

50/100

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

(DESTRUCTION OF RECORD RULES, 1990)

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## FORM NO. 4

(See Rule 42)

## In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET  
APPLICATION NO.

327/04 OF 199

Applicant(s)

Sri D. Majumdar

Respondent(s)

UOI &amp; ORT

Advocate for Applicant(s)

Absentia.

Advocate for Respondent(s)

CGSC

Notes of the Registry	Date	Order of the Tribunal
This application is a/c to is filed/C. P. for L.S. No. deposited vide SP. ID No. 86425-14/1 Dated 21.12.2004.....  for Dy. Registrar 22/12/04	23.12.2004 mb	None for the parties. List on 6.1.2005.  K. D. Bhattacharjee Member (A)
steps taken	06.01.2005 mb	None present for the respondents. List on 17.02.2005.  K. D. Bhattacharjee Member (A)

## Notes of the Registry

## Date

## Order of the Tribunal

17.2.05

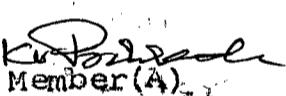
present: Hon'ble Mr. M. K. Gupta, Member (J)  
 Hon'ble Mr. K. V. Prahладан, Member (J)

None appears for the respondents.

Even on the last two days dated 23.12.04 and 06.01.05 the applicant remain<sup>ed</sup> absent. On perusal of the pleadings we find that the applicant will retire on 31.1.05.

By the present O.A. the applicant seeks restoration of the withholding increment. On perusal of the order dated 4.1.04 the proceedings were initiated under Rule 16 of CCS(CCA) Rules, 1965, but the authority reduced the punishment to withholding of the next increment for six months without cumulative effect vide memo dated 29.1.03. Thereafter, the applicant preferred the revision petition before appellate authority.

In the aforesaid view, we do not find any merit in the application. Accordingly, the application is dismissed.

 Member (J)

K. V. Prahладан  
Member (A)

lm

20 DEC 2004

गुवाहाटी बैचली  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

An application under section 19 of Administrative Tribunal Act, 1985

Title of the case OA No. ....327.....of 2004

Sri Debal Majumder  
-Vrs-  
Union of India and others

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For use in Tribunal Office

Date of filing

Registration No.

REGISTRAR

20-12-04  
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

OA. No. .... /2004

SYNOPSIS/ LIST DATES.

29.10.03 = The applicant filed a case to the Hon'ble CAT Guwahati against the punishment order of stoppage of increment by the DPS Itanagar and upheld partially by the CPMG, N.E.Circle, Shillong. The case was registered under OA No. 244/2003.

26-07-04 = The Hon'ble CAT disposed of the case directing the Member Personnel, respondent No.2 to give a reply to the applicant that is fair, just and equitable.

4-10-04 = The Member personal gave a farcical reply to the applicant upholding the punishment.

20-12-04  
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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

An application U/S 19 of AT Act 1985

OA No. .... /2004

Sri Debal Majumder,  
S/o. Late N.K. Majumder,  
Asst. Supdt. of Post Office(HQ),  
O/O the Director Postal Services,  
Agartala -799 001.

.....Applicant

-VS-

1. **Union of India.**

Represented by the Secretary  
to the Ministry of Communication.

2. **The Member(Personal)**

O/O the Director General,  
Department of Posts, India  
New Delhi.

.....Respondents

**PARTICULARS OF THE APPLICATION**

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

This application is made against the revision decision made by the respondent

No.2.

2. **LIMITATION**

The application is filled within the limitation period prescribed under section  
20 of limitation Act.

3. **JURISDICTION**

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

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20-12-04

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-(2)--

4. **FACTS**

4.1. The applicant filed an application to this Hon'ble CAT against the punishment order which was registered under OA No. 244/2003.

4.2. The Hon'ble CAT passed an order on 26.7.04 directing the respondent No.2 to give a reply to the representation filed by the applicant, that is fair, just and equitable.

4.3. The respondent No.2 issued an order on 4.10.04 which is farcical.  
( Xerox copy enclosed as annex - A )

4.4. The charge was that I did not inform the Disciplinary Authority that the system of joint custody was not followed at R.K. Mission P.O. But the question of joint custody arises if the P.O. is at least double handed. R.K.Mission P.O. was a single handed one where one postal assistant was temporarily attached from the establishment of Tezu P.O., due to sudden rise of the work load, and he was to be repatriated later on. Therefore, no proposal for diversion of the post was submitted . The respondent No. 2 over looked this point. The PA was also charge sheeted and awarded punishment for that but the same was quashed by the Appellate Authority (CPMG) on that point.

4.5. The Disciplinary Authority awarded punishment discussing in the punishment order that I did not embed the iron chest which was done subsequently by a

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junior official. But it is an extraneous point not included in the charge sheet. Embedding of iron chest as per departmental norms vide Rule 120 of P & T Man. Vol. VIII involves huge expenditure while I have no financial power even of a single rupee. For that the quotations are to be called for, approved and sanctioned by the DPS. The Sub Postmaster collected and submitted quotations but the DPS was apathetic. The respondent No.2 over looked this point.

4.6. What amount, when and how it was lost and also my involvement were wanting in the charge sheet. These are the vital points. May be the loss was before my joining at Itanagar. One can't be punished on unspecific charges. The respondent No.2 over looked this point.

4.7. The fact of having no embedded iron chest was pointed out by me in two inspection reports which was quite sufficient. DPS was to take action on IR. The Disciplinary Authority discussed in the punishment order that IR/99 was reviewed by the DYSP. But IR/2K was reviewed by the DPS. Even it is quite sufficient if the IR/99 was reviewed by the DYSP. The fact of having no iron chest was well known to the DPS when he inspected the P.O. in 1998 and also paid subsequent visits to the P.O. These points were over looked by the respondent No.2.

20-12-04

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--(4)--

4.8. The Disciplinary Authority denied the reasonable opportunity of examination of documents for defence preparation as per provision of GOI instruction(2) below Rule 16 of C.C.S. ( CCA) Rules, 65. (Annexure- C of OA No. 244/03.). The respondent No.2 over looked this point.

4.9. I wanted enquiry of the case in terms of GOI instruction (1) below Rule- 16 of CCS(CCA) Rules/65 , which the Disciplinary Authority did not agree to. But the enquiry is mandatory if the punishment adversely affects the pension . The pension is calculated on the average pay of last 10 months. I will retire on 31. 1.05 A/N. So the last 10 months pay will be regarded from the pay of April/04 to January/05. My annual increment falls on 1st August each year. Due to punishment order dated 6-8-02 my next increment due on 1-8-2003 was held up. It ought to have been drawn on 1-8-2004. So the lesser pay from April/04 to July/04 ought to have been taken into account for average pay calculation. The respondent No.2 over looked this point.

4.10. The embedded iron chest does not provide cent percent security. The cash of Along and Roing P0s were kept under joint custody in the embedded iron chest in the strong room but could not be saved from the theft case. The respondent No.2 over looked this point.

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20-1-04  
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4.11. The Appeal Authority held me responsible for supervision, detection and rectification of mistake, but this is not correct. The irregularity was detected and pointed out to the Disciplinary Authority in two IRs and also suggested for necessary action as that was beyond competency of me. The respondent No.2 over looked this point.

4.12. As respondent No.3 and 4 disposed of the Disciplinary and appeal cases, so revision petition was to be decided in fair, just and equitable way by the respondent No.2. So the respondent No.3 and 4 have not been made parties this time.

## 5. GROUNDS

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

5.2. For that the respondent did not take into consideration the arguments raised by the applicant.

5.3. For that the respondent made a ~~force~~ while disposing of the petition.

5.4. For that the respondent did not go to the depth of the case while disposing of.

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--(6)--

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

6. Matters not previously filed not pending.

7. **DETAILS OF REMEDIES EXHAUSTED.**

7.1. The petition was submitted to the competent authority after decision of the appeal at the lower stage.

7.2. Reminders were issued subsequently.

7.3. The competent authority remained silent even after several reminders.

7.4. The applicant filed a case to the Hon'ble CAT.

7.5. The Hon'ble CAT directed the competent authority to decide the case in fair, just and equitable way.

7.6. The competent authority disposed of the case farcically.

8. **RELIEF**

8.1. To direct the authority for restoration of the upheld increment.

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

9. **INTERIM ORDER**

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

10. The case may be decided on its merits.

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--(7)--

11. I.P.O.

I.P.O. No. 86425141 dated 2.12.04 Payable at G.P.O. Guwahati

12. Enclosure

As stated above.

VERIFICATION

I, Sri Debal Majumder, S/O. Late N.K. Majumder, aged 59 years 10 months, resident of Agartala, previously employed as ASP Central Sub- Division, Pasighat, now working as ASP HQ, O/O the Director Postal Services, Agartala, do hereby verify that the contents in the application are true to my Personal knowledge derived from the records and belief and that I have not suppressed any material facts.

Signed on the ..... 20 ..... day of December two thousand four.

  
APPLICANT

ad  
H.W.S. B.A.

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No. 17014/14/2003-VP  
 Government of India  
 Ministry of Communications & IT  
 Department of Posts

Dak Bhawan, Sansad Marg,  
 New Delhi-110001

Dated : 04.10.2004

ORDER

ATTESTED  
 Post Master  
 Post Master  
 Agartala H.O.

Shri Debal Majumder, ASP HQ, O/o DPS Agartala has submitted a revision petition dated 07.02.2003 addressed to Member (P) against the modified order of punishment by the appellate authority.

2. Disciplinary proceedings under Rule 16 of CCS (CCA) Rules, 1965 were initiated against the petitioner by the DPS Itanagar vide memo dated 23.01.2002 on the following charge :-

"Shri D. Majumder worked as the Asstt. Superintendent of Post Offices Central Sub Dvn. Itanagar from Oct 1997 to April 2001. During that period R.K. Mission SO was under his jurisdiction. The Headquarter of Shri D. Majumder was at Itanagar and the distance between R.K. Mission SO and his office was apprx. 3 km. and it was connected by regular bus service. Shri D. Majumder did not ensure that the iron safe of the office was kept under joint custody as there was another PA working alone with the SPM. If he would have performed his duty properly, the loss of govt. money could have been avoided. Thus said Shri D. Majumder has not shown devotion to duty and violated the provision of Rule 3(1)(ii) of CCS (Conduct) Rules, 1964."

3. On the basis of the records available, the disciplinary authority, DPS, Itanagar awarded him the punishment of withholding of next increment for a period of one year without cumulative effect vide memo dated 06.08.2002. On an appeal to the CPMG, North East Circle, the appellate authority reduced the punishment to 'withholding of the next increment for six months without cumulative effect' vide memo dated 29.01.2003. Aggrieved with the appellate order, the petitioner has submitted the present revision.

4. In the revision petition, the petitioner has made the following submissions :-

(i) The punishment order was passed without refuting his argument in defence statement. Instead, extraneous points were brought forth which were not there in the charge sheet.

ADCS

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814-4

SFS/ADS  
8.10.04

(ii) The appellate authority upheld the decision of the disciplinary authority on the point that he tried to shift his responsibility on the higher management. The appellate authority had admitted the laxity of the general management in its order but those responsible for their lapses and indifference have been left out.

(iii) In the appellate order, it was discussed that the failure of the higher management arose only because of failure to detect and rectify the mistake in the first line of supervision. But the petitioner had pointed out the facts in his two IRs that the Post Office was a single handed SO, therefore, the question of joint custodian does not arise. There was no memo of distribution of works or any order for joint custody.

ATTESTED  
Post Master  
Agartala H.O.

(iv) The petitioner had reported to the disciplinary authority that the SO was not having an embedded iron safe, but no action was taken on the matter.

(v) The loss took place after he had left Itanagar and, therefore cannot be held responsible for the loss taken place after his period.

(vi) The petitioner had desired a statutory inquiry as per the provisions of CCS (CCA) Rules, 1965, but the disciplinary authority did not agree.

The petitioner has prayed to exonerate him of the charge. ✓

5. The petition has been considered carefully alongwith the available records of the case. It is found that the disciplinary authority has discussed all the points raised by the petitioner in his representation against the charge sheet before deciding upon the punishment to be awarded. Also that the appellate authority held the petitioner responsible for the failure of supervision and detection and rectification of mistake etc. being a part of the higher management. The petitioner should have pointed out the seriousness of the irregularities observed by him during the inspections to the Head of the Division. He cannot claim that his work is over by mere submission of IRs to the Divisional office. The petitioner also failed in taking steps to ensure that the iron safe for keeping cash of the office was kept under joint custody of the SPM and the PA thereby neglected the rules and procedures in the matter of joint custody and also failed in his duties to enforce them. The petitioner cannot escape from his responsibilities by pointing out the failure on the part

of his predecessors or shifting his failure in duties to higher authorities. The appellate authority has already taken a lenient view in the matter and reduced the period of punishment to six months, which is justified. There is no merit in the petition and hence it is rejected. //

6. In exercise of the powers conferred on me under Rule 29 of the CCS (CCA) Rules, 1965, I hereby order accordingly.

*[Signature]*  
(G. Mohanakumar)  
Member (Personnel)  
Postal Services Board

Shri Debal Majumder  
ASP HQ  
O/o DPS Agartala

(Through the Chief Postmaster General, NE Circle, Shillong-793 001)

ATTESTED  
S. S. Mohanakumar, Member  
POSTMASTER,  
Agartala H.O.