

50/100  
**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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**SECTION OFFICER (Judl.)**

FORM NO. 4,  
 (SEE RULE 42)  
 CENTRAL ADMINISTRATIVE TRIBUNAL  
 GUWAHATI BENCH

ORDER SHEET

322/04

Original Application No.

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicants: S. B. Hazarika

Respondents: M. O. P. Gang

Advocates for the Applicant: In Person

Advocates of the Respondents: Caff

Notes of the Registry Date Order of the Tribunal

This application is in form  
 is filed on 20.12.2004  
 deposit of Rs. 50/-  
 No. 26560740  
 Dated 16-12-04

Dy. Registrar

20.12.2004

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

Heard Mr. S.B. Hazarika, the applicant in person.

Issue notice to show cause as to why the application shall not be admitted, returnable by four weeks.

List on 21.01.2005 for admission.

*K. V. Prahladan*  
 Member (A)

Steps taken with  
 envelops.

mb

24.1.2005

None present. List on 27.1.2005 for admission.

Notice & order sent  
 to Dissection Box  
 issuing to resp.  
 Nos. 1, 2, by regd. A/D  
 post.

mb

*K. V. Prahladan*  
 Member (A)

*CoC*  
 30/12/04

24-1-05

S/R awaited

27.1.2005 Present : The Hon'ble Mr. K.V. Prahladan, Member (A)

None present for both the parties.

To the  
Copy of the

10.2.05

Copy of the order has been sent to the Office for sending the same to the applicant as well as to the Chief Postmaster General, N.E. Circle, Shillong by Post.

26.3.05

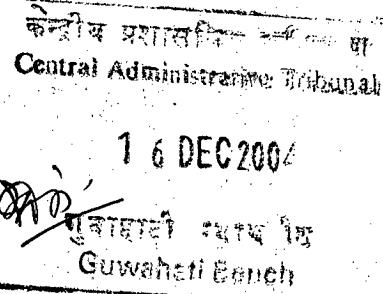
A copy of the order has been sent to the Office for sending the same to the applicant in his new address at Tripura (South) by Post.

mb

The application for regularisation ~~in~~ the period of suspension. The applicant was suspended vide order dated 17.4.1998 (Annexure - A-1). The suspension was revoked on 31.12.98 (Annexure - A-2). His two representations (Annexures- A-3 & A-5) have not been given reply. The Respondent No. 2 is directed to give reasoned and speaking ~~in~~ reply of the representation dated 18.08.2003 (Annexure -A-3). The Chief Postmaster General, N.E. Circle, Shillong is directed to give reasoned and speaking reply of the representation dated 23.2.2004 (Annexure - A-5). The reply of these two representations shall be given within three months from the date of receipt of this order.

The application thus stands disposed of. No order as to costs.

KV Prahladan  
Member (A)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWHLATI BENCH : GUWHLATI-5

*APPLICATION UNDER SECTION 19 OF  
THE CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985.*

Title :- S.B.Hazarika

Vs.

Union of India & Others

IN THE **CENTRAL ADMINISTRATIVE TRIBUNAL**, GOVT. OF INDIA  
**GUWAHATI BENCH ; GUWAHATI-5, (ASSAM).** Central Administrative Tribunal

16 DEC 2004

~~App. No. 322 of 2004.~~  
G.R. No. 322/2004

O.A. No: 322 of 2004.

Application under Section 19 of the Administrative  
Tribunal, Act, 1985.

Title of the Case :- S.B. Hazarika,

-Vs-

Union of India & Others.

I N D E X.

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7.	" A-6. Ruling on time -limit for serving charge-sheet dt. 4/2/71.	16
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9.	" A-8. Extract of FR. 54-B (on regularisation of suspen- sion period).	

  
Signature of the Applicant.

(FOR USE IN TRIBUNAL'S OFFICE.)

Date of Filing :-  
Or

Date of receipt by Post :-

Registration No :-

Signature :-

For Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BRANCH ::::GUWAHATI-5:(ASSAM).

O.A. No: 322 / 2004.

*Bambhaniya*

IN THE MATTER OF :-

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

-AND-

IN THE MATTER OF :-

Shri S. B. Hazarika,  
Ex.C.I., Divisional Office,  
Nagaland, Kohima, -797001. ....APPLICANT.

-Versus-

1. The Union of India,  
Represented by :-

The Secretary, Department of Posts,  
Ministry of Communication,  
Sanchai Bhawan, Samsad Marg,  
New Delhi- 110 001.

2. The Director of Postal Services,  
Manipur, Imphal- 795001.

....RESPONDENTS.

DETAILS OF THE APPLICATION.

1. Particulars of the Orders against which application  
is made :

Suspension Order No.H-4/LE/GENL dtd. 17.4.98 passed  
by the Director of Postal Services, Manipur, Imphal.

(Contd...P/2).

2. JURISDICTION OF THE TRIBUNAL :-

The applicant declares that the subject matter of the application is within the jurisdiction of the Tribunal.

3. LIMITATION :-

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal, Act, 1985.

4. FACTS OF THE CASE :-

4.1. That, while the applicant was working as Sub-Divisional Inspector of Post Offices (SDIPOs), Ukhrul Sub-Division in Manipur (1996-1998) the Director of Postal Services, Manipur, Imphal (Res. No. 2) had placed the applicant under suspension under Rule 10(I) (a) of the CCS(CCA) Rules, 1965 on the ground of contemplation of a disciplinary proceeding against the applicant Vide his Order No. H-4/LE/Genl dtd. Imphal 17/4/98.

(A copy of the suspension order is enclosed as Annexure A-I).

4.2. That, on 31/12/98 the Order of suspension was revoked by the suspending authority (Res. No. 2) during the pendency of investigation into the case and the applicant was transferred and posted as Inspector of Post Office (Complaints) commonly designated as C.I. in the O/O The Director, Df Postal Services,

Nagaland/Kohima with a view to guarding against tampering with evidence during investigation. The applicant resumed duties on 2/2/99.

*Domestic*  
(A copy of the revocation Order is enclosed as Annexure-A-2).

4.3. That, in as such as no charge-sheet was served on the applicant in connection with that suspension Order even after expiry of 5 years from reinstatement the matter was taken up with the Director of Postal Services, Monipur, for regularising the period of suspension from 14/5/98 till 2/2/99 ~~as~~ the applicant was reinstated in service by that authority. In this connection the applicant made a representation dtd. 12/8/03 to the Respondent No. 2 to issue Order under FR.54-B allowing full pay and allowances for the period of suspension and treating the period of suspension as the period spent on duty for all purposes as the order of suspension was not followed by a Charge-sheet for which the Order of suspension was wholly unjustified. The representation dtd. 12/8/03 was followed by a reminder dtd. 15/10/03; but to NO ACTION by the Resp.No. 2.

(A copy of the representation dtd. 12.8.03 is enclosed as Annexure.A-3).

4.4. That, being not replied or intimated anyway by the Respdt. No. 2, the applicant made a representation to the appellate authority i.e. the Chief Postmaster General, N.E.Circle, Shillong on 23/2/2004 urging him

to direct the Resp.No.2 to issue orders under FR.54-B, disposing of the application made to him on 12/8/03 a copy of which was also furnished to him for perusal and disposal; but to **NO ACTION** even after the expiry of 6 months from the date of representation dtd. 23/2/2004 and so this application is moved before this Hon'ble Tribunal seeking redressal against non-action by the Disciplinary authority and the Appellate authority.

( A copy of the representation is enclosed  
as Annexure. A-5).

#### **5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :**

**5.1** The order of suspension was malafide and invalid as it was not followed by Charge-sheet even after 5 years of reinstatement:-

The Order of suspension was issued on 17/4/98 on contemplation of a disciplinary proceeding against the applicant. As per rule on the subject the charge-sheet should be served within 3 months of suspension Vide G.I., C.S. (Dept. of Per), O.M. No. 39/39/70-Ests. (A), dtd. the 4th. Feb, 1971. Again it has provided in para 3 of G.I., M.H.A., H.P & A.R. O.M. No. 35014/1/81-Ests. (A) dtd. the 9th. Nov, 1982 that, where a Govt. servant is placed under suspension on the ground of " Contemplated " disciplinary proceeding the charges should be finalised against the Govt. servant within 3 months of suspensions.

(Contd.....P/5).

The order of revocation dtd. 31/12/98 shows that the charges against the applicant could not be finalised within 3 months of suspension as investigation into the charge was in progress even at the time of revocation/reinstatement. The charge-sheet could not be served on the applicant even after 6 yrs. of reinstatement. It, therefore, shows that the suspension was wholly unwarranted, malafide and unjustified for which the applicant is entitled to full pay and allowances for the period of suspension from 14/5/98 till 02/02/99 and the said period of absence from duty owing to ~~xxxxxx~~ unjustified suspension should be treated as the period spent on duty for all purposes.

LEGAL PROVISIONS RELIED UPON :-

- (i) G.I., C.S. (Dept. of per) O.M. No. 39/39/70-Ests(A), dtd. the 4th. Feb, 1971 copy enclosed as Annexure.A-6).
- (ii) G.I., M.H.A., D.P. & A.R. OM No. 35014 /1/81-Ests(A) dated 9th. November, 1982, Copy enclosed as Annexure.A-7.

**5.2. Reinstating authority is to make order regularising the period of suspension :-**

The applicant was placed under suspension by the Director of Postal Service, Manipur, Imphal and the said authority re-instated the applicant in ~~xxxxxx~~ service by revoking the order of suspension.

As per FR.54-B(1) the authority competent to order re-instatement shall make a specific order.

(Contd.. P/6).

(a) regarding the pay and allowance order to be paid to the Govt. servant for the period of suspension ending with reinstatement and

(b) whether or not the said period shall be treated as a period spent on duty.

Again as per sub-rule (3) of FR.54.B where the suspension is wholly unjustified the Govt. servant shall subject to provisions of Sub-rule (8) be paid full pay and allowances to which he would have been entitled, had he not been placed under suspension and treating the period of suspension as duty for all purposes as provided in sub-rule (4) of FR.54.B.

In view of the above ruling position the re-instating authority i.e. the Director of Postal Services, Manipur, Imphal (Resp.No.-2) was to make an order under FR.54-B(I) allowing the full pay and allowances for the period of suspension under Clause (a) and treating the said period of suspension from 14/5/98 till 02/02/99 as the period spent on duty for all purposes under Clause (b)

#### Legal provisions relied upon :-

FR.54-B(i)(a) & (b). ) --- Extract enclosed as  
FR.54-B(3)2(4). ) Annexure. A-8.

## 6. Details of the remedies exhausted :-

- (i) 12/8/2003 :- Representation submitted to Resp.No. 2; but no action.
- (ii) 15/10/2003 :- Reminder to above representation; but no action.
- (iii) 23/2/2004 :- Representation to the appellate authority; but no action.

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

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

In case the applicant had previously filed any such application, writ petition or suit, the stage at which it is pending, and if decided, that list of the decisions should be given with reference to the number of Annexure to be given in support thereof.

8. Relief(s) sought :

In view of the facts mentioned in para 6 above, the applicant prays for the following relief(s);

The application be allowed and orders be passed :-

- 1) holding the order of suspension as invalid and malafide and allowing full pay and allowances for the period of suspension from 14/5/98 till 02/02/99 under FR.54-B-(3);
- 2) ~~treating the said period of suspension as duty for all purposes under FR.54-B(4);~~
- 3) allowing 12% interest per annum ~~on the total amount of pay and allowances illegally withheld during the period of unjustified suspension to be paid to the applicant.~~

(Contd... P/8).

10  
Bank  
Bhargava

(4) directing the respondent No. 2 to implement the order within one month following the date of receipt of the orders. and-

(5) allowing the cost of the petition as it deems fit and reasonable; •

Grounds and legal provisions relied upon : Some as under paras 5.1 & 5.2.

9. Interim orders, if any, prayed for :-  
At present, no interim orders is prayed for.

10. In the event of the application being sent by Registered post :- Filed in person.

11. Particulars of Bank Draft/Postal orders filed in respect of the application fee :  
I.P.O. No. 76-560740 for Rs. 50/- (fifty) only.  
Office of issue :- Nagaon H.P.O.  
Date of issue :- 16/12/2004  
Payable to :- Dy. Registrar, CAT, Guwahati Bench, GHY-5.

12. List of Enclosurers:-

1. I.P.O. No. 76-560740 dtd. 16/12/04 for Rs. 50/- .  
2. Annexure A-I, to A-7

VERIFICATION.

I, Shri S.B.Hazarika, S/O.Lt. Khargeswar Hazarika, age-54 yrs.  
Ex-Inspector of Post Offices formerly Workman  
in the Office of Director of Postal Service, Kohima, resident of  
Vill. Bhalukmari, P.O. Godhaibori, P.S. Sadar, Nagaon, in the  
Dist. of Nagaon (Assam) do hereby verify that the contents of  
para 1 to 7 believed to be true on legal  
advice and that I have not suppressed any material facts.

Date :- 16.12.2004  
Place :- Guwahati

( Signature of the Applicant)

To,

The Dy. Registrar,  
Central Administrative Tribunal,  
Guwahati Bench, Guwahati-5,

.....

Annexure A-1

Department of Post:India,  
Office of the Director Postal Services:Manipur:Imphal.  
795001.  
\*\*\*\*\*

49

NO. H-4/LE/GENL

Dated at Imphal the 17.4.98.

- O R D E R -

Whereas a disciplinary proceeding against Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Divn, Ukhrul is contemplated/pending.

Now, therefore, the President/the undersigned in exercise of the powers conferred by Sub-rule(I) of Rule-10 of the Central Civil Services(Classification, Control and Appeal) Rules, 1965, hereby places the said Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Division, Ukhrul under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the Headquarters of Shri S.B. Hazarika SDIPOS, Ukhrul Sub-Division should be Ukhrul and the said Shri S.B. Hazarika SDIPOS, Ukhrul Sub-Division, Ukhrul shall not leave the headquarters without obtaining the previous permission of the undersigned.

*SD*  
(LALHLUNA)  
Director Postal Services  
Manipur Divn. Imphal-795001.

Copy to:-

*Under review.*

1. Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Dn, Ukhrul orders regarding subsistence allowance admissible to him during the period of his suspension will be issued separately.
2. Shri T. Netrajit Singh, Postmaster Imphal HO for information and necessary action.
3. The Staff Branch O/o DPS, Imphal for information.
4. The Punishment register ASP, (HQ) O/o DPS/ Imphal.
5. The Chief Postmaster General(Staff) N.E. Circle, Shillong for information.
6. Spare.

*U*  
(LALHLUNA)  
Director Postal Services  
Manipur Divn. Imphal-795001.

*Attested*

*D  
12/12/98  
AB*

~~02~~  
Amarakare 4-2.

10/95  
CAB

Department of Posts India.  
Office of the Director Postal Services: Nanipur: Imphal.  
795001.  
\*\*\*\*\*

Memo No. H-4/L.S/Geni

Dated at Imphal the 31.12.98.

Whereas Shri S.B. Hazarika, SDIPOS, Uthrul Sub-Dn, was placed under suspension vide this office memo of even No. dtd. 17.4.98 on contemplation of disciplinary proceeding against him;

And Whereas the said Shri Hazarika on revocation of his suspension has been ordered to be transferred and posted as C.I. Divisional office, Nagaland, Kohima vide C.O. Shillong memo No. Staff/8-92/83 dtd. 22.10.98.

And whereas the undersigned consider that the aforesaid transferred and posting of the said Shri Hazarika to a place outside Manipur Divn. would not only serve the propose that he may not influence the investigation in progress and may not be in a position to hamper the evidences, but also would justify the revocation of his suspension as the same would minimise the prolongation of the suspension of said Shri Hazarika;

Now therefore, the undersigned in exercise of power conferred in Rule-14(5) of CCS(CCA) Rules, 1965 revokes the suspension of the Said Shri Hazarika, with immediate effect.

*(Signature)*

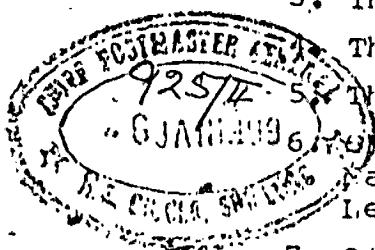
(LALHLUMA)

Director Postal Services  
Manipur Divn, Imphal-795001.

Copy to:-

*copy b6*

1. The CIRG/NE Circle Shillong w.r.t to his letter No. Staff/8-92/83 dtd. 22.10.98 cited above.
2. The PM/Imphal HO. He will please forward the LPC, S/Book etc. to the FR/Kohima HO
3. The DPS/Nagaland, Kohima.
4. The DA(F), Calcutta (through PM/Imphal HO)
5. The Postmaster, Kohima HO.
6. Shri S.B. Hazarika, designate C.I. Divl. office, Nagaland Divn, Kohima now at Sagolband Moirang Leirak, Imphal-795001.
7. Office copy.
8. Spate.



*joined on 28/12/98 attd by 12/1/99 ASB*

(LALHLUMA)  
Director Postal Services  
Manipur Divn, Imphal-795001.

To

The Director of Postal Services,  
Manipur, Imphal- 795001.

Sub :- Regularisation of period of Suspension from  
14/5/98 to 2/2/99.

Ref :- 1) Your Memo of suspension No. H-4/LE/GENL. dtd.17-4-98.  
2) Your Memo of revocation of Suspension No. H-4/LE/GENL.  
Dated Imphal, 31-12-98.

Sir,

Most humbly and respectfully I beg to state as follows on the above subject for your early action please.

1. That, while I was functioning as SDMPOS., Ukhru, sub-Division, Ukhru, Manipur (1996-1998) I was placed under suspension by the DPS, Manipur, Imphal on Contemplation of a disciplinary proceeding under Sub-rule (I) of Rule 10 of the CCS(CCA) Rules, 1965. Vide suspension Order No. H-4/LE/Genl dtd. Imphal, 17-4-98 which was given effect from 13-5-98 (A/N).
2. That, the said Order of suspension was revoked by the DPS, Manipur, Imphal pending investigation Vide revocation Order No. H-4/LE/GENL. dated Imphal 31-12-98 and I was transferred and posted as C.I., Nagaland, Kohima on revocation of the suspension Order.
3. That, on revocation of the suspension Order I rejoined duties on 2/2/99 as C.I., Nagaland at Kohima terminating suspension.
4. That, neither any charge-sheet has been served to me in connection with that suspension Order nor any Order was issued after reinstatement :-
  - (a) regarding the pay and allowances to be paid to me for the period of suspension, and
  - (b) whether or not the said period be treated as a period spent on duty;
- as the re-instanting authority is required to issue the above Orders under FR-54-B and in this case, the DPS, Manipur was the reinstating authority as the Order of suspension was revoked by him and so he was to issue Orders on (a) & (b) above.
5. That, as no charge-sheet was served on me within 3 months subject to a maximum of 6 months from the date of suspension as per rules and in as much as 5 yrs has elapsed without any charge-sheet from the date of suspension the Order of suspension deems to have

Att'd  
D  
T/P/DO/AF

( Contd....to page No. 2 )

Annexure A-3/(2)

12

-/2/-

been unjustified and so, on consequence, I am entitled to full pay and allowances for the period of suspension and the said period of suspension deems to have been treated as the period spent on duty, for all purposes.

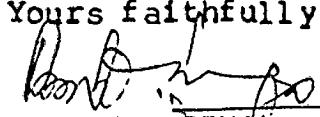
I have, therefore, earnestly requested you kindly to issue orders under FR-54-B regularising the period of suspension and for this act of your kindness I will ever pray.

A copy of the Order suspension dated 17.4.98 and a copy of the Order of revocation dtd. 31.12.98 are enclosed as ready reference for your kind perusal and action please.

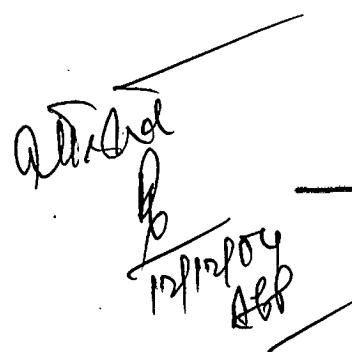
Enclo:-

- 1) Copy of Suspension Order dtd. 17/4/98.
- 2) Copy of revocation Order dtd. 31.12.98.

Yours faithfully,

  
(S.B. HAZARIKA).  
C.I., Nagaland, Kohima,  
Now U/S at Imphal,  
C/O. M. Basumatary,  
ASPOS, Imphal.

Dated :- 12/8/03.

  
A. D. A. -  
M. B. -  
ASPOS

Parakure A-4

138

REMINDER.

To,

The Director of Postal Services,  
Manipur, Imphal- 795 001.

Sub : Regarding regularising the period of suspension from 14/5/98 to 02/2/99.

Ref : Your suspension Order No.H-4/LE/Genl. dtd. 17/4/98 and Order revocation of even No. dated 31.12.98.

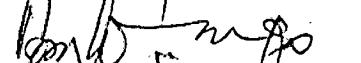
Sir,

I shall be grateful and thankful to you if kindly refer to my representation dated 12/8/2003 on the above subject and issue the Orders as prayed for therein at an early date.

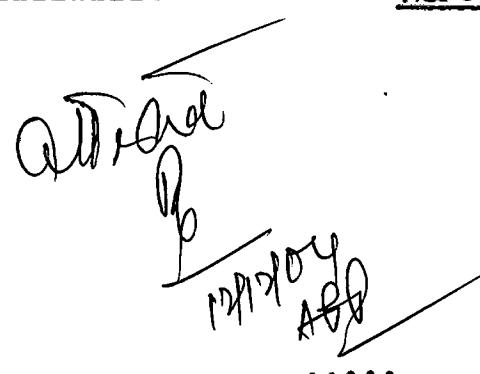
A copy of the representation dated 12/3/03 is enclosed with its enclosures as ready reference and early action please.

Enclo:- As stated above.

Yours faithfully,

  
(S.B. HAZARIKA).  
C.I. Nagaland, Kohima (U/S).  
C/O. U. Basumatary,  
ASPOS, Imphal- 795 001.

Date :- 15/10/2003.

  
.....

Answer to S/I

14/01

To,

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

Sub : Regarding Non-regularising the period of suspension from 14.5.98 till 01.2.99 by the DPS, Manipur, Imphal.

Ref : DPS, Manipur, Imphal's Order Nos :-

- 1) H-4/LE/Genl. dtd. Imphal, 17.4.98 (Order of Suspension).
- 2) H-4/LE/Genl. dtd. Imphal, 31.12.98 (Order of revocation).

Sir,

Most humbly and respectfully I beg to state as follows on the above subject for your early action please.

1. That, while I was functioning as SDIPOS ,Ukhrul Sub-Division ,Ukhrul, Manipur (1996-1998) I was placed under suspension by the DPS, Manipur, Imphal on contemplation of a disciplinary proceeding under Sub-rule (I) of Rule 10 of the CCS(CCA) Rules,1965 Vide suspension Order No. H-4/LE/Genl. dtd. Imphal, 17/4/98 which was given effect from 13/5/98 (A/N).
2. That, the said Order of suspension was revoked by the DPS, Manipur, Imphal pending investigation Vide revocation Order No. H-4/LE/Genl. dtd. Imphal 31/12/98 and I was transferred and posted as C.I., Nagaland and Kohima on revocation of the suspension Order.
3. That, on revocation of the suspension Order I rejoined duties on 2/2/99 as C.I., Nagaland at Kohima terminating suspension.

(a) regarding the pay and allowances to be paid to me for the period of suspension ,and

4. That, neither any charge-sheet has been served to me in connection with that suspension order nor any Order was issued after reinstatement :-
  - (a) regarding the pay and allowances to be paid to me for the period of suspension ,and
  - (b) Whether or not the said period be treated as a period spent on duty;

As the re-instanting authority is required to issue the above orders under FR-54-B and in this case, the DPS ,Manipur was the reinstating authority as the order of suspension was revoked by him and so he was to issue Orders on (a) & (b) above.

5. That, as no charge-sheet was served on me within 3 months subject to a maximum of 6 months from the date of suspension as per rules and in as much as 5 years has elapsed without any charge-sheet from the date of suspension the Order of suspension deems to have been unjustified and so, on consequence,

Attested

12/12/2000  
Abd

(Contd...P/2).

Annexure A-5/12).

15/2

-/2/-

I am entitled to full pay and allowances for the period of suspension and the said period of suspension deems to have been treated as the period spent on duty, for all purpose.

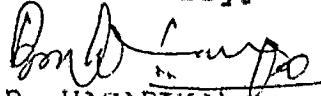
6. That, I made a representation to the DPS, Manipur Imphal on 12/8/2003 followed by reminder on 15/10/2003 stating everything on the subject; but to no action at all.

I have, therefore, earnestly requested you kindly to look into the matter personally and cause to issue necessary orders as early as possible as it is feared that the matter will be lost sight of in course of time if not attended to in time as I have limited years service at hand.

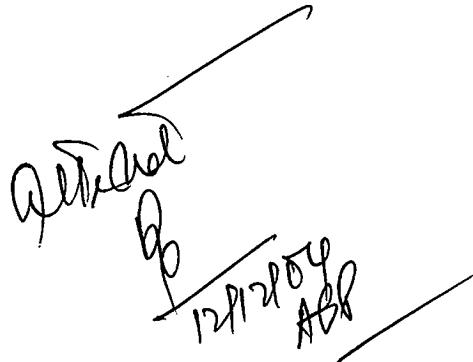
Enclo:

1) Representation dtd.  
12/8/03 with its  
enclosures.

Yours faithfully,

  
(S.B. HAZARIKA).  
C.I., Nagaland, Kohima (U/S),  
C/O. U. Basumatary,  
ASPOS, Imphal - 795 001.

Date :- 23/2/2004.

  
12/12/04  
ASB

Appendix 4-6.

16

Speedy follow-up action in suspension cases and time-limits prescribed.—1. Instances have been noticed where inordinate delay has taken place in filing charge-sheets in Courts in cases where prosecution is launched and in serving charge-sheets in cases where disciplinary proceedings are initiated.

2. Even though suspension may not be considered as a punishment, it does constitute a very great hardship for a Government servant. In fairness to him, it is essential to ensure that this period is reduced to the barest minimum.

3. It has, therefore, been decided that in cases of officers under suspension, the investigation should be completed and a charge-sheet filed in a Court of competent jurisdiction in cases of prosecution or served on the officer in cases of departmental proceedings within six months as a rule. If the investigation is likely to take more time, it should be considered whether the suspension order should be revoked and the officer permitted to resume duty. If the presence of the officer is considered detrimental to the collection of evidence, etc., or if he is likely to tamper with the evidence, he may be transferred on revocation of the suspension order.

[ G.I., M.H.A., O.M. No. 221/18/65-AVD, dated the 7th September, 1965 ]

4. In partial modification of the above orders, it has been decided that every effort should be made to file the charge-sheet in Court or serve the charge-sheet on the Government servant, as the case may be, within three months of the date of suspension, and in cases in which it may not be possible to do so, the Disciplinary Authority should report the matter to the next higher authority explaining the reasons for the delay.

[ G.I., C.S. (Dept. of Per.), O.M. No. 39/39/70-Estt. (A), dated the 4th February, 1971. ]

5. It would be observed that the Government have already reduced the period of suspension during investigation, barring exceptional cases which are to be reported to the higher authority, from six months to three months. It has now been decided that while the orders contained in the O.M. of 4th February, 1971, would continue to be operative in regard to cases pending in Courts in respect of the period of suspension pending investigation before the filing of a charge-sheet in the Court as also in respect of serving of the charge-sheet on the Government servant in cases of departmental proceedings, in cases other than those pending in Courts, the total period of suspension, viz., both in respect of investigation and disciplinary proceedings, should not ordinarily exceed six months. In exceptional cases where it is not possible to adhere to this time-limit, the Disciplinary Authority should report the matter to the next higher authority, explaining the reasons for the delay.

[ G.I., C.S. (Dept. of Per.), O.M. No. 39/33/72-Estt. (A), dated the 16th December, 1972. ]

6. In spite of the instructions referred to above, instances have come to notice in which Government servants continued to be under suspension for unduly long periods. Such unduly long suspension, while putting the employee concerned to undue hardship, involves payment of subsistence allowance without the employee performing any useful service to the Government. It is, therefore impressed on all the authorities concerned that they should scrupulously observe the time-limits laid down in the preceding paragraph and review the cases of suspension to see whether continued suspension in all cases is really necessary. The authorities superior to the Disciplinary Authorities should also give appropriate directions to the Disciplinary Authorities keeping in view the provisions contained above.

[ G.I., M.H.A., O.M. No. 11012/7/76-Estt. (A), dated the 14th September, 1978. ]

7. It is once again reiterated that the provisions of the aforesaid instructions in the matter of suspension of Government employees and the action to be taken thereafter should be followed strictly. Ministry of Finance, etc., may, therefore, take appropriate action to bring the contents of the aforesaid instructions to the notice of all the authorities concerned under their control, directing them to follow those instructions strictly.

[ G.I., M.H.A., D.P. & A.R., O.M. No. 42014/7/83-Estt. (A), dated the 18th February, 1984. ]

8. All authorities receiving information/report about the continued suspension of officials from their subordinate authorities should carefully examine each case and see whether the continued suspension of an official is absolutely necessary or the suspension should be revoked by transferring the official to another post or office.

9. In order to ensure that above instructions are scrupulously observed by subordinate authorities, all cases of suspension may be reviewed regularly, particularly those where officials are under suspension for more than six months, and wherever it is found that the official can be allowed to resume duties by transferring him from his post to another post, orders should be issued for revoking the suspension and allowing the official to resume duties with further direction as may be considered desirable in each individual case.

10. In respect of cases where it is found that the Competent Authorities have not made reports in terms of these instructions, serious notice on the lapses of such authorities should be taken as also considering making adverse entries in their annual confidential reports. Similarly, when an Appellate Authority finds that an official has remained under suspension for a period exceeding six months and the Competent Authority has not made reports in terms of these instructions, the Appellate Authority should also take serious notice of the lapses of the concerned subordinate authority and consider making adverse remarks in annual confidential reports.

[ D.G., P. & T.'s Letter No. 201/43/76-Disc. II, dated the 15th July, 1976. ]

Attested  
12/12/84  
ASH

Parakare A-F.

12  
22

Opportunity to suspended Government servant to appeal against suspension.—

\* \* \* \* \*

2. Where a Government servant is placed under suspension, he has a right of appeal against the order of suspension *vide* Rule 23 (i) of the CCS (CCA) Rules, 1965. This would imply that a Government servant who is placed under suspension should generally know the reasons leading to his suspension so that he may be able to make an appeal against it. Where a Government servant is placed under suspension on the ground that a disciplinary proceeding against him is pending or a case against him in respect of any criminal offence is under investigation, inquiry or trial, the order placing him under suspension would itself contain a mention in this regard and he would, therefore, be aware of the reasons leading to his suspension.

3. Where a Government servant is placed under suspension on the ground of "contemplated" disciplinary proceeding, the existing instructions provide that every effort would be made to finalize the charges against the Government servant within three months of the date of suspension. If these instructions are strictly adhered to, a Government servant, who is placed under suspension on the ground of contemplated disciplinary proceedings will become aware of the reasons for his suspension without much loss of time. However, there may be some cases in which it may not be possible for some reason or the other to issue a charge-sheet within three months from the date of suspension. In such cases, the reasons for suspension should be communicated to the Government servant concerned immediately on the expiry of the aforesaid time-limit prescribed for the issue of a charge-sheet, so that he may be in a position to effectively exercise the right of appeal available to him under Rule 23 (i) of the CCS (CCA) Rules, 1965, if he so desires. Where the reasons for suspension are communicated on the expiry of the time-limit prescribed for the issue of charge-sheet, the time-limit of forty-five days for submission of appeal should be counted from the date on which the reasons for suspension are communicated.

4. The decision contained in the preceding paragraph will not, however, apply to cases where a Government servant is placed under suspension on the ground that he has engaged himself in activities prejudicial to the interests of the security of the State.

[ G.I., M.H.A., D.P. & A.R., O.M. No. 35014/1/81-Ests. (A), dated the 9th November, 1982. ]

*Attended  
12/12/82  
H.P.*