURE-II.
12. TRC Schedule of Barpeta HO from Nov/2000 to Jan/03
13. SO Summary of Barpeta HO from Dec/99 to Jan/03.
14. Photo copies of 58 TRC hand receipts mentioned in Annexure C of Article IV of ANNEXURE-II
15. TRC journal(office copy) of Bhella SO dtd 22.12.00, 18.1.01, 3.2.01, 8.2.01, 14.2.01, 15.2.01, 22.2.01, 10.3.01, 17.3.01, 29.3.01, 10.4.01, 26.4.01, 27.4.01, 15.5.01, 17.5.01, 15.6.01, 5.7.01, 19.7.01, 10.8.01, 18.10.01, 15.12.01, 20.12.01, 21.2.02, 26.2.02, 27.2.02, 28.2.02, 9.3.02, 12.3.02, 15.3.02, 3.4.02, 20.4.02, 20.6.02, 27.6.02, 12.7.02.
16. Used TRC receipt book No GH-1685 of Bhella SO.

ANNEXURE-IV

List of witnesses by whom the article of charges framed against Sri Liban Ch. Baro, then SPM, Bhella SO now PA, Barpeta HO(U/S) are proposed to be sustained.

1. Sri T.C. Kalita, then SDIPOs, Barpeta now PM, Nalbari HO.
2. Md. Fazlul Haque, GDS Packerman, Bhella SO (on put off duty)
3. Md. Latif Ali, Vill Dargapur PO : Bhella
4. Miss Anima Deka Sil, Sajati Mahila Samittee, Bhella
5. Smt Harbala Barman, Sajati Mahila Samittee., Bhella

certified to be true copy

Advocate

To,
The Superintendent of Post Offices,
Nalbari-Barpeta Division,
Nalbari - 781 335.

Sub : Reply to Show cause

Ref : (1) Memorandum No. F1-01/NSC/A/02-03 dtd. 16.1.04
issued under your signature.

(2) My Letter dtd. 7.2.2004.

Sir,



With reference to the subject cited above I have the honour to lay the following few lines for favour of your kind consideration in response to the memorandum of show cause under reference no.1.

Charge under Article No.1

The charges made under Article No.1 are not true. While I was serving and functioning as SPM, Bhella S.O., discharged my duties with due devotion and integrity. The sale proceeds of NSC were collected and credited to the credit register and accounted for in the S.O. Account on the dates. However in some cases because of some unavoidable situation and personal difficulties the said sale proceeds were not credited on the date, but later on all such sale proceeds were accounted in proper register and deposited to the appropriate place.

Charge under Article No.II

That the allegation of not depositing the accepted money from various depositors of SB/RD Accounts in the respective accounts are also not true. The amounts so collected were duly deposited except some few cases wherein some unavoidable

certified to be true copy



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personal difficulties I could not deposit in time. However, all such accounts were made upto date by depositing the money so collected in the respective accounts.

The Charge under Article No. III

Under Article III charges against me have been made alleging that while I was functioning duties as S.P.M., Bhella SO, during the period from 6.12.99 to 7.1.03, I have allegedly ordered one Md. Fazlul Haque, GDS Packerman Bhella So to perform all office work of Bhella SO without authority. This allegation is also not true. I have not ordered him to do so. What he has done in his own record without any permission of me. The said Fazlul Haque collected money and did not deposit in the accounts of depositors. I shall not be held guilty for the fault of said Md. Fazlul Haque. However, the all such irregularities in depositing the amount have been made corrected by me later on.

The Charges under Article - IV

That the charges under this article is also not true. I being appointed as SPM, Bhella SO, properly maintained the records of the receipt books. The alleged missing of Receipt Book is not due to fault of me and those missing has been happened without the knowledge of me. The irregularities of TRC collection not because

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of me. However, all the non deposited amount has been deposited by me.

In connection with the aforesaid charges of financial irregularities I have been served a notice dated 19.12.03 by your honour directing me to deposit the amount within fifteen days from the date of receipt of the said letter failing which I was threatened to face disciplinary action against me besides reporting the matter to the police. On apprehension of such police harassment I deposited an amount of Rs.6,63,422/- (Rupees six lakhs sixty three thousand four hundred twenty two) only up till now (Copy of letter dated 19.12.03 and details of deposits are enclosed herewith).

That Sir, some inadvertent mistakes have been committed in maintaining the records and depositing the amount so collected in proper time, but such mistakes have been made good by depositing said amount with immediate effect and delay so caused in making good of cash and account was not intentional, but due to some of my personal difficulties. If I have committed any mistake I may be exonerated as a first instance.

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Contd. Ax-2

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That Sir, I have been serving under the Department since 1964 and no such allegations or charges have ever been framed against me except the present one.

That Sir, I am now on the verge of retirement and because of my old age, infirmness and also because of my weak memory I might have committed some mistakes, but without any intention.

Under the above facts and circumstances it is therefore, prayed that your honour would be kind enough to consider my case and be pleased to acquit me from the charges levelled against me and I may be reinstated in service revoking the suspension order dated 25.9.2003 and thus oblige.

Yours faithfully,

Sd/- Liban Ch. Basu

Date : 4.3.04

Place : Nalbari.

certified to be true copy

Wm

Advocate

GUWAHATI SPO (791001)
RL-AD 7225
PA : KION
TRANSPORT DE POLICE
NALBARI, PIN:

भारतीय डाक



INDIA POST

GUN
Rt
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At

Wt:30grams
PS:0.00, Aat:30.00, 04/03/2004, 11:32:47
HAVE A GOOD DAY

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33 AX-3
Annexure-3

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE : GUWAHATI-781001

No. Staff/37 - 28/04
Dated Guwahati, the 12th July, 2004

A Departmental inquiry under Rule-14 of CCS (CCA) Rules, 1965 was initiated against Shri Liban Chandra Boro, PA(BCR) Barpeta HPO (under suspension) vide SPOs, Nalbari Memo.No.F1-01/NSC/A/02-03 dated 16.1.2004. An Inquiry Authority was appointed to inquire into the charges framed against the said Shri Boro and to submit report to the Disciplinary Authority.

2. The Inquiry Authority after concluding the oral inquiry in the case submitted Inquiry Report on 28.6.2004 to the Disc. Authority with findings that all the articles of charges leveled against the said Shri Liban Ch. Boro stand proved. A copy of the Inquiry Report dated 28.6.04 is enclosed. The undersigned has accepted the Inquiry Report and findings of the I.O. tentatively.

3. Now, the said Shri Liban Ch. Boro is hereby directed to submit a representation if he so desires against the Inquiry Report and findings of the I.O. to the undersigned within 15 (fifteen) days of receipt of this Notice. If Shri Boro fails to submit his representation within the stipulated period it will be presumed that he has no representation to make and the case will be decided exparte.

[Signature]
(Rajinder Kashyap)
Director of Postal Services[HQ]
Assam Circle, Guwahati-781001

✓ To
Shri Liban Chandra Boro,
PA (BCR),
Barpeta HO(Under suspension)

Copy to :-

1. The SPOs, Nalbari - to please arrange delivery of the enclosed copy of Show Cause Notice to Shri Liban Ch. Boro (charged official) immediately under receipt. The signed acknowledgement receipt may be forwarded to C.O. for record.
2. File No.F1-01/NSC/AOL-03 of SPOs, Nalbari.
3. Office Copy.

[Signature]
Director of Postal Services[HQ]
Assam Circle, Guwahati-781001

certified to be true copy
[Signature]
Advocate

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INQUIRY UNDER RULE-14 OF CCS(CCA) RULES, 1965 AGAINST SHRI LIBAN CHANDRA BORO, PA(BCR), BARPETA HO UNDER NALBARI-BARPETA DIVISION

INQUIRY REPORT

1.0. INTRODUCTION

The Supdt. of Post Offices, Nalbari-Barpeta Division, Nalbari Memo.No.F1-01/NSC/A/02-03 dated 30.03.2004 appointed me as Inquiry Officer to inquire into the charges framed under Rule-14 of CCS(CCA) Rules, 1965 against Shri Liban Chandra Boro, PA, Barpeta HO (hereinafter the charged official) under his Memo. dated 16.01.2004. In the aforesaid Memo. of appointment of the Inquiry Officer it was laid down that the inquiry would be held under Rule-10 of GDS(Conduct & Employment) Rules, 2001 against said Shri Liban Chandra Boro. However, a corrigendum was issued on 07.04.2004 saying that the inquiry would be held under Rule-14 of CCS(CCA) Rules, 1965 instead of Rule-10 of GDS(Conduct & Employment) Rules, 2001.

Md. Amzad Ali, SDIPOs, Barpeta Sub-Division was appointed as Presenting Officer to present the case on behalf of the Disciplinary Authority.

Accordingly, a preliminary hearing of the case was fixed on 14.05.2004 in the office of the SPOs, Nalbari and the charged official was directed under my letter No.DE/Rule-14/L.C. Boro/04 dated 06.05.2004 to appear before me in person. But the charged official did not attend the inquiry on the scheduled date. For which a further date was fixed on 27.05.2004 for the purpose with due consent of the Presenting Officer. On 27.05.2004 both the charged official and the Presenting Officer attended the preliminary hearing held in the office of the SPOs, Nalbari and the charged official after having fully understood the charges leveled against him admitted the charges in full and pleaded guilty of the charges. The charged official had also furnished a written declaration to this effect in presence of the Presenting Officer. As such it was decided by me not to hold further detailed oral inquiry of the case.

2.0. The articles of charges framed against the charged official on the basis the statements of misconduct or mis-behaviours are, in brief, as hereunder.

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Article - I

That the said SHRI Liban Chandra Boro, while functioning as SPM, Bhella SO during the period from 06.12.1999 to 07.01.2003 accepted applications and money from the purchaser of National Savings Certificates (VIII Issue) on different dates, issued necessary NSC against the amount to them duly signed and placing office date stamps on them, but the amounts so collected were not credited to the Government Account on those days or later and misappropriated the entire amount. Again he misused the NSC worth Rs.43,000/- from his office stock. Thereby Shri Boro violated the provisions of Rule 103 of FHB Vol.I, Rule 20(1)(I)(ii), Rule 4 and note 5 below Rule 20 of POSB Man. Vol.II and Rule 84 of Postal Man. Vol. VI Part-III. Thus Shri Boro displayed lack of integrity, devotion to duty and acted in a manner which is unbecoming of a Government servant as enjoined in Rule 3(1)(i)(ii)(iii) of CCS(Conduct) Rules, 1964.

Article-II

That the said Shri Liban Chandra Boro while functioning as such during the aforesaid period accepted money from the depositors of SB/RD Accounts, on different dates, for deposits into their accounts, noted the deposits, placed date stamps in the Pass Book, but the amounts so collected were not credited to the Government Accounts on those dates or later and the amount was mis-appropriated. Again Shri Boro fraudulently withdrawn Rs.15,000/- from SB A/C No.1501911 on 6.12.99 by forging the signature of the depositor and allowed withdrawal of Rs.2500/- SB A/C No.1502144 on 23.11.01 without entry in long book and A/C Book. Thereby Shri Boro violated the provisions of Rule 103 of FHB Vol.I, Rule 33(5) and 46(6) of POSB Man. Vol.I and Rule 84 of Postal Manual Vol.V Part-III. Shri Boro by his above acts displayed lack of integrity, devotion to duty and acted in a manner which is unbecoming of a Government servant as enjoined in Rule 3(1)(i)(ii)(iii) of CCS(Conduct) Rules, 1964.

Article-III

That the said Shri Liban Boro, while functioning as such during the aforesaid period issued order to Md. Fazlul Haque, GDS Packerman, Bhella SO irregularly to perform all office works on 02.04.2000 as a result of which Md. Fazlul Haque got the chance to commit fraud in SB/RD Accounts and TRC collection. Shri Boro also failed to credit the amounts of SB/RD deposit and TRC to the Government Account which was handed over by Md. Fazlul Haque to him on different dates. Thereby Shri Boro violated the provisions of Rule 103 of FHB Vol.I and by the above act he failed to maintain absolute integrity and devotion to duty and acted in a manner which is unbecoming of a Government servant as enjoined in Rule 3(1)(i)(ii)(iii) of CCS(Conduct) Rules, 1964.

ADDITION

That the said Shri Liban Ch. Boro while functioning as such during the aforesaid period accepted Telephone Bills with money from the telephone subscribers on different dates, issued receipts in Eng.-9 impressed office date stamp on receipts and handed over to the subscribers, but the amounts so collected were not deposited to the Government account on those days or later and misappropriated the entire amount of collection. He also did not credit the TRO collection handed over to him by Md. Fazlul Haque, GDS Packer, on different dates. Thereby Shri Boro violated the provisions of Rule 103 of FHB Vol.I and Rule 84 of Postal Manual Vol.VI Part-III and by the above act he displayed lack of integrity and devotion to duty and acted in a manner which is unbecoming of a Government servant as enjoined in Rule 3(1)(I)(ii)(iii) of CCS(Conduct) Rules, 1964.

3.0. The Presenting Officer, on behalf of the disciplinary authority produced the following documents as annexed in Annexure-III of the Memo. of charges to sustain the charges levelled against the charged official and these have been brought to the inquiry after having examined by me and these have been marked as mentioned against each documents.

1. Original NSC purchase application Guard Files of Bhella SO for the period from 12.02.2000 to 27.02.2003(2 Nos.) - marked Exht-P-XVI.
2. Stock Book of NSC/KVP of Bhella SO for the period from 06.12.1999 to January, 2003(1 Book) MARKED as Exht - P(i) (NSC Stock Book) and Exht - P(ii) (KVP Stock Book).
3. Sub-Office A/C Book of Bhella SO for the period from 06.12.1999 to January, 2003(3 Books) - marked as Exht.P-1(A),P-1(B) & p-1(C).
4. Original Applications for purchase of NSCs of the 35 purchasers as mentioned in Annexure-II of the charge sheet (35 Applications) - marked as Exhts-P-XVIII(1 to 35).
5. SB Long Book of Bhella SO for the period from 12.05.2000 to 31.03.2003 (7 Books) - marked as Exht.P-III(i to vii).
6. R.D. Journals of Bhella SO for the period from 06.10.1999 to 24.06.2003 (5 books) - marked as Exht-P-IV(a) to P-IV(e).
7. Depositor's Pass Books in respect of Bhella SO RD A/Cs Nos. mentioned in Annexure-II of the charge sheet (23 Pass Books) - marked as Exhts. P-V(i -xxiii).
8. Depositor's Pass Books in respect of Bhella SO SB A/Cs No.1501957, 1501013, 1502144 and 1501930 (4 Pass Books) - marked as Exht. P-VI(i to iv).
9. RD List of transactions of Bhella SO for the dates as mentioned in Annexure-II of the Charge Sheet - marked as Exht. P-VII.
10. SB List of transactions of Bhella SO for the dates as mentioned in Annexure-II of the charge sheet, -- marked as Exht.P-viii.

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11. A photocopy of the order issued by SPM, Bhella SO on 02.04.2000 ordering Md. Fazal Haque to perform the works of SPM, Bhella SO - marked as Exht. P-IX.

12. Photocopies of manuscript money receipts issued on various occasions without mentioning the date of issue of such receipts granted by SPM, Bhella to Md. Fazal Haque (18 Nos.) - marked as Exht. P-X(1 to 18).

13. Original Telephone Bills and the Post Office Receipts(Eng-9) in token of payment of such Bills by the subscribers as mentioned in the Annexure-II against Article-IV of the Memo. of charge - marked as Exht-P-XI.

14. Photocopies of the T.R.C. Schedules of Barpeta HO for the period from November, 2000 to October, 2002 (24 Schedules) - marked as Exht.P-XII.

15. S.O. Summary of Barpeta HO for the period from DECEMBER 1999 to January, 2003 (14 Books) marked as Exht.P XIII (1 to 14).

16. Photocopies of Hand to Hand Receipts (58 Nos.) showing amount of the Telephone Bills and the Telephone Nos. as mentioned in the Annexure-C enclosed with the charge sheet against Article-IV of the Annexure-II of the charge sheet - marked as Exht.P-IVX(1 to 58).

17. Office copy of TRC Journals of Bhella SO for the dates mentioned at Sl. 15 of the Annexure-III of the Charge Sheet (34 Journals) - marked as Exht.P-XV (1 to 34).

18. Used up Office copies of TRC Receipt Book (ENG-9) No.GH-1685 containing Sl. from 01 to 300 used in Bhella SO - marked as Exht.P-XVI.

4.0 Discussion:-

Examined the prosecution documents that have been produced by the disciplinary authority through the presenting officer to sustain the articles of charges and my observation against each article of charges is as under:

Article-1

It is alleged that the charged official accepted the applications of NSCs from the purchasers with corresponding amount i.e the face value of the certificates sought to be purchased and the charged official issued the NSCs on affixing office date stamps on such NSCs. But the amount so accepted were not credited to Govt.Account.

The prosecution produced as many as 40 such applications in origin (Exht-P-XVIII) I to 40). Except the applications accepted from the purchasers Md. Abbas Ali on 23.3.2001 in lieu of NSC No. 6Ns/32-EE-791638 for Rs. 10,000/- denomination and from Md. Tajuddin Ahmed on 20.2.2001 and 16.3.2001 in lieu of NSC No. 32-EE/91636/17 for Rs. 10,000/- each, the other applications bear no MO oblong stamp/date stamp of Bhella SO where from the certificates are alleged to have issued by the charged official. These documents are not even documented by any investigating authority in course of preliminary investigation. The authenticity of the said applications is as such not free and fair. The original NSCs alleged to have issued are also not produced as prosecution documents. However, the number of NSCs as mentioned in the imputation against the article of charge in Article-I are found noted on the back of the application forms and the value of such NSCs were not found accounted for in SO account book (Exht-P-I(A to C)) on the dates mentioned in the applications. In the stock register of NSCs (Exht-P-I) the number of the NSCs noted on the back of the applications were found to have deducted from the stock balance. It is therefore, proved beyond doubt that the charged official failed to credit the sale-value of the certificates to Govt. Account. As regard the other allegations that the disposal of 8 Nos of NSCs of the value of Rs. 43,000/- could not be made available after their receipt from the HO, I find that the prosecution did not produce the copies of invoices of the NSCs supplied from the HO in support of the supply of such NSCs to Bhella SO. But as the entries of the certificates mentioned in the charge are found in the stock book it implies that these were duly received by the charged official and he is liable for correct disposal of the said NSCs. Thus, the violation of the provision of rule 4 of POSB Man. VII-II is proved without any hesitation.

Article-II

The allegation in the Article-II of the Charge Sheet is two folded and very simple in nature. The charged official in the capacity of SPM, Bhella SO made the entries of deposits in the depositors Pass Books in respect of 23 RD A/Cs and 7 SB A/Cs (Exhts. P-V(I-XXIII) and Exhts. P-VI(I-VII) and the entries of such deposits were authenticated by affixing date stamp of Bhella SO and putting of the charged official's initials. But the entries of the corresponding deposits are neither found available in SO Long Book of Bhella SO (Exht. P-III), RD Journals (Exht. P-IV) nor in the list of SB/RD transactions (Exht-V & V) on that corresponding dates. The amount of deposits so collected was not accounted for in the Sub Office A/C Books of Bhella SO (Exht. P-I) as required under the provisions of Rules 46(6) of POSB Man. Vol. I and Rule 84 of Postal Man. Vol. VI (Part-III).

To establish the other part of the allegations i.e. alleged fraudulent withdrawals from SB A/C No. 1501911 and 1502144 on 06.12.1999 and 23.11.2001 respectively the prosecution did not produce the vital document viz. the supporting warrant of payments (SB-7) and in absence of such vital evidence the

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allegation can not fairly be proved. However, the charged official during preliminary hearing admitted the charged in full, it implies that he is liable for the said allegation also.

Article III

The prosecution has produced a photocopy of an order dated 02.04.2000 issued by the SPM, Bhella SO allowing Md. Fazal Haque, GDS Packerman of the Bhella SO to perform all office works of the office and for such works the SPM ie the charged official would be responsible. The authenticity of the said order (Exht.P-IX) can not be based in absence of any verification/attestation of the Investigating Officer. However, the SPM having sole responsibility of his office is liable for the performance of his subordinate official and in other words the charged official is responsible for the non-credit of the amount detailed in statement of imputation of misbehaviours in Article-I of the Memo. of Charges and as such the charge attributed on the charged official is found proved beyond doubt.

Article-IV

I have examined the prosecution documents viz. original Telephone Bills (Exht.P-XI), TRC Schedules (Exht.P-XII), SO A/C Books of Bhella SO (Exht.P-1) and SO Summary of Barpeta HO (Exht.P-XIII) for the period in question and find that the amount of Telephone Bills so receipted by granting valid receipts with authenticity of the office date stamp impressions were either not credited to SO A/C or in some cases credited on subsequent dates.

The photocopies of the hand to hand receipts (Exht.P-IVX) showing the amount of TRC collected by Md FazalHaque were handed over to the charged official have no locus-standi as these documents bear no sign of having verified with the original documents. But it is very much clear that the charged official in discharging his duties of SPM, Bhella SO is solely responsible for violation of the prescribed rules and procedures by his subordinates that too with illegal maintenance of office procedures. As the charged official admitted the allegations of the charges in full and as I find that the amount so realised are not accounted for or belatedly accounted for in the Government account, the article of charge in this score also is proved.

- 4.0 Findings:- In view of the discussion in para-4 above I hold that the charges in Article-I to Article-IV of the Memo of charges framed against said Shri Liban Chandra Boro, the charged official are fully proved beyond doubt and he is guilty of the charges which the charged official had admitted in the preliminary hearing held by me on 27-5-2004.

[Signature]
(L.R. BARMAN)

Inquiring Authority & DDM(PLI)
O/O the CPMG, Assam Circle, Guwahati

certified to be true copy

Advocate

To,

The Director of Postal Services (HQ),
Assam Circle,
Guwahati - 781 001.

Sub : Representation

Ref : Your Office Memo No. Staff/37-28/04 dtd. 12th July, 2004.

Sir,

With reference to the subject cited above I have the honour to lay the following few lines for favour of your kind consideration in response to the above memo issued by your office and oral inquiry held on 27.5.2004.

1. In connection with charges of financial irregularities, I had denied all the 4(four) charges framed against me vide my "Reply to Show Cause" letter dated 4.3.2004. I have been served a notice dated 19.12.03 by SPO, Nalbari Barpeta Division directing me to deposit the amount within 15 days failing which I was threatened to face disciplinary action against me besides reporting the matter to the police. On apprehension of such police harassment and to save my reputation I deposited an amount of Rs.6,63,422/- (Rupees six lakhs sixty three thousand four hundred twenty two) only up-till now. That it does not mean that I confessed my guilty and charges framed against me.
2. While I was functioning duties as SPM, Bhella so during the period from 6.12.99 to 7.1.03 I have allegedly ordered one Md. Faziul Haque, GDS Packer man Bhella so to perform all

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Advocate

office works of Bhella so without authority. I have not ordered him to do so. What he has done in his own record without any permission of me. The said Fazul Haque collected money and did not deposit in the accounts of depositors. I shall not be held guilty for the fault of said Md. Fazul Haque. However, the all such irregularities in depositing the amount have been made corrected by me later on.

- ✓ 3. That sir, at the time of oral enquiry held on 27.5.2004 I was not fully with my sound mind due to illness and old age. What statements I have given before the Inquiry Officer I could not understand and was beyond my control. I could not adjust my mind at that time. Therefore a fresh Inquiry may be held appointing a new Inquiry Officer.
4. That Sir, some inadvertent mistakes have been committed in maintaining the records and depositing the amount so collected in proper time, but such mistakes have been made good by depositing said amount with immediate effect and delay so caused in making good of cash and account was not intentional, but due to some of my personal difficulties
5. That Sir, if I have committed any mistake I may be exonerated as a first instance. I have been serving under the Department since 1964 and no such allegations or

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charges have ever been framed against me except the present one

6. That Sir, I am now on the verge of retirement and because of my old age infirmness and also because of my weak memory I might have committed some mistakes, but without any intention. Any further balance amount I shall have to pay to the Department may be deducted from my gratuity and etc., but I may be acquitted from the charges levelled against me and I may be relieved from my mental sufferings so that I can enjoy my peaceful retirement life with regular pension.

Under the above facts and circumstances it is therefore prayed that your honour would be kind enough to consider my case and be pleased again to acquit me from the charges framed against me and I may be reinstated in service revoking the suspension order dated 25.9.03 and thus oblige.

Yours faithfully,

sd/-

Liban Ch. Boro

Vill + P.O - Narma

Via - Borola

Dist - Bham.

A. S.

certified to be true copy

Advocate

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Annexure - 5

Department of Posts
O/o Chief Postmaster General, Assam Circle,
Meghdoot Bhavan, Guwahati-781001.

No.Staff/37-28/04

Dated at Guwahati the 29.7.04.

ORDER

A Charge Sheet was issued to Shri Liban Chandra Boro, PA(BCR), Barpeta HO (under suspension) with proposal to hold inquiry against him under Rule-14 of CCS (CCA) Rules, 1965 vide SPOs, Nalbari Memo No.F1-01/NSC/A/02-03 dated 16.1.04. A statement of imputations of misconduct or misbehaviour on the basis of which the inquiry was proposed to be held was prepared in form of Articles of charge (Annexure-I) and furnished to the Shri Boro along with the statement of imputations of misconduct or misbehaviour (Annexure-II) in support of each Article of charge, a list of documents in Annexure-III by which and a list of witnesses in Annexure-IV by whom the Articles of charge were proposed to be sustained together with the said memorandum with direction to him to submit a written statement of his defence and also to state whether he desired to be heard in person, within 10(ten) days of receipt of the memorandum.

2. The substance of the imputations of misconduct or misbehaviour drawn up against the said Shri Liban Ch. Boro in Articles of charge were as under.

Article : I

That the said Shri Liban Ch. Boro while functioning as SPM, Bhella SO during the period from 6.12.99 to 7.1.03 accepted applications and money from the purchasers of NSCs(VIII issue) on different dates and issued NSCs against the amount to them duly signing and placing office Date Stamp on them, but the amount so collected was not credited to Govt. account and misappropriated the entire amount. Again he misused the NSCs worth Rs.43,000/- from the Office Stock. It is therefore alleged, that the said Shri Boro by the above acts, violated the provisions laid in Rule 103 of FHB Vol-I, Rule 20(1)(i)(ii) Rule 4 and Note 4 there under and Rule 20 of P.O. SB Manual Vol.-II and also Rule 84 of Postal Manual Vol-VI(III). Thus Shri Boro displayed lack of absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Government Servant in violation of Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

Article : II

That the said Shri Boro while functioning as such during the aforesaid period accepted money from the depositors of SB/RD accounts on different dates for deposit in their accounts and he noted the deposits and placed Date Stamp in the pass books but the amount so collected were not credited to Govt. accounts. Again the said Shri Boro made withdrawal of Rs.15,000/- from SB A/C No.1501911 on 6.12.99 fraudulently by forging the signature of the depositor himself and also allowed withdrawal of Rs.2,500/- from SB A/C No.1502144 on 23.11.01 without entry in the office Long Book and the Account book. By the said acts, Shri Boro is alleged to have violated the provisions of Rule 103 of FHB Vol-I, Rules 33(5) and 46(6) of PO SB Manual Vol-I and also Rule-84 of Postal Manual Vol-VI part-III. Thus the said Shri Boro by his above acts, displayed lack of absolute integrity, devotion to duty and acted in a manner which is unbecoming of a

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Advocate

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Govt. servant in violation of Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

Articles : III

That the said Shri Liban Ch. Boro while functioning as such during the aforesaid period issued order to Md. Fazlul Haque, GDS Packer, Bhella SO irregularly to perform all office works on 2.4.2000, as a result of which Md. Fazlul Haque got the chance to commit fraud in SB/RD accounts and TRC collection. Shri Boro also failed to credit the amounts of SB/RD deposits and TRC to the Govt. account which were made over to him by Md. Fazlul Haque on different dates. Thereby, Shri Boro violated the provisions of Rule 103 of FHB Vol-I and also displayed lack of absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Govt. servant in violation of Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

Article : IV

That the said Shri Liban Ch. Boro while functioning as such during the aforesaid period, accepted Telephone bills with money from the telephone subscribers on different dates and issued receipt in Eng-9 and made over to the subscribers after putting impression of the office Date Stamp, but the amount so collected was not credited to Govt. account. He also did not credit the TRC amount made over to him by Md. Fazal Haque, GDS packer on different dates. Thereby Shri Boro violated the provisions of Rule 103 of FHB Vol-I and Rule-84 of Postal Manual Vol-VI (Part-III). By the said acts, Shri Boro displayed lack of absolute integrity, devotion to duty and acted in a manner which unbecoming of a Govt. servant in violation of Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS(Conduct) Rules, 1964.

3. The charged official submitted a written statement of his defence on 7.2.2004 denying all the charges leveled against him and also expressing his willingness to be heard in person before an Inquiry authority. The charged official also submitted another written statement of defence on 4.3.04 narrating inter-alia the facts of the case and denying all the charges with request to exonerate him from the charges and to reinstate in the service. An Inquiry Officer was then appointed on 30.3.04 to inquire into the charges and to submit Inquiry report. The Inquiry Officer fixed the preliminary inquiry on 14.5.2004 in the O/o the SPOs, Nalbari as notified by him on 6.5.04. But the inquiry was not held due to absence of the charged official. The I.O. fixed the next date on 27.5.04 for preliminary/regular inquiry. The inquiry was held accordingly in presence of the charged official. After reading out and explaining the charges to the charged official by the I.O., the charged official admitted the charges in full before the I.O. and furnished a declaration to this effect duly signed by him. In view of clear admittance of the charges and pleading guilty by the charged official the I.O. did not hold further detailed oral inquiry and submitted his Inquiry report on 28.6.04.

4. As the Superintendent of Post Offices, Nalbari is not competent to decide and pass order against the charged official under major penalty proceeding because of the charged official being BCR(HSG-II) grade whose appointing authority is the Director of Postal Services, the Disc. case was forwarded to DPS(HQ), O/o the Chief PMG, Assam Circle, Guwahati for decision and final disposal. A copy of the Inquiry report of the I.O. was then supplied to the charged official vide Circle Office, Guwahati letter of even No. dated 12.7.04 with direction to submit a representation if he so desired to make against the Inquiry report and findings of the I.O. within 15(fifteen) days of receipt of the said communication. The said show cause notice

was received by the charged official on 15.7.04 and he submitted his representation on the same date which was received in this office on 19.7.04.

5. The Inquiry Officer in his Inquiry Report concluded his findings to the fact that the charges in Article-I to Article-IV of the Memo. of charges framed against Shri Liban Ch. Boro are fully proved beyond doubt and he is guilty of the charges which the charged official had admitted in the preliminary hearing held on 27.5.04. The Inquiry Officer has come to the above conclusion on assessment the evidences after examining the documents listed in Annexure-III of the Memorandum of charges, by which the charges were proposed to be sustained. The I.O. has taken all the listed documents into account of the inquiry and marked them with prosecution Exhibit numbers for identification. In the Inquiry Report, the I.O. has discussed the evidences adduced by the documents and recorded them with his observations and findings against each Article of charge as under.

Article : I

The applications for purchase of NSCs (Exht.-P-XVIII/1-40) particularized in the statement of imputations (Annexure-II) in support of the Article-I of the charge bear no oblong Stamp/Date Stamp of Bhella SO except the applications in respect of NSC No 6NS/32 EE-791138 for Rs.10,000/- purchased on 23.3.01 by Md. Abbas Ali and NSC No.6NS/32 EE-791636-37 for Rs.10,000/- each purchased on 16.3.2001 by Md. Tajuddin Ahmed. Therefore authenticity of the said applications is not free. The original NSCs alleged to have been issued were not produced as prosecution documents. However, the number of NSCs as mentioned in the imputation are found noted on the back of the application forms. As per S.O. Account Book of Bhella SO (Exht.-P-1/A to C), the sale proceeds of these NSCs were not credited and accounted for. In the Stock Register of NSCs (Exht.-P-1) those NSCs have been found deducted from the stock balance. It is therefore proved beyond doubt that the charged official did not credit the sale proceeds of the NSCs shown in the imputation in respect of Article-I of charge to Govt. account. As regards the allegation as to misuse of other 8 Nos of NSCs for value of Rs.43,000/-, the prosecution did not produce the copies of invoices under which these NSCs were supplied to Bhella SO. However, the said 8 NSCs particularized in the imputation in support of Article-I of charge are found entered in the stock book which implies that these NSCs were received by the charged official. Thus the Article-I of charge framed against the charged official is proved.

Article : II

The pass books of 23 RD A/Cs (Exht.-P-V) I to XXIII) and 7 SB A/Cs (Exht.-P-VI/I to VII) reveals that the charged official made the entries in those pass books of the amount of deposits on the dates shown against each account in the imputation drawn-up in support of the Article-II of charge. The entries in the said pass books were authenticated by the charged official putting his initial and affixing the impression of Date Stamp of Bhella SO. But these transactions do not appear in the Long Book of Bhella SO (Exht.P-III), RD journals (Exht.-P-IV) nor in the list of SB/RD transactions (Exht.-P-V & VI) of the corresponding dates of deposit. Moreover, the amount of deposits so collected do not appear to have been accounted for in the SO Account Book of Bhella SO (Exht.-P-I). As regards the allegation as to fraudulent withdrawals from SB A/Cs No.1501911 and 1502144, this could not be proved in absence of supporting warrant of payment (SB-7) which the prosecution did not produce. However, as the charged official has admitted

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the charges in full it implies that the Article-II of charge framed against the charged official stands proved.

Articles : III

The photocopy of the order dated 2.4.2000 (Exht.-P-IX) alleged to have been issued by the charged official instructing Md. Fazal Haque, GDS packer of Bhella SO to perform all works in the office can not be authentic in absence of any verification and attestation of Investigating Officer on this aspect. However, since the charged official was solely responsible for performance of his sub-ordinate in his office, he was liable for non-credit of the amount detailed in the imputations in support of Article-I of charge, the charge against the charged official on this count is found proved.

Article : IV

The prosecution documents viz. Telephone bills (Exht.-P-XI), TRC Schedules (Exht.-P-XII), SO Account Book of Bhella SO (Exht.-P-I) and SO summary of Barpeta HPO (Exht.-P-XIII) for the period detailed in the imputations in support of Article-IV of charge show that the amount of Telephone bills collected by granting valid receipts to the subscribers was not credited in S.O. Account and in some cases credited belatedly. The photocopies of hand to hand receipts (Exht.-P-XIV) do not prove that the amount of TRC collected by Md. Fazal Haque was made over to the charged official as because these documents bear no sign of having verified and authenticated with original records. Nevertheless, the charged official was apparently acted irresponsibly as the SPM, Bhella SO for illegal maintenance of office procedures. As the charged official admitted the allegation in full, the charge on this count is also proved.

6. In his representation dated 15.7.04, the charged official has stated that he has nothing to say against the report of the I.O. He further states the following.

- i) That he had already admitted all the charges leveled against him in the preliminary hearing of the inquiry held by the I.O. on 27.5.04.
- ii) That he had completed 39 years 11 months of service in the department sincerely prior to the present case. He did not intentionally commit the irregularities. But due to laxity of strict supervision over his office staff, the irregularities occurred somehow for which he is really regretted.
- iii) That he is a poor Govt. servant with 5 sons, one daughter and his wife and maintaining them with his low salary. Moreover, he has been suffering from high blood pressure, diabetes since 2000 affecting his memory power. The irregularities in his office works took place due to loss of some percentage of memory by him. For this, he finds none responsible but his own fate.
- iv) That he will be retiring on 31.7.2004 on superannuation. But due to his bad luck he would not be able to retire peacefully. However, considering his long service in the department, he may be allowed to retire with lenient view on his case with granting pensionary benefits so that he can live in his old retirement age without starvation.

7. It is seen that the charged official has not made any effort to refute the Inquiry report and findings of the Inquiry Officer in his representation discussed above. On the other hand he has admitted the charges in full unequivocally similar to his earlier admittance of the charges in his written statement of defence as well as in the preliminary inquiry before the I.O. while shouldering the entire responsibility for the misdeeds, he is repenting now stating that such irregularities never occurred before in his 39 years 11 months long service. He is now blaming his fate and cited his poor memory power caused by high blood pressure and diabetes, to be the reasons for the irregularities. Lastly the charged official has prayed for leniency in the case and sought for a favorable decision which will enable him to get pensioner benefits. I have perused the charges framed against the said Shri Liban Ch. Boro. It is alleged that he did not credit the sale proceeds of NSCs SB/RD deposits and Telephone bills collection to the Govt. account. Moreover, he is also alleged to have permitted the GDS packer of Bhella SO to accept and deal with monetary transactions irregularly. Scrutiny of the exhibited documents reveals the following-

- (a) As per applications for purchase of NSCs (Exht.-P-XVIII(1 to 35), the NSCs detailed in the imputation set out in support of the Article-I of charge, were issued to the investors. The issues of those NSCs were duly deducted from the balance in the stock on the respective dates of sale as per Stock Register of NSCs(Exht. P(i). But the credit of sale proceeds corresponding to those NSCs does not appear in the S.O. Account Book of Bhella SO (Exht.P-1(A) to (C). Thus it is evidently established that the charged official while functioning as SPM, Bhella SO accepted money from the investors of the NSCs particularized in the imputation and issued them as per applications but the amount was not credited in the Govt. account. The Stock Register of NSCs (Exht.P(i) also reveals that the 8(eight) NSCs valued Rs.43,000/- were received from the HO at Bhella SO but the charged official disposed of them irregularly without accounting for the sale proceeds.
- (b) As per the pass books of RD accounts (Exht.P-V(i-xxiii) and SB accounts(Exht.P-VI (I to IV) detailed in the imputation set out in support of the Article-II of charge, were entered in those pass books and authenticated by the charged official by putting his initial and impression of Bhella SO Date Stamp against those entries. The deposits entered in those pass books do not appear in Bhella SO Long Book nor in the relevant list of SB/RD lists of transaction (Exht.P-III and P-VII respectively). The amount of deposits as appeared in the pass books are also not found accounted for and credited to Govt. account as per the Bhella S.O. Account Book (Exht.P-1(A) to (C). Therefore there is no dispute to the fact that the charged official did not credit the amount of deposits to the tune of Rs.43,850/- in respect of the RD/SB accounts shown in the imputation set out in support of the Article-II of charge. As regards, the allegation as to fraudulent withdrawal from two SB A/Cs viz. 1501911 and 1502144 this is difficult to prove without the relevant withdrawal vouchers which were not brought in as evidence. However, since the charged official has admitted the charges in full the Article-II of charge stands established.
- (c) As per order dated 2.4.2000(Exht.P-IX), the charged official issued instruction to Md. Fazal Haque, GDS packer of Bhella SO to perform PO works which he is not authorized to. Even if the genuineness of this document is disputable for want of attestation of the Investigation Officer as observed by the I.O, the charge on this count can not be negated in view of the charged official admitting the same.

- (d) The TRC Receipt Book(Exht.P-XVI) shows that receipt were granted to the subscribers for payment of telephone bills as detailed in Annexure-A to the imputation set out in support of the Article-IV of charge during the period from 8.10.2000 to 6.7.2001. But the charged official did not credit the amount of TRC so collected except in 25 transaction's which were also credited belatedly as appear in the Bhella SO Account Book(Exht.P-I(A) to (C), TRC Schedules of Barpeta HO(Exht.P-XII), TRC journals of Bhella SO(Exht.P-XV/1 to 34) and S.O. summary of Barpeta HO(Exht.P-XIII/ 1 to 14). The hand-to-hand receipts (Exht.P-XIV) shows that Md. Fazal Haque, GDS Packer of Bhella SO made over the amount of TRC collected by him to the charged official. In view of the charged official having admitted all the charges in full, the Article-IV of charge also stands proved.

8. In view of what have been discussed above, I fully agree with the inquiry report and findings of Inquiry Officer in this case. The charges against the Charged Official have been proved. The Charged official has also categorically accepted the charges framed against him in this case. The case is grave and the Charged Official has displayed utmost unconcern to the Rules and Procedures for handling the daily transactions in the post office under his charge. The each aspect of this case is discussed at length during the course of inquiry as in the above paras. The Charged Official has misappropriated the government money fraudulently and used for his own purpose. In wake of position explained above, I issue following order in this case;

ORDER

I, Rajinder Kashyap, Director of Postal Services (HQ), Assam Circle, Guwahati hereby order to impose a penalty of Dismissal on Shri Liban Chandra Boro, PA (BCR), Barpeta HO (under suspension) in this case.

WJF
29/11/01
(Rajinder Kashyap)

Director of Postal Services (HQ)
Assam Circle, Guwahati-781 001

✓ Shri Liban Chandra Boro,
PA (Under Suspension),

Barpeta HO, Barpeta. (Through the SPOs, Nalbari-Barpeta Division, Nalbari.)

Copy to:-

Certified
True copy
Advocate

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DEPARTMENT OF POSTS : INDIA
Office of the Superintendent of Post Offices Nalbari Barpeta Division
Nalbari-781335

20/12/03

u
Annexure - 6

To

✓ Sri Liban Ch. Baro
PA, Barpeta HO(U/S)

No : F1-01/NSC/TRC/A/02-03 dated at Nalbari the 19.12.2003

Sub: Non credit of TRC collection at Bhella SO.

During verification of your past work at Bhella SO it has been detected that you have accepted money against different Telephone bills from the subscribers, granted receipts in Eng-9, placing Bhella SO date stamp, with your initial and thus collected Rs 2,42,828/- (Rupees two lakhs forty two thousand eight hundred twenty eight only) during the period from 16.11.00 to 7.1.2003, but the said amounts were not deposited to the Govt account. The verification is continuing and some more non-credits may come to light soon.

You are therefore requested kindly to deposit the above amount to the Govt account within 15 days of receipt of this letter. If you fail to deposit the said amount within the stipulated date, necessary disciplinary action will be taken against you besides reporting the matter to the police.

(S. Das) 19/12/03

Superintendent of Post Offices
Nalbari Barpeta Division
Nalbari-781335

Copy to:-

The SDI(P)/Barpeta for information. And to persue the official to credit the money immediately and report result of persuasion.

SD/-

Superintendent of Post Offices
Nalbari Barpeta Division
Nalbari-781335

CERTIFIED IN THE TRUE COPY

[Signature]
A/Vocum

NSC CREDIT

Annexure - 7

SlNo.	Receipt No.	Date.	Amount (Rs)	Remarks
1.	091	18/12/02	35,000.00	
2.	093	20/12/02	25,000.00	
3.	20	21/12/02	65,000.00	
4.	097	27/12/02	15,000.00	
5.	29	28/12/02	27,000.00	
6.	31	03/01/03	80,000.00	
7.		03/01/03	30,000.00	-> Receipt not collected. Amount was paid at Bhella Sub Post Office.
8.	63	19/01/03	15,000.00	
9.	65	28/01/03	25,000.00	
10.	86	07/02/03	27,500.00	
Total.			3,44,500.00	
11.	18	02/04/03	40,000.00	→ Interest of Above Total Amount
12.		March. 2003	55,000.00	→ S.B./R.D./TRC-Short Amount. Amount Paid at H.O. Barpeta.
Grand Total.			4,39,500.00	

The Above Amount due is estimated in the presence of. Tarun Kalita, S.D.I. He is now at Head Post Office. Nalbari.

Another amount Due is estimated —in S.B./R.D./TRC—.in the presence of present S.D.I. —Amzaad Ali. Amount Deposited is as follows.

S.B./R.D./TRC				
13.	1	10/10/03	20,000.00	
14.	33	14/10/03	30,000.00	
15.	002	17/10/03	5,000.00	
16.	46	21/10/03	10,000.00	
17.	47	27/10/03	25,000.00	
18.	69	09/12/03	25,000.00	
19.	95	23/01/04	15,000.00	
20.	012	28/01/04	5,000.00	
21.	024	31/01/04	20,000.00	
22.	98	05/02/04	68,922.00	
Total			2,23,922.00	
Gross Total			6,63,422.00	

Certified to be true copy



Advocate

To,

The Director of Postal Services (HQ),
Assam Circle,
Guwahati-781 001.

Sub : 1) Your Memo No. Staff/37-28/04 dtd. 12.7.04
2) Your order No. Staff/37-28/04 dtd. 29.7.04
3) SPO's (Nalbari) Memo No. FI-01/KVP/BPHO/03-04
dt. 26.7.2004

Ref : My representation dated 12.7.04

Sir,

With reference to the subject cited above I have the honour to lay the following few lines for favour of your kind consideration and necessary action in response to the above communication by your honour and your subordinate.

1. That Sir, in connection with the charges framed against me of financial irregularities I was put under suspension from 25.9.2003 allowing me to draw subsistence allowance and I was regularly receiving some letter from SPO, Nalbari Barpeta Division directing me to deposit the amount within 15 days failing which I was threatened to face disciplinary action against me besides reporting the matter to the police. On apprehension of such police harassment and to save my reputation I deposited an amount of Rs.6,63,422/- (Rupees six lakhs sixty three thousand four hundred twenty two) only up-till now. Perhaps that matters have been suppressed by SPO, Nalbari, Barpeta

certified.

enc copy

Advocate

-2-

Division from you when the whole matter have been referred to you to take decision since SPO, Nalbari is not having the jurisdiction to take any decision on my matter. Since I have deposited the money time to time as instructed by SPO, Nalbari then why disciplinary proceeding has been drawn against me by your authority. It is surprised to note that in any of your as well as your subordinate, i.e. SPO, Nalbari's communication it is never mentioned about deposition of my said amount. I was awaiting with a great hope that when I deposited the amount against the misappropriated fund as instructed by SPO and also I requested to deduct from my gratuity etc., If any further amount is pending and exonerate me so that I can enjoy my peaceful retirement life, but now I could not understand where my deposited amount have been adjusted. That Sir, I request your honour kindly to clarify me regarding the above point enabling me to proceed further.

Detailed statement of deposition of amount and letter received from SPO, Nalbari are annexed as Annexure-1 and 2 in series.

2. That Sir, I have received a memo dated 26.7.2004 from SPO, Nalbari, Barpeta Division and I have been wrongly

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charged with another new making facts. I am enclosing the memo herewith which will be self explanatory to you. That is completely a making fact. I fully denied this charge which is based by the particulars furnished by Md. Eakin Ali Sikdar and who himself is connected with great scandal of misappropriated fund of Postal money and is moving to the Hon'ble Gauhati High Court many times for bail.

Copy of memo dated 26.7.04 by SPO is annexed as Annexure-3.

3. That Sir, on receipt of your memo dated 12.7.04 I have sent a representation dated 23.7.04, perhaps your honour have received that on late or ignored. I am again requesting you to go through the said representation and I may be exonerated, if I have committed any mistake as a first instance. I have been serving under the Department since 1964 and no such allegation or charges have never been framed against me except the present one. I highly request you to kindly adjust the deposited money against the misappropriated fund and any further balance amount I shall have to pay to the Department may be deducted from my gratuity and etc., but I may be acquitted from the charges levelled against me and I may be relieved from my mental sufferings so that I can enjoy my peaceful retirement life with regular pension. Therefore, your

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honour is requested to pass another order removing the penalty of dismissal on me.

Copy of representation dated 23.7.04 is annexed as Annexure-4.

4. That Sir, I was getting regularly the subsistence allowances from the date of my suspension. But for the month of July/04 I have not been allowed to draw the same for which I am facing an acute financial crisis. I request your honour to kindly instruct the SPO, Nalbari, Barpeta Division to make payment of the subsistence allowance for the month of July/04.

Under the above circumstances it is therefore prayed that your honour would be kind enough to consider my above prayer and be pleased to pass a fresh order going through the above points and acquit me from the charges framed against me so that I can enjoy my peaceful retirement life from 31.7.04 on which I retired due to superannuation and thus oblige.

Yours faithfully,

date: 06/8/04

sd/

certified to be true copy

Advocate

To,
The Chief Post Master General, Assam Circle,
Guwahati.

Date : 15.9.2004

Sub : Appeal against dismissal order vide No. Staff/37-28/04
dated 29.7.04.

- Ref : 1) Your Memo No. Staff/37-28/04 dtd. 12.7.04
2) SPO's (Nalbari) Memo No. F1-01/Kvp/BPHO/03-04
dt. 26.7.04
3) My representation dated 23.7.04
4) My representation dated 6.8.04

Sir,

Most respectfully and humbly I, Sri Liban Chandra Baro
begs to lay the following few lines for favour of your
consideration :-

- 1) That Sir, while I was serving as Postal Assistant (PA),
Barpeta H.Q. received an order dated 25.9.03 issued under
the signature of Superintendent of Post Office, Nalbari,
Barpeta Division placing me under suspension on certain
allegation of misappropriation and corruption of Rs. 100/-
allegedly committed during my service period on order of
Bhella S.O.
- 2) That Sir, a disciplinary proceeding was initiated against me
vide memo No. F1-01/NSC/A/02-03 dated 16.1.04 issued
under the signature of Superintendent of Post Office,
Nalbari, Barpeta Division. I submitted a reply to show
cause and the Inquiry Officer instructed me to appear for



preliminary hearing and accordingly I appeared on 27.5.04 before the aforesaid authority who on my appearance asked me to sign some papers. I being a Junior Officer with submissive nature signed the said papers on good faith without knowing the contents, wherein it is allegedly stated of my admission of committing guilt.

- 3) That Sir, in the aforesaid connection I submitted representation dated 23.7.04 before the disciplinary authority with a contention that what I have stated before the Enquiry Officer on 27.5.04 stated out of physical and mental illness and without knowing the contents in the paper wherein I have been asked to sign and hence a fresh enquiry may be held. But the disciplinary authority without considering my representation and without holding any fresh enquiry dismissed me from service by order dated 29.7.04.
- 4) That Sir, during my suspension period, the SPO, Nalbari-Barpeta Division issued some notices to deposit the alleged misappropriated/defaulted amount which I deposited with immediate effect.
- 5) That sir, since I have made good the defaulted amount with immediate effect without any verification of total defaulted amount but only on the instruction of my senior officer and hence extreme punishment depriving of my retirement benefits shall not be imposed, but no consideration has been paid and hence this appeal.

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Therefore, it is prayed that your honour would be kind enough to call for the records to adjudicate the case giving me relief by way of setting aside the dismissal order dated 29.7.04 and be pleased to grant my pensionary benefit and thus oblige.

Yours faithfully,

Liban Baro

(Liban Ch. Baro)
Vill. & P.O. Narja,
Via. Bartola,
Dist. Nalbari (Assam)

Encl : 1) Dismissal order No. Staff/
37-26/04 dt. 29.7.04

2) My representation dt. 23.7.04

3) My representation dtd. 6.8.04

Copy to :-

The Director of Postal Services, (HQ),
Assam Circle, Guwahati - for favour of information.

Certified to be true copy
[Signature]
Advocate