

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 47/2004

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

Shahid
08.11.17

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

COVER SHEET

Org. App/ Misc. Petn/ Cont. Petn/ Rev. Appl. 47/2004

In O.A.

Name of the Applicant(S) Jadav Ch. Bezbaruah

Name of the Respondent(S) U.O. 2 nos.

Advocate for the Applicant Mr. D.K. Das, N. Barua & 2. Alam.

Counsel for the Railway/ C.G.S.C. Casc.

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

27.2.04

Present: Hon'ble Mr. Shanker Raju,
Judicial Member.
Hon'ble Mr. K.V. Prahaladan, Administra-
tive Member.

Issue notice to the respondents.
Respondents to file reply within 4
weeks. List on 30.3.04.

Dy. Registrar

Member(A)

Member(J)

Slips not yet filed

bb

30.3.2004 present: The Hon'ble Shri Kuldip Singh
Member (J).

The Hon'ble Shri K. V.
Prahaladan, Member (A).

Heard Mr. D.K. Das, learned counsel
for the applicant and Mr. A. Deb Roy,
learned Sr. C.G.S.C.

Respondents seeks time to file reply
List on 12.5.2004 for reply.

Member (A)

Member (J)

Extra charge Rs = 10/-
(Ten) only received for
respondent nos. 6 & 7.
Cash memo No = 1174
Dt. 3/3/04.

3/3/04.

Notice & order dt. 27/2/04
Sent to D/Section for
issuing to respondent- bb
Nos - 1 to 7.

23/3/04.

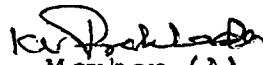
12.5.2004 Present : The Hon'ble Sri Makesh Kumar Gupta, Member (J).

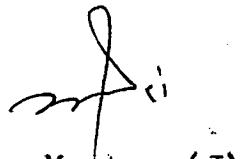
The Hon'ble Sri K.V. Prah-
ladan, Member (A).

No written statement
has been filed.

3
11.5.04

Adjourned for filing reply on
the request made by learned counsel
for the respondents. List on
15.6.2004.


Member (A)


Member (J)

mb

15.6.04.

A/D card return
from respondent

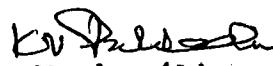
No = 2, 5

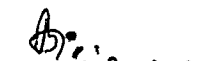
10/6/04

Present: The Hon'ble Mrs. Bharati
Roy, Jjdicial Member
and Hon'ble Mr. K.V.
Prahlanan, Administra-
tive Member.

None appears for the applicant.
Mr. A. Deb Roy, learned Sr. C.G.S.C
has raised preliminary objection
for wrongly listed the case for
orders instead of Admission.

The application is admitted.
Issue notice on the respondents.
Returnable by four weeks. List on
5.7.04. for orders.


Member (A)


Member (J)

23.8.04.

Heard learned counsel for the
parties.

On the prayer of learned counsel
for the Respondents four weeks
time is allowed for filing of
written statement. Prayer is
allowed. List on 29.9.04 for orders.


Member



Vice-Chairman

lm

28.9.04

1) Dls not met

filed

2) A/D cards received from
R-2 and 5. 

3
2
O.A. 47 of 2004

Notes of the Registry	Date	Order of the Tribunal
Aug 4/10 Sr. C.G.S.C.	29.9.04.	<p>Present: Hon'ble Mr. Justice R.K. Batta, Vice-Chairman. Hon'ble Mr. K.V. Prahladan, Administrative Member.</p> <p>The matter has been adjourned from time to time with effect from 30.3.04 for filing written statement and six months time has already been lapsed, ^{but} the written statement ^{is} has not filed forth coming. The learned counsel for the Respondents seeks last and final adjournment to file written statement. Stand over to 8th Nov. 2004. for filing written statement. If the written statement is not filed on that day and the matter is required to be adjourned costs shall have to be borne ^{by} on the respondents which shall be recovered from the personal pocket of the officer who is required to file written statement. Stand over to 8th Nov., 2004.</p> <p><i>K.V. Prahladan</i> Member</p> <p><i>R.K. Batta</i> Vice-Chairman</p>
4.10.04 W/S filed by the Respondents.	lm 8.11.2004	<p>None for the applicant. Mr. A. Deb Roy, learned Sr. C.G.S.C. stated that written statement has already been filed. The applicant may in case so desires, file affidavit in rejoinder within four weeks from today. Matter be listed for final hearing on 10.1.2005.</p> <p><i>K.V. Prahladan</i> Member (A)</p> <p><i>R.K. Batta</i> Vice-Chairman</p>
5-11-04 W/S filed by the Respondents. on 4-10-04. by.	bb 10.01.2005	<p>List on 17.01.2005 for hearing.</p> <p><i>K.V. Prahladan</i> Member (A)</p>
13-1-05 Ready for hearing.	mb	

GA.47/2004

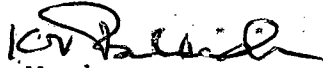
17.1.2005

Heard learned counsel for the applicant. Order passed, kept in separate sheets.


* The application is disposed of in terms of the order.

27.1.05

Copy of the judgment has been sent to the office for issuing the same to the applicant as well as to the Dr. C.G. SC for the Respondent.


Member

bb


Vice-Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./XXX.No. 47 of 2004.

DATE OF DECISION 17.1.2005.

.....Sri Jadav Ch. Bezbaruah.....APPLICANT(S)

.....Mr.D.K.Das.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

.....U.O.I. & Ors.....RESPONDENT(S)

.....Mr.A.Deb. Roy.....ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE R.K. BATTI, VICE CHAIRMAN.

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the Judgment ?
 4. Whether the judgment is to be circulated to the other benches ?
- Judgment delivered by Hon'ble Vice-Chairman.

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.47 of 2004.

Date of Order : This, the 17th Day of January, 2005.

THE HON'BLE SHRI R. K. BATTA, VICE CHAIRMAN.

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

Sri Jadav Ch. Bezbaruah
Sone of Late K. Bezbaruah
Resident of Amolapatty, Sibsagar
P.S: & District Sibsagar, Assam. . . . Applicant.

By Advocates S/Shri D.K.Das, N.Barua & Z.Alam.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Communication and I.T.
New Delhi - 110 001.
2. The Director General
Department of Post Offices
New Delhi.
3. The Desk Officer (Vigilance Petition)
Department of Posts
Ministry of Communications & I.T.
Government of India, Dak Bhawan
Sansad Marg, New Delhi - 110 001.
4. The Chief Postmaster General
Assam Circle, Meghdoot Bhawan
Guwahati.
5. The Post Master General
Office of the Post Master General
Upper Assam Region, Dibrugarh
P.O:, P.S: & District: Dibrugarh
Assam.
6. The Post Master
Sibsagar Division Head Office
Sibsagar.
7. The Superintendent
Office of the Superintendent
of the Post Offices
Sibsagar Division
Sibsagar. Respondents.

By Mr.A.Deb Roy, Counsel for Respondents.

O R D E R (ORAL)

BATTA, J.(V.C.):

Heard Mr.D.K.Das, learned counsel for the applicant. The remedy of appeal is available to the applicant against the impugned order. Hence, he may pursue

Q -

Contd./2

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alternative remedy available to him.

In this view of the matter, we are not inclined to pass any order in this application and the application is disposed of accordingly.



(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER



(R.K.BATTA)
VICE CHAIRMAN

bb

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

26 FEB 2004

गुवाहाटी बेंच १६ An application under Section 19 of the Administrative
Tribunal Act' 1985)
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BRANCH,
GUWAHATI.

Original Application No. 47 of 2004.

Sri Jadav Ch. Bezbaruah.

..... Appellant.

- Versus -

Union of India & Others.

..... Respondents.

LIST OF DATES / SYNOPSIS

09-04-1990 - Appellant who was posted as Sub Post Master, ONGC Colony Branch, Sibsagar was placed under suspension pending initiation of disciplinary proceeding.

04-07-1991 - Memorandum of charges issued by the Superintendent of Post Offices, Sibsagar Division. The applicant submitted his written statement of defence denying the charges levelled against him.

Departmental Enquiry initiated against the applicant wherein the applicant participated.

- 19-02-1993 - While the departmental enquiry was in progress the applicant attained the age of superannuation on 28-02-1993. Accordingly vide memo dated 19-02-1993 the suspension of the applicant was revoked and he was allowed to resume duties on 27-02-1993 and retired from service on 28-02-1993.
- 22-04-1993 - Superintendent of Post Offices, Sibsagar Division vide memo dated 22-04-1993 communicated the enquiry report to the applicant and asked him to file comments, if any, before the disciplinary authority.
- 12-05-1993 - Applicant submitted a representation before the Superintendent of Post Offices, Sibsagar Division but, till, today no final order has been passed as a result of which the appellant is deprived of the regular pension and other post retirement benefits.
- 23-06-1993 - Provisional Pension @ Rs.800/- per month sanctioned for a period of six months. The same is still being paid after sanction by the competent authority.
- 20-06-2001 - The Court of Judicial Magistrate (1st Class) Sibsagar by Judgment dated

20-06-2001 acquitted the applicant in the Criminal Case being G.R. Case No.489/1990 under Section 409 of Indian Penal Code.

Thereafter, the applicant submitted various representations before the authority for finalisation of the departmental enquiry and for regularisation of the pension and payment of his post retirement benefits.

11-04-2003 - Applicant through his advocate served a notice to the Superintendent of Post Offices, Sibsagar Division requesting him to clear the outstanding dues of the applicant.

28-04-2003 - The Superintendent of Post Offices, Sibsagar Division replies to the notice of the applicants Counsel.

30-06-2003 - Applicant approached the Hon'ble Central Administrative Tribunal, Guwahati against the non payment of pensionary and other post retirement benefits and non regularisation of his pension.

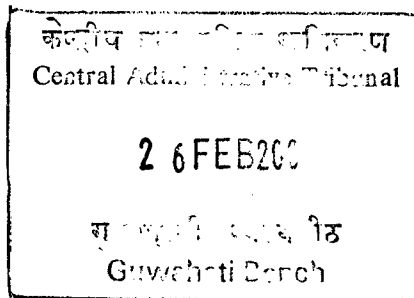
01-08-2003 - Original Application No.138/2003 filed by the applicant admitted by the Hon'ble Central Administrative Tribunal.

05-11-2003 - During the pendency of the O.A. No.138/2003 Respondent No.3 vide order

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No.9-39/93-VP dated 05-11-2003 imposed the penalty of withholding of entire monthly pension on a permanent basis along with withholding of entire gratuity amount of Rs.29,040/- payable to the applicant.

25-02-2004 - Original Application No.138 / 2003 withdrawn by the applicant.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BRANCH,
GUWAHATI.

CA 47/04

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

Sri Jadav Chandra Bezbaruah. Petitioner.

- Versus -

Union of India & Ors. Respondents.

I N D E X

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6.	Annexure-IV	Representation 24-26
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8.	Annexure-V-A	Reply comment dated 28.04.2003 30-31
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Filed by :-

Abhulpal Barua.
Advocate.

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Jadav Ch. Bezbaruah
Applicant
Mukul Pal Barua, Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BRANCH,
GUWAHATI.

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

Original Application No. of 2004.

Sri Jadav Ch. Bezbaruah

Son of Late K. Bezbaruah,

Resident of Amolapatty, Sibsagar,

P.S. & District Sibsagar, Assam.

..... Applicant.

- Versus -

1. Union of India

Represented by the Secretary, to
the Government of India, Ministry
of Communication and I.T.,
New Delhi - 110001.

2. The Director General

Department of Post Offices,
New Delhi.

3. The Desk Officer (Vigilance

Petition), Department of Posts,
Ministry of Communications & I.T.
Government of India, Dak Bhawan,
Sansad Marg, New Delhi-110001.

Contd...p/-

Jadav Ch. Bezbaruah

4. The Chief Postmaster General

Assam Circle, Meghdoot Bhawan,
Guwahati.

5. The Post Master General

Office of the Post Master General
Upper Assam Region, Dibrugarh,
P.O., P.S. & District Dibrugarh,
Assam.

6. The Post Master

Sibsagar Division Head Office,
Sibsagar.

7. The Superintendent

Office of the Superintendent of
the Post Office, Sibsagar
Division, Sibsagar.

..... Respondents.

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

i) This application is made against the Office
Order No.9-39/93-VP dated 05-11-2003 issued under the
signature of the Desk Officer (Vigilance Petition),
Department of Posts, Ministry of Communications & I.T.,
Government of India, imposing the penalty of withholding
of entire monthly pension admissible to the applicant on
a permanent basis along with withholding of entire
gratuity amount of Rs.29,040/- payable to the applicant.

Contd...p/-

Jadarch Bez Barua

2. JURISDICTION :-

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

3. LIMITATION :-

The applicant further declares that the application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act' 1985.

4. FACTS OF THE CASE :-

i) That your humble applicant is a citizen of India and is a permanent resident of Sibsagar in the district of Sibsagar, Assam and, as such, he is entitled to the rights and privileges as guaranteed under the Constitution of India and the laws framed thereunder.

ii) That while your applicant was posted as Sub Post Master, D.N.G.C. Colony Branch, Sibsagar, a Disciplinary Proceeding on the charge of Criminal Mis-appropriation was initiated against him and he was placed under suspension with immediate effect vide office Memo No.B2/J.C. Bezbaruah datd 09.04.1990 issued by the Superintendent of Post Office, Sibsagar Division, Jorhat.

A copy of the said Suspension Order is annexed herewith and marked as Annexure-1.

Contd...p/-

Jadav Ch Bezbaruah

iii) That your applicant begs to state that thereafter the Superintendent of Post Offices, Sibsagar Division, Jorhat, vide his office letter No. E 4-1/90-91 dated Jorhat, 04.07.1991 issued a Memorandum of Charges framed against the applicant and directed the applicant to submit a written statement of the defence. Accordingly, your applicant submitted the written statement of defence before the authority denying all the allegation levelled against him.

iv) That the applicant begs to state that thereafter a departmental enquiry was initiated against him and he participated in the said enquiry in defence of the charges levelled against him.

v) That your applicant begs to state that while the departmental enquiry was in progress vide Memo No.B2/J.C. Bezbaruah dated 19.02.1993 the Office of the Superintendent of Post Office, Sibsagar Division, Jorhat, revoked the suspension order of the applicant as the applicant had attained the age of Superannuation. Accordingly on 27.02.1993, the applicant was allowed to resume his duties and on the next day i.e. on 28.02.1993 he was retired from the service as he attained the age of Superannuation and he was released from the service.

A copy of the said memo dated 19.02.1993 is annexed herewith and marked as Annexure-II.

Contd....p/-

Jadav Ch. Bezbaruah

vi) That your applicant begs to state that the Superintendent of Post Offices, Sibsagar Division, Sibsagar vide its office Memo No. F-4-1 / 90 - 91 dated 22.04.1993 communicated your applicant, the inquiry report and also asked the applicant to file representation, if any, before the disciplinary authority. Accordingly on 12.05.1993, your applicant submitted a representation before the Superintendent of Post Offices, Sibsagar Division, Jorhat but, the authority did not pay heed to said the representation and till date the authority has failed to complete the Departmental Proceeding.

Copies of the said Office Memo dated 22.04.1993 and the representation dated 12.05.1993 are annexed herewith and marked as Annexure-III, III-A respectively.

vii) That your applicant begs to state that as your applicant attained the age of superannuation during the pendency of disciplinary proceedings, he was retired from service on 28.2.93. Thereafter as per draft calculation, Provisional Pension @ Rs.800/- per month had been sanctioned to the applicant vide the Office Memo No.CZ/J.C. Bezbaruah dated 23.06.1993 for a period of 6 (six) month upto 31.08.1993.

viii) That your applicant begs to state that thereafter on several occasion the applicant made

Contd....p/-

Jadov ch. BezBaruah

inquiry about the finalisation of Departmental Proceeding and also requested the authority to pay the pensionary benefit and to regularise the pension of the applicant but the authority declined to take any steps on the plea that the Criminal case which was initiated against the applicant being G.R. No.489/1990 under Section 409 of the Indian Penal Code is yet to be disposed of by the Court.

ix) That your applicant begs to state that in the meantime the learned Court of Judicial Magistrate, (1st Class), Sibsagar, by its Judgment dated 20.06.2001 acquitted the applicant of the Criminal Charge on the ground that the prosecution has failed to establish the case beyond reasonable doubt. On being acquitted by the learned Court below, your applicant again submitted a representation before the post Master General, Upper Assam Region, at Dibrugarh on 07.02.2002 praying for immediate action on the part of the authority to pay the gratuity, leave encashment, group insurance and also regularise the Pension at up-to-date Scale and/or all other post retirement benefits of which your applicant is entitled, but surprisingly this time also the authority did not respond to the representation submitted by your applicant and accordingly no retirement benefits has been paid to your applicant which is due since his retirement i.e. 28.02.1993.

Contd...p/-

Jadon Ch. Bez Baruah

A copy of the representation is annexed herewith and marked as Annexure-IV.

x) That your applicant begs to state that as the authority did not respond to the representation filed by the applicant, your applicant sent a reminder to the authority, but without any result. Ultimately on 11.04.2003 the applicant finding no way out approached his Counsel and handed over the relevant documents to him. The Counsel after going through the documents immediately sent Notice by registered post to the Superintendent of Post Offices, Sibsagar Division requesting him to clear the outstanding due to the applicant. The Superintendent of Post Offices, Sibsagar Division on receipt of the said Notice vide his official letter No.C2/J.C. Bezbaruah dated at Jorhat the 28.04.2003 sent a reply to the said notice dated 11.04.2003 which was received by the Counsel at Guwahati on 01.05.2003.

A copy of the Notice dated 11.04.2003 and reply comment dated 28.04.2003 is annexed herewith and marked as Annexure-V & V-A respectively.

xi) That your applicant begs to state that Superintendent of post Offices, Sibsagar Division in his reply to paragraph 3 of the Notice has admitted that the Inquiry Report along with Original file of the case has

Contd...p/-

Jadov Ch. Bezbaruah

been sent to Circle Office, Guwahati on 23.06.1993 for finalisation of disciplinary action but till date no action has yet been take by the authority.

xii) That your applicant begs to state that it will not be out of context to mention herein that earlier your applicant filed a representation before the Superintendent of Post Offices, Sibsagar Division for regularisation of his pension and to extend the provisional pension. The Superintendent of Post Offices, Sibsagar Division forwarded the said representation along with a forwarding letter No.C2 / J.C. Bezbaruah dated at Jorhat the 06.10.1993 to the Director of Accounts (Postal) Pension Section, Kolkata, wherein in the said forwarding letter it has also been mentioned that the pension case of the applicant could not be forwarded to Audit Office in time in absence of the Service Book which was been sent to Circle Office.

A copy of the said letter is annexed herewith and marked as Annexure-VI.

xiii) That your applicant begs to state that since his case for regular pension and post retirement benefits were not considered by the Respondent Authorities, he filed an application before the Hon'ble Central Administrative Tribunal, Guwahati praying for regularisation of his monthly pension and payment of his post retirement benefits. The said application was registered and numbered as O.A. 138/2003.

Contd...p/-

Jado v cl. Bez Baruah

xiv) That your applicant begs to state that the Hon'ble Tribunal by order dated 01-08-2003 was pleased to admit the said Original Application No.138/2003 filed by the applicant and notices were issued upon the respondent authorities to show cause as to why the relief prayed for should not be granted.

xv) That your applicant begs to state that during the pendency of the Original Application No.138/2003, the Respondent No.3 by an Office Order No.9-39/93-VP dated 05-11-2003 imposed the penalty of withholding of the entire monthly pension admissible to the applicant and also withholding of the entire gratuity amount of Rs.29,040/- payable to the applicant.

A copy of the said Order dated 05-11-2003 is annexed herewith and marked as Annexure-VII.

xvi) That your applicant begs to state that thereafter, on 25th February, 2004, he withdraw the Original Application No.138/2003 filed by him before this Hon'ble Tribunal.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :-

- I. For that, the action of the Respondent Authority in passing the impugned Order dated 05-11-2003 and withholding the entire monthly pension to the applicant along with

Contd...p/-

Jadav Ch. Bez Barua

withholding of entire gratuity amount is most arbitrary, unfair, capricious and highly excessive and violation of the Equility Clause under Articles 14 & 16 of the Constitution of India.

II. For that, the impugned Order dated 05-11-2003 has been passed most mechanically on the basis of irrelevant and extraneous consideration. There has been total non application of mind to the relevant factors. The impugned penalty of withholding the gratuity amount is more than the total loss the respondent authority has suffer and on that count alone, the said action of the authority is disproportionate, excessive and arbitrary and hence liable to be set aside and quashed.

III. For that, the impugned Order dated 05-11-2003 clearly reflects non application of mind inasmuch as the authority without any basis on total irrelevant and extraneous consideration has ordered for withholding the entire monthly pension on permanent basis and such action is totally outrageous and in definds of logic. Moreover, the said action is totally not consumerate with the alleged misconduct and is socking to judicial

Contd...p/-

Jadav ch. Bez Barua

conscience and hence, warrants the Tribunals interference.

IV. For that, the impugned Order dated 05-11-2003 has adverse civil consequence ~~on~~ the applicants status will be reduce to a penury inas much as the impugned orders speaks of withholding the entire monthly pension and entire gratuity amount on a permanent basis. Moreover, the impugned Order is in gross violation of the procedure laid down in law and in violation of the principles of natural justice and fair play.

V. For that, the impugned Order dated 05-11-2003 imposing harsh and punitive measures in the form of loss of pension and gratuity has been passed on the whims and caprice of the respondent authority inas much as the comperative hardship to be faced by the applicant on account of such punitive measures has been totally ignored and the said action is devoid of any reasons.

VI. For that, the impugned Order dated 05-11-2003 is hit by the doctrine of proportionality inas much as the penalty imposed is harsh excessive and totally unheard of in service

Contd....p/-

Jodan ch Bez Barua

jurisprudence and on that count alone the said action is liable to be set aside and quashed.

VII) For that, in any view of the matter the impugned Order dated 05-11-2003 is not sustainable in law and as such the same is liable to be set aside and quashed.

6. DETAILS OF REMEDY EXHAUSTED :-

There is no other remedy except filing this application before this Hon'ble Tribunal.

7. MATTER NOT PENDING IN ANY OTHER COURT/TRIBUNAL :-

That the applicant declare that he has not that he has not filed any other application before any Court/Tribunal.

8. RELIEF PRAYED FOR :-

It is, therefore, prayed that Your Lordships would be pleased to admit this application, issue a notice upon the respondents to show cause as to why the impugned Order No.9-39/93-VP dated 05-11-2003 issued under the signature of the Desk Officer (Vigilance Petition), Department of Posts, Ministry of Communication and I.T., Government of India (Annexure-VII) should not be set

Contd...p/-

Jadav Ch. Bez Barua

aside and upon cause/causes being shown and after hearing the parties be pleased to set aside and quashed the impugned Order dated 05-11-2203 (Annexure-VII) and/or pass such further or other order/orders as Your Lordships may deem fit and proper.

And for this act of kindness, the applicant as in duty bound shall ever pray.

9. INTERIM ORDER, IF ANY PRAYED FOR :-

Pending disposal of the Original Application, Your Lordships may be further pleased to direct the Respondent Authorities to pay the provisional pension to the applicant which he has been receiving since 23-06-1993.

10. PARTICULARS OF THE POSTAL ORDER :-

Postal Order NO. :-
Date of issue :-
Issued from :- G.P.O. Guwahati
Payable at Guwahati.

11. DETAILS OF INDEX :-

An index showing the particulars of the documents is enclosed.

Contd...p/-

Jadav ch. Bez Baruah

12. LIST OF ENCLOSURES :-

As state in the Index.

- | | | |
|----|----------------|--------------------------------|
| 1. | Annexure-I | Suspension Order |
| 2. | Annexure-II | Memorandum dated 19.02.1993 |
| 3. | Annexure-III | Office Memo dated 22.04.1993 |
| 4. | Annexure-III-A | Representation dtd 12.05.1993 |
| 5. | Annexure-IV | Representation |
| 6. | Annexure-V | Notice dated 11.04.2002 |
| 7. | Annexure-V-A | Reply comment dated 28.04.2003 |
| 8. | Annexure-VI | Forwarding letter |
| 9. | Annexure-VII | Order dated 05-11-2003 |

Contd...p/-

Jador ch. Bez Barua

VERIFICATION

I, Sri Jadav Chandra Bezbaruah, son of Late K. Bezbaruah, aged about 69 years, resident of Amolapatty, Sibsagar, P.S. & District Sibsagar, Assam, do hereby verify and declare that the statements made in this foregoing paragraphs are true to my knowledge and belief.

And I sign this verification on this the 26th day of February, 2004 at Guwahati.

Jadav Ch. BezBaruah

SIGNATURE.

29
Annexure-I.

STANDARD FORM OF ORDER OF SUSPENSION1

(RULE 10(1), CCS (CCA) RULES)

(READ CAREFULLY INSTRUCTION (II) BELOW RULE 10 BEFORE
COMMENCING TO USE THIS FORM).

MEMO NO.BZ/JC BEZBARUAH

Date :- 09.04.1990.

GOVERNMENT OF INDIA

MINISTRY OF THE SUPERINTENDENT OF POST OFFICE

SIBSAGAR DIVISION, JORHAT.

(Place of issue Jorhat)

Dated :-

O R D E R

(Whereas a disciplinary proceeding against Sri Jadav Chandra Bezbaruah, Senior Post Master, D.N.G.C. Colony, (name and designation of the Govt. Servant) is contemplated / pending.

Now, therefore, the President/the undersigned (the appointing authority or a authority to which it is subordinated or any other authority empowered by the President in that behalf), in exercise of the powers conferred by Sub-Section (1) of Rule 10 of the Central Civil Services (Classification, Control and Appeal, 1965, hereby places the said Sri Jadav Chandra Bezbaruah, Senior Post Master, D.N.G.C. Colony under suspension with immediate effect.

It is, further ordered that during the period that this order shall remain in force the Head Quarters of Sri Jadav Chandra Bezbaruah, Senior Post Master,

Contd...p/-

Witnessed
By
Advocate

Jadav Ch. Bezbaruah

O.N.G.C. Colony (name and designation of Government Servant) should be Sibsagar (name & place) and the said Sri Jadav Chandra Bezbaruah shall not leave the Head Quarter without obtaining the previous permission of the undersigned.

Sd/- A. BEHARA

(By order and in the name of the President)

Signature

Name and Designation of the Suspending Authority

1. Copy to Sri Jadav Chandra Bezbaruah, SPM, ONGC Colony (name and designation of the suspended officer). Orders regarding subsistence allowance admission to him during the period of his suspension will issue separately.
2. Copy to the Post Master of Sibsagar (name and designation of authority) for information.
3. Copy to Director of Accounts (Postal) Calcutta (Name and designation on the lending authority) for information. (Through the Post Master, Sibsagar.
4. P/F of the Suspended Official.
5. Punishment Registrar.
6. O.C.

Sd/- Illegible

09.11.1990

Superintendent Post Office,
Sibsagar Division, Jorhat.

*Missed
Advocate
20/11*

Jadav Ch. Bezbaruah

Annexure-II.

DEPARTMENT OF POSTS INDIA

OFFICE OF THE SUPERINTENDENT OF POST OFFICES, SIBSAGAR
DIVISION, JORHAT.

Memo No.B2/J.C.Bezbaruah

Dated Jorhat, 19.02.1993.

O R D E R

Whereas an order placing Shri Jadav Chandra Bezbaruah the Senior Post Master, O.N.G.C. Colony, under suspension was made on 09.04.1990.

Now, therefore, the undersigned, in exercise of the powers conferred by Clause (C) of Sub-Rule (5) of Rule 10 of the Central Civil Services (Classification, Central and Appeal) Rule, 1965 hereby revoke the said order of suspension with immediate effect.

Sd/- Ganga Saran

Superintendent of Post Offices

Sibsagar Division, Jorhat.

Copy to :-

1. Shri Jadav Chandra Bezbaruah, Amalapatty, Sibsagar.
2. The Post Master, Sibsagar.
3. Punishment Registrar.
4. Staff Branch, Divisional Office.
5. C.R. File of the official.
- 6-8. Spare.

Sd/- Ganga Saran

Superintendent of Post Offices

Sibsagar Division, Jorhat.

*Miss
Anwar
25/2
Advocate*

Jadav Ch Bezbaruah

Annexure-III.

DEPARTMENT OF POSTS INDIA

OFFICE OF THE SUPERINTENDENT OF POST OFFICES, SIBSAGAR
DIVISION, JORHAT - 785001.

Memo No.F4-1/90-91

Dated Jorhat, 22.04.1993.

An inquiry was held against Shri Jadav Chandra Bezbaruah, the then Senior Post Master, D.N.G.C. Colony, Sibsagar (Now retired) under Rule 14 of CCS (CCA) Rules, 1965.

The report of the Inquiry Officer is enclosed. The Disciplinary Authority will take a suitable decision after considering the report. If you wish to make any representation on submission you may do so in writing to the disciplinary authority within 15 days on receipt of this letter.

Encl :- 13 sheets.

Sd/- Ganga Sharan

Superintendent of Post Offices

Sibsagar Division, Jorhat.

Regd. A/D :-

To Shri Jadav Chandra Bezbaruah, the then Senior Post Master, D.N.G.C. Colony (now retired), Amolapatty, P.O. Sibsagar.

*Missed
Bharu
25/4
Advocate*

Jadav Ch. Bezbaruah

Annexure-III-A.

To

The Superintendent of Post Offices
Sibsagar Division, Jorhat

Date :- 12.05.1993.

Sub :- Rule 14 case against Sri JC Bezbaruah then Senior
Post Master, D.N.G.C. S.O.

Ref :- Your F4-1/90-91, dated 22.04.1993.

Sir,

with reference to your memo cited above I beg to submit my representation as called on by Your Honour, hereunder for favour of your kind perusal & to have a lenient justifiable view in decisions the fate of the undersigned who served in the department for more than 36 years with utmost devotion & dedication.

As per imputations charge against me in Art-I may kindly be read with the statements of imputation, I beg to state that I could not exactly remember anything about the transaction referred therein, after such a long & distance date. I could not also recollect whether Smti. Kusum Kumari Gupta, N.S.C. agent at all handed over the amount to me or not. During the peak hour of office duties, I always used to remain carefully busy with multifarious works & as per system prevailing over there in at D.N.G.C. So, since long the certificates used to be written by the agents themselves & thereafter

Contd....p/-

*Witnessed
Advocate*

Jadov Ch. Bezbaruah

37

they obtained my signature thereon. So, it is not possible that if any one escaped our notice during this busy working hours of the certificates had been delivered without realising the amount. Besides, this the prosecution side utterly failed to cause appearance of Smti. Kusum Kumari Gupta before the enquiry for giving her deposition despite repeated request from the defence side. As per rule no evidence which is not tendered before the enquiry officer in presence of the accused can be taken as a valid evidence. But here in this instant case it is seen that the statement of Smti. Kusum Kumari Gupta has been relied upon. Though not given before the enquiry.

Article-II :- Regarding 2nd Count i.e. double payment of four matured R.D. & 2 C.T.D. A/C I have already stated in details in my written brief duly submitted which may kindly be consulted.

Article-III :- As per 3rd Count I beg to state that I have stated in details in this regard which may kindly be referred to.

Lastly I beg to state that the departmental enquiry is not an empty formality, it is a serious proceedings intended to give officer concerned a chance to meet the charge & to prove his innocence. In the absence of any such enquiry it would be highly unjust & unfair to strain the facts against the official.

Contd...p/-

Witnessed
Kusum
Advocate

Wesley B. Bannister
for Attorney

my wife's illness was not authenticated by any medical certificate, and he stated that it is a mere plea which is baseless. At this stage it may be argued that the I/O was in full liberty to ask me to submit M/C in support of my wife's illness. But he did not respond.

Besides his contention in this regard is contradictory. In one place he stated that my brief could not be taken into consideration due to non receipt of it before submission of this report.

In another place he stated that the brief was not taken in consideration as my wife's illness was not authenticated by M/C. So, I am in a state of confusion which one is to be regarded as genuine.

Such decision of the I/O reflects hostile and apathetic attitude which is against principle of natural justice.

In view of the facts narrated above it may kindly be deduced that I am in no way responsible for negligent for the charges framed against me and request you to have a lenient and sympathetic view in deciding the fate of the case.

Yours faithfully,

Sd/- Jadav Ch. Bezbaruah,

Ex. Senior Post Master, ONGC,

S.O., Now retired.

*W. S. S. S.
J. C. B.
25/12
Bezbaruah*

37

Annexure-IV.

From :- Sri J.C. Bezbaruah

S.M.P. (Retired), ONGC Colony Branch, Sibsagar
H.C.B. Road, Amolapatty, Sibsagar
P.S. & District - Sibsagar, Assam

To

The Post Master General
Office of the Post Master General
Upper Assam Region, Dibrugarh
P.O., P.S. & District - Dibrugarh, Assam

Date:- 07.02.2002.

Sub :- Prayer for getting after retirement and
suspension period benefit.

Ref :- Memo No.B2/JC Bezbaruah dated 19.02.1993 issued
by Superintendent of Post Offices, Sibsagar
Division, Jorhat.

Sir,

With due respect I want to bring to your kind
notice the following few lines for favour of your kind
consideration and necessary action.

That Sir, I was working as Senior Post
Master, ONGC Colony Branch, Sibsagar and was placed
under suspension from my services w.e.f. 09.04.1990
on charges of criminal misappropriation pending
departmental proceedings.

Contd...p/-

*Allesha
Assam
207
Advocate*

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That vide Memo No.B2/JC Bezbaruah dated 19.02.1993 of the Office of the Superintendent of Post Offices, Sibsagar Division, Jorhat (copy enclosed) my suspension order was revoked, considering my date of superannuation, i.e. 28.02.1993 dueing continuance of departmental proceedings. Accordingly, I resumed my duties on 27.02.1993 and took retirement on 28.02.1993.

That Sir, though I was innocent, the departmental proceedings found me guilty of offence of criminal misappropriation and a criminal case registered against me under Section 409 of Indian Penal Code in the year 1990 being G.R. Case No.589/1990 under Section 409 I.P.C.

That Sir, after more than eleven years of Trial the aforesaid case has been disposed of on 20.06.2001 in my favour. After taking so many evidences against me and after hearing both the sides the learned trying Magistrate holds that I was not guilty of offences under Section 409 I.P.C. and set me at liberty forthwith (an attest photo copy of the judgment is attached herewith for your perusal).

That Sir, during this long period of more than eleven years I have been suffering a lot both mentally and financially beyond imagination for no-fault of me.

Contd...p/-

*Witnessed
28/2
Advocate*

That Sir, I have not even got all the retirement / suspension period benefits from the department till date, except the pension at the old scale.

Under the above facts and circumstances I would like to request you kindly to look into the matter seriously and to expediate action to sanction the amounts of gratuity leave encashment, group insurance and the pension at the upto date scale with retrospective effect and any/or all other after retirement benefits and any/or all other outstanding payments/benefits for which I am entitled to for the suspension period to me for which I shall ever pray.

Thanking you,

Enclosures :-

Yours faithfully,

1. Memo No.B2/JC Bezbaruah
dtd. 19.02.1993

Sd/- Jadav Ch. Bezbaruah.

2. Photo copy of the Court
Judgment
3. Chief Post Master General
Meghdoot Bhawan, Guwahati
4. The Superintendent of Post
Offices, Jorhat, Sibsagar
Division.

*Wishful
Bharu
20/2
Advocate*

40
Annexure-V.

Ziaul Alam

Advocate

Gauhati High Court

Chamber :-

Hatigaon Road

Behind Rajdhani Masjid

Dispur - 6

Date :- 11.04.2003

N O T I C E

To

The Superintendent of Post Offices

Sibsagar Division, Jorhat - 1

Sub :- Non-regularisation & Non-payment of Pensionary
benefits.

Sir,

Under instruction and upon the authority from my client Sri Jadav Chandra Bezbaruah, Senior Post Master (Retired), ONGC Colony Branch, Sibsagar, I do hereby issue this notices to you to the following effect :-

1. That my client Sri J.C. Bezbaruah ws an employee of your department and while my client was working as Senior Post Master in the ONGC Colony Branch, Sibsagar, he was put under suspension, vide Office Memo No.B2/JC Bezbaruah on 09.04.1990 with immediate effect.
2. That a departmental proceeding was initiated against my client for alleged official misconduct.

Contd...p/-

*Witnessed
20/4
Advocate*

During continuance of departmental proceedings my client was allowed to resume duty on 27.02.1993 and immediately on the next date i.e. 28.02.1993, my client was retired from the service considering his date of superannuation.

3. That after the conclusion of the Departmental Inquiry, the Inquiry Officer submitted the inquiry Report before the Disciplinary Authority for necessary action. But till date, Disciplinary authority failed/neglected to pass any order of punishment against my client.

4. That it will not be out of context to mention herein that the Criminal Case No.G.R. No.589/1990 under Section 409 I.P.C. which was pending against my client has already been disposed of and the learned Judicial Magistrate, 1st Class vide its judgment dated 20.06.2001 was pleased to acquit my client.

5. That, although my client retired from service on 28.02.1993 but till date his pension has not been regularised, nor he has been paid the pensionary benefits like Gratuity, Group Insurance Benefits, Leave Encashment etc.

6. That, although my client approached you for making necessary arrangement to regularise the pension of my client and also to pay the other benefits due to my said client but no proper and adequate action has

Contd...p/-

*Witnessed
Advocate*

been taken from your end to meet up the genuine grievances of my client.

7. That my client has no other source of income and he is suffering from different old age related ailments. Under such circumstances, you are hereby requested on behalf of my client to kindly make necessary arrangement for payment of outstanding due to my client.

You are further requested to treat the matter as urgent.

Thanking you,

Yours faithfully,

Sd/- Ziaul Alam

Advocate.

*Ullah
Ziaul Alam
Advocate*

Annexure-V-A.

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES, SIBSAGAR
DIVISION, JORHAT - 785001.

To

Sri Ziaul Alam, Advocate

Gauhati High Court

No.C2/JC Bezbaruah dated at Jorhat, the 28.04.1993.

Sub :- Non regularisation and non-payment of pensionary
benefits.

Ref :- Gauhati High Court notice dated 11.04.2003.

Sir,

Kindly refer your notice cited above on the
above mentioned subject. Parawise comments on the above
notice are furnished below for your kind information.

Para 1 :- No comments.

Para 2 :- No comments.

Para 3 :- Inquiry Officer's report including original
file of the case has been sent to Co on
23.06.1993 for finalisation of disciplinary
action. But the same is yet to be received
from Cos end.

Para 4 :- Court case is still subjudiced at Gauhati High
Court.

Contd...p/-

W. K. S. 1
Barman
Advocate

Para 5 :- Rule-9 case against the Sri Jadav Chandra Bezbaruah is still pending with Cos Guwahati. Hence, his prayer cannot be considered now.

Para 6 :- Untill finalisation of Rule-9 case, pension case cannot be sent to AO and regularised. S/Book was sent to Director (Vig), N. Delhi by the Vig. Section of Cos on 21.12.2003 for necessary approval under Rule-9 of CCs (Pen) Rule, 1972, as informed by Co. The case is still pending in date.

Para 7 :- No comments.

Yours faithfully,

Sd/- B.K. Marak

Superintendent of Post Offices
Sibsagar Division, Jorhat-1.

Copy to :-

1. The PMG, Dibrugar Region, Dibrugarh for information.
2. The PMG, Assam Circle, Guwahati for information.

Sd/- B.K. Marak

Superintendent of Post Offices
Sibsagar Division, Jorhat-1.

*Received
B.K. Marak
25/12/2003
Advocate*

Annexure-VI.

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES, SIBSAGAR
DIVISION, JORHAT - 785001.

NO.C2/JC Bezbaruah Dated Jorhat, the 06.10.1993.

To

The Director of Accounts (Postal)

Pension Section, Calcutta

Sub :- Extension of Provisional Pension - case of
Sri Jadav Ch. Bezbaruah, Ex-SPM, ONGC Colony,
pending settlement of Disciplinary case under
Rule 9 of CCS (Pension) Rules.

The aforesaid official was placed under
suspension on 09.04.1990 but before completion of the
departmental proceedings under Rule 14 of CCS (CCA)
Rules, 1965 the official attained superannuation on
28.02.1993. Accordingly, as per draft calculation,
provisional pension of even No. dated 23.06.1993 for a
period of 6 months upto 31.08.1993.

Now Sri Bezbaruah has applied for
regularisation of his pension and to extend the
provisional pension. His application in original is sent
herewith for disposal.

In this connection it is to mention that
pension case of the official could not be forwarded to

Contd...p/-

*Missed
Bannu
20/10
Advocate*

Audit office in time in absence of the Service Book which has been sent to Circle Office in connection with the Rule-9 case.

Enclo :- 1(one).

Sd/- P.V. Sugunan
Supdt. of Post Offices,
Sibsagar Division, Jorhat.

Copy to :-

1. Sri J.C. Bezbaruah, Ex-PA, Sibsagar H.O.
2. The Chief Post Master General, Assam Circle, Guwahati with reference to Cos No.Vig 4/6/85.

Sd/- P.V. Sugunan
Supdt. of Post Offices,
Sibsagar Division, Jorhat.

*Noted
B. B. B. B.
25/7
Advocate*

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Annexure-VII

NO.9-39/93-VP

GOVERNMENT OF INDIA

MINISTRY OF COMMUNICATIONS & I.T.

DEPARTMENT OF POSTS

DAK BHAVAN, SANSAD MARG,

NEW DELHI - 110001.

DATED :- 05-11-2003.

O R D E R

Disciplinary proceedings under Rule 14 of CCS (CCA) Rules 1965, were initiated against Sh. Jadav Chandra Bezbaruah, Sub Postmaster, ONGC Colony SO, Assam Circle by the Supdt. of Post Offices, Sibsagar Dn., Jorhat vide memo dated 04-09-1991 on the following charges :-

"Article I :-

That Sh. Jadav Chandra Bezbaruah while functioning as SPM, ONGC Colony SO during the period from 19-06-1987 to 09-04-1990 did not credit to Govt. Account a sum of Rs.16,000/- on 09-02-1990 and a sum of Rs.25,000/- on 12-02-1990 being the amounts of sale proceeds of 5 years KVPs violating the provisions of Rule 4 (1) of FHB Vol.1. Thus Sh. Jadav Chandra Bezbaruah had failed to maintain absolute integrity, devotion to duty and acted in a manner which was unbecoming of a Government servant as enjoined in Rule 3 (I) (i), 3 (I) (ii) & 3 (I) (iii) of the CCS (Conduct) Rules 1964.

Contd...p/-

*Witnessed
[Signature]
20/11/03
Jorhat*

48

Article II :-

That during the period from 19-06-1987 to 09-04-1990 while functioning as officiating SPM, ONGC Colony SO, Sh. Jadav Chandra Bezbaruah had charged in the Govt. Account final withdrawals in respect of ONGC Colony matured R/D Account Nos. 15687, 17023, 16273 & 15876 twice each. Thus Sh. Jadav Chandra Bezbaruah had failed to maintain absolute integrity & devotion to duty and acted in a manner which was unbecoming of a Government Servant as enjoined in Rule 3 (I) (i), 3 (I) (ii) & 3 (I) (iii) of CCS (Conduct) Rules 1964.

Article III :-

That Sh. Jadav Chandra Bezbaruah while functioning as the Sub Postmaster, ONGC Colony SO during the period from 19-06-1987 to 09-04-1990 had charged in the Govt. Account final withdrawals in respect of ONGC Colony matured CTD Account Nos. 45989 and 45622 twice each. Thus Sh. Jadav Chandra Bezbaruah had failed to maintain absolute integrity & devotion to duty and acted in a manner which was unbecoming of a Government Servant as enjoined in Rule 3 (I) (i), 3 (I) (ii) & 3 (I) (iii) of CCS (Conduct) Rules 1964."

2. The said chargesheet was served upon the ex-official, Sh. Jadav Chandra Bezbaruah in July, 1991 while he retired on superannuation on 28-02-1993. The disciplinary proceedings initiated against the Shri Jadav Chandra Bezbaruah was therefore deemed to be

Contd...p/-

*Washed
Gaurav
20/7
Advocate*

converted into proceedings under Rule 9 of the CCS (Pension) Rules, 1972. Mandatory inquiry proceedings were concluded on 12-05-1993. All the charges were held proved. A copy of the inquiry report was sent to the ex-official for submitting his representation, if any. His representation dated 12-05-1993 was received. After taking it into consideration the findings given in the inquiry report, the disciplinary authority recommended action under rule 9 of the CCS (Pension) Rules, 1972 against Shri Jadav Chandra Bezbaruah as there were documentary evidence to establish the charges.

3. The case was therefore considered by the President. The President came to a tentative conclusion that the ex-official deserved to be punished under Rule 9 of the CCS (Pension) Rules, 1972 for the proven charges. Accordingly, the case was referred to the Union Public Service Commission for statutory advice. The Commission has tendered advice vide letter No.3/110/98-S.I. dated 26-09-2003. It has been observed that taking into account the material available on record, the Commission is of the view that the charges are of grave nature which have been established from documentary evidence. Keeping the said grave misconduct of Shri Jadav Chandra Bezbaruah in view, the Commission has advised that the ends of Justice will be met if the penalty of withholding of entire monthly pension on permanent basis otherwise admissible to the charged

Contd...p/-

*Witnessed
By
27/10/2003
K. M. Meah*

official and also the entire amount of gratuity admissible to him, is ordered to be withheld.

4. The President has carefully considered the advice of the Commission with reference to the facts and evidence on record. It has been decided to accept it. Hence entire monthly pension admissible to the charged official is ordered to be withheld on permanent basis along with withholding of entire gratuity amount of Rs.29,040/- payable to Shri Jadav Chandra Bezbaruah.

BY ORDER AND IN THE NAME OF THE PRESIDENT.

Encl.

Copy of the letter No.F.No.3/110/98-SI dated 26-09-2003 of the Union Public Service Commission.

Sd/- P. Haridassan Pillai

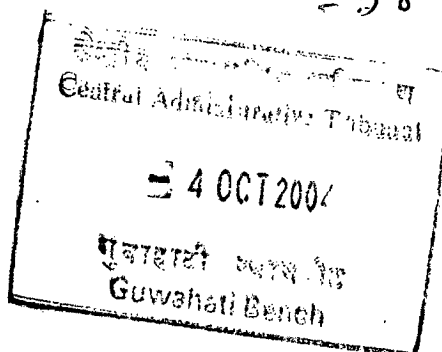
Desk Officer (Vigilance Petition)

Shri Jadav Chandra Bezbaruah

Ex-SPM, ONGC Colony PO,
ASSAM.

(Through Postmaster General, Dibrugarh Region,
Dibrugarh)

*Washed
20/12
20/12*



Filed by
27/10/04
(A. DEB ROY)
Sr. C. G. S. C.
G. A. T., Guwahati Bench

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : : : GUWAHATI**

O.A. NO. 47 OF 2004

Shri Jadav Ch. Bezbaruah

- Versus -

Union of India & Others.

In the matter of :

**Written Statement submitted by
the respondents.**

**The humble respondents beg to submit the parawise
written statement as follows :-**

- 1. That with regard to paras 1, 2, 3 and 4(i),
of the application the respondents beg to offer no comments.**
- 2. That with regard to the statement made in para
4(ii), of the application the respondents beg to state
that the applicant while working as a SEM ONGC Colony SO
from 2.6.87 to 9.4.90 had committed the fraud whereas the
disciplinary proceeding against him contemplated/pending.
therefore he was placed under suspension with immediate
effect vide this office memo no. B2/J.C. Bezbaruah
dated 9.4.90.**
- 3. That with regard to the statement made in
para 4(iii), of the application the respondents beg to
state that the charges were framed against Shri J.C. -**

Shri J.C. Bezbaruah vide SPOs Jorhat memo no. F4-1/90-91 dated 4.7.91 on the basis of documentary evidence and he was directed to submit a written statement of the defence. Accordingly he submitted the written statement of defence before the authority denying all the charges framed against him.

4. That with regard to the statement made in para 4(iv), of the application the respondents beg to state that on received of the said statement, the case was entrusted to Shri B.B. Choudhury, ASPOs(E), Guwahati appointing him as enquiry authority under Sub Rule (2) of rule 14 of CCS(CCA) Rules 1965 vide SPOs Jorhat memo no. F4-1/90-91 dated 4.7.91 and Shri P. Mazumdar, ASPOs Jorhat as presenting Officer under Sub Rule (5)(c) of said Rule vide memo of even no dated 1.11.91.

5. That with regard to the statement made in para 4(v), of the application the respondents beg to state that the disciplinary authority has gone through the enquiry reports of the enquiry authority and the representation submitted by Shri J.C. Bezbaruah and noted the observation and assessment in the order of revoke under powers confirmed by clauses (c) of Sub Rule(5) of Rule 10 of the Central - Civil Services (Classification control and appeal) Rules 1965 vide memo no. B2 J.C. Bezbaruah dated 19.2.93.

Contd.....

-3-

6. That with regard to the statement made in para 4(vi), of the application the respondents beg to state that that the copy of the said enquiry report was sent to Shri J.C. Bezbaruah vide memo No. P4-1/90-91 dated 22.4.93 for submission of representation if any before the disciplinary authority within 15 days. Accordingly on 12.5.93 he submitted a representation. *After his retirement on 28.2.93 the proceeding was deemed to be converted to proceeding under rule 9 of the CCS (Pension) Rules, 1972 and therefore the same was continued after retirement of the applicant. The case was forwarded to Directorate for decision by presidential order as per statutory rules.*

7. That with regard to the statement made in para 4(vii), of the application the respondents beg to state that the disciplinary proceeding had been dropped a provisional pension Rs. 800/- per month for a period of 6 months had been sanctioned vide SPOs Jorhat memo no. C2/J.C. Bezbaruah dated 23.6.93.

8. That with regard to the statement made in para 4(viii), of the application the respondents beg to state that the applicant was asked to credit the amount of misappropriated, but due to non credit of the said amount the case was reported to police. The police submitted charge sheet to Court. The Judgement of the CR case no.589/90 was delivered on 20/6/01 without the knowledge of the Department for which the further course of action for regularisation of pensionary benefit etc. could not be processed.

9. That with regard to para 4(ix), of the application the respondents beg to offer no comment.

10. That with regard to the statement made in para 4(x), of the application the respondents beg to state that the application for extention of provisional pension received from the applicant already been forwarded to the DA(P) vide this office letter of even no dated 06.4.03. under intimation to the applicant. The notice from Shri Z. Alam, Advocate, Gauhati High Court a parawise reply of the said notice already been forwarded to the Advocate vide this office letter of even no dated 28.4.2003.

11. That with regard to the statement made in para 4(xi), of the application the respondents beg to state that the reply of the notice it was intimated that the enquiry report alongwith the original file of the case has been sent to Circle Office for finalisation of Rule-9 case. But the report received ~~early~~ *late*ly.

12. That with regard to the statement made in para 4(xii), of the application the respondents beg to state that the representation submitted by the applicant regarding regularisation of pensionary benefit already been forwarded to the DA(P), Kolkata vide letter of SPOs, Jorhat no. C2/J.C. Bezbaruah dated 6.10.93. But the pension case of the applicant could not be forwarded in time due to absence of his service book which was sent to Circle Office for finalisation of Rule-9 disciplinary action against him.

Contd.....

13. That with regard to para 4(xiii), of the application the respondents beg to offer no comment.

14. That with regard to the statement made in para 4(xiv), of the application the respondents beg to state that the case has been dismissed on withdrawal on 25.2.2004 for the request of the applicant.

15. That with regard to the statement made in para 4(xv), of the application, the respondents beg to state that the Desk Officer (VIG), Depart of Post, Ministry of Communication Govt of India, New Delhi-1 has withhold the entire monthly pension of the applicant alongwith withholding, the entire gratuity amount vide order No. 9-39/93-VP dated 5.11.2003 and the Department Rule 9 case against the applicant has been finalised. In this case the president has considered carefully the advice of the commission with reference to the facts and evidence on record and it has been decided to accept the advice of the Commission.

Copy of order dated 5.11.2003 is Annexure - A.

16. That with regard to para 4(xvi), of the application the respondents beg to offer no comments.

17. That with regard to the statement made in para 5(I) to (IV) of the application the respondents beg to state that same as stated in para 4(xv) .

18. That with regard to paras 5(v), 5(vi), 5(vii), 6, 7, 8, 9, & 10 ~~xxxx~~ of the application the respondents

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the respondents beg to offer no comments.

19. That with regard to the statement made in para 11, of the application the respondents beg to state that all the statement of the applicant are not based on facts and untenable by law and liable to be dismissed out right.

Verification.....

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VERIFICATION

I Shri B. K. Marale Superintendent of Post Offices, Sibsagar Division, Jorhat do hereby verify that the statements made in paragraph 1 to 14, 16 to 19 of the written statement are true to my knowledge, those made in paragraphs 15 being matter of records are true to my information derived therefrom which I believe to be true and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 28th day of September 2004.

Sisarsing K. Marale
Deponent
Sivasagar Division
Jorhat-785 001

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ANNEXURE - A

No. 9-39/93-VP
Government of India
Ministry of Communications & IT
Department of Posts

Dak Bhavan, Sansad Marg,
New Delhi - 110 001.

Dated : 05.11.2003

ORDER

Disciplinary proceedings under Rule-14 of CCS (CCA) Rules 1965, were initiated against Sh. Jadav Chandra Bezbaruah, Sub-Postmaster, ONGC Colony SO, Assam Circle by the Supdt. of Post Offices, Sibsagar Dn., Jorhat vide memo dated 04.09.1991 on the following charges :-

"Article I :

That Sh. Jadav Chandra Bezbaruah while functioning as SPM, ONGC Colony SO during the period from 19.06.1987 to 09.04.1990 did not credit to Govt. Account a sum of Rs.16, 000/- on 09.02.1990 and a sum of Rs.25, 000/- on 12.02.1990 being the amounts of sale proceeds of 5 years KVPs violating the provisions of Rule 4(1) of FHB Vol. 1. Thus Sh. Jadav Chandra Bezbaruah had failed to maintain absolute integrity, devotion to duty and acted in a manner which was unbecoming of a Government servant as enjoined in Rule 3(I)(i), 3(I)(ii) and 3(I)(iii) of the CCS (Conduct) Rules 1964.

Article II :

That during the period from 19.06.1987 to 09.04.1990 while functioning as officiating SPM, ONGC Colony SO, Sh. Jadav Chandra Bezbaruah had charged in the Govt. Account final withdrawals in respect of ONGC Colony matured R/D Account Nos. 15687, 17023, 16273 and 15876 twice each. Thus Sh. Jadav Chandra Bezbaruah had failed to maintain absolute integrity & devotion to duty and acted in a manner which was unbecoming of a Government Servant as enjoined in Rule 3(I)(i), 3(I)(ii) and 3(I)(iii) of CCS (Conduct) Rules 1964.

Article III:

That Sh. Jadav Chandra Bezbaruah while functioning as the Sub-Postmaster, ONGC Colony SO during the period from 19.06.1987 to 09.04.1990 had charged in the Govt. Account final withdrawals in respect of ONGC Colony matured CTD Account Nos.45989 and 45622 twice each. Thus Sh. Jadav Chandra Bezbaruah had failed to maintain absolute integrity & devotion to duty and acted in a manner which was unbecoming of a Government Servant as enjoined in Rule 3(I)(i), 3(I)(ii) and 3(I)(iii) of CCS (Conduct) rules 1964."

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2. The said chargesheet was served upon the ex-official, Sh. Jadav Chandra Bezbaruah in July, 1991 while he retired on superannuation on 28.02.1993. The disciplinary proceedings initiated against the Shri Jadav Chandra Bezbaruah was therefore deemed to be converted into proceedings under Rule 9 of the CCS (Pension) Rules 1972. Mandatory inquiry proceedings were concluded on 12.05.1993. All the charges were held proved. A copy of the inquiry report was sent to the ex-official for submitting his representation, if any. His representation dated 12.05.1993 was received. After taking it into consideration the findings given in the inquiry report, the disciplinary authority recommended action under Rule 9 of the CCS (Pension) Rules, 1972 against Shri Jadav Chandra Bezbaruah as there were documentary evidence to establish the charges.

3. The case was therefore considered by the President. The President came to a tentative conclusion that the ex-official deserved to be punished under Rule-9 of CCS (Pension) Rules, 1972 for the proven charges. Accordingly, the case was referred to the Union Public Service Commission for statutory advice. The Commission has tendered advice vide letter No. 3/110/98-S.I. dated 26.09.2003. It has been observed that taking into account the material available on record, the Commission is of the view that the charges are of grave nature which have been established from documentary evidence. Keeping the said grave misconduct of Shri Jadav Chandra Bezbaruah in view, the Commission has advised that the ends of justice will be met if the penalty of withholding of entire monthly pension on permanent basis otherwise admissible to the charged official and also the entire amount of gratuity admissible to him, is ordered to be withheld.

4. The President has carefully considered the advice of the Commission with reference to the facts and evidence on record. It has been decided to accept it. Hence entire monthly pension admissible to the charged official is ordered to be withheld on permanent basis alongwith withholding of entire gratuity amount of Rs.29,040/- payable to Shri Jadav Chandra Bezbaruah.

BY ORDER AND IN THE NAME OF THE PRESIDENT.

Encl.: Copy of the letter No.F.No.3/110/98-S.I. dt. 26.09.03
of the Union Public Service Commission.



(P. Haridassan Pillai)
Desk Officer (Vigilance Petition)

→ Shri Jadav Chandra Bezbaruah,
Ex-SPM, ONGC Colony PO,
Assam.

(Through Postmaster General, Dibrugarh Region, Dibrugarh)

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CONFIDENTIAL



ADVICE OF
UNION PUBLIC SERVICE COMMISSION
IN THE
DISCIPLINARY PROCEEDINGS
AGAINST
SHRI JADAV CHANDRA BEZBARUA, EX SPM ONGC.
MINISTRY OF COMMUNICATIONS.

UNISERCOM

Telex : 031-62677
Fax : 011-3385345

सेवा में
To

संघ लोक सेवा आयोग
धौलपुर हाउस, शाहजहाँ रोड
UNION PUBLIC SERVICE COMMISSION
(SANGH LOK SEVA AYOOG)
DHOLPUR HOUSE, SHAHJAHAN ROAD

संख्या
No.
CONFIDENTIAL
F.No.3/110/98-S.1

नई दिल्ली-110011
New Delhi-110011

26/9/03

The Secretary to the Govt. of India
Ministry of Communications
Dak Bhavan
Sansad Marg
New Delhi-110 001

(Kind attention :- Shri A.K. Das, Desk Officer)

Subject :- Disciplinary proceedings against Shri Jadav Chandra Bezbarua, Ex SPM
ONGC PO of Assam Circle under Rule 9 of CCS (CCA) Pension Rules,
1972.

Sir,

I am directed to refer to your letter No.9-34/93-VP dated 30.06.1998 on the
above subject and to convey the advice of the Commission as under :-

2. The Commission note that the sequence of events in the Disciplinary Inquiry
has been as follows :

2.1 The Disciplinary Authority (D.A.) vide their Memo dated 04.07.1991
conveyed to Shri Jadav Chandra Bezbaruah, the C.O. that it was proposed to hold
an inquiry against him under Rule 14 of the CCS (CC&A) Rules, 1965 and he was
called upon to answer the following Articles of Charge :

Article-1

That Shri Jadav Chandra Bezbaruah while functioning as SPM
ONGC Colony S.O. during the period from 19.06.1987 to 09.04.1990
did not credit a sum of Rs.16,000/- on 09.02.1990 and a sum of
Rs.25,000/- on 12.02.1990 being the amounts of sale proceeds of five

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and a half years K.V.Ps. in the Govt. account violating the provisions of Rule 4 (I) of FHB Vol.I. Thus, Shri Jadav Chandra Bezbaruah has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant as enjoined in Rule 3 (1) (i), (ii) and (iii) of the CCS (Conduct) Rules, 1964.

Article-II

That during the period from 19.06.1987 to 09.04.1990 while functioning as SPM ONGC Colony S.O., Shri Jadav Chandra Bezbaruah had charged in the Govt. Account, final withdrawals in respect of ONGC Colony matured R/D account Nos. 15687, 17023, 16273 and 15876 twice each. Thus, Shri Jadav Chandra Bezbaruah has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant as enjoined in Rule 3 (1) (i), (ii) and (iii) of the CCS (Conduct) Rules, 1964.

Article-III

That Shri Jadav Chandra Bezbaruah while functioning as SPM ONGC Colony S.O. during the period from 19.06.1987 to 09.04.1990 had charged in the Govt. Account, final withdrawals in respect of ONGC Colony matured CTD account Nos. 45989 and 45622 twice each. Thus, Shri Jadav Chandra Bezbaruah has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant as enjoined in Rule 3 (1) (i), (ii) and (iii) of the CCS (Conduct) Rules, 1964.

2.2 Annexures II, III and IV to the aforesaid Memo contained a statement of Imputations of misconduct or misbehaviour on the part of the C.O. in support of the Articles of Charge framed against him, a list of documents by which the articles of Charge and list of witnesses by whom the article of charges were proposed to be sustained against the C.O. The C.O. denied the charges levelled against him. The D.A. remitted the case for inquiry and I.O. in his report dated 25.02.1993, held all the charges as proved against the C.O. The C.O. retired from service on attaining the age of superannuation on 28.02.1993. A copy of I.O.'s report was forwarded to the C.O. for making representation, if any. The C.O. submitted his representation dated 12.05.1993 against the findings of the I.O. After considering the representation of the C.O. against the findings of the I.O., the President recommended imposition of stiff penalty on the C.O. Accordingly, the case records were forwarded to the Commission for advice in the matter.

[Signature]

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3. The Commission has gone through the case records thoroughly and carefully and they observe as under :-

3.1 Article -1 :- The Commission note that the charge against the CO is that he did not credit a sum of Rs.16,000/- and a sum of Rs.25,000/- on 9.2.1990 and 12.2.1990 or on any other subsequent date in the government account. These sums were the amounts of sale proceeds respectively of five and a half years of Kisan Vikas Patras and should have been deposited in the government account.

3.1.1 The Commission note that the CO did not refute the charge and also did not produce any evidence in this regard. The Commission observe that there is enough evidence to prove that Smt. Kusum Gupta, a National Savings Agent, purchased five and a half years KVP valued at Rs.19,000/- on 9.2.1990 and Rs.25,000/- on 12.2.1990 and in lieu of these amounts the SPM, ONGC Colony has issued the certificate under reference. These amounts have not been credited into the government accounts. The CO's defence that he could not recollect whether Smt. Kusum Kumari Gupta had handed over the amount to him or not since he was very busy during that period, is not tenable.

3.1.2 The Commission hold this article of charge as proved against the C.O.

3.2 Article-II & III :- The Commission note that the charges against the CO are that he had charged in the Government Account final withdrawals in respect of ONGC Colony matured RD Account Nos. 15687, 17023, 16273 and 15876 twice each; he had also charged in the government account final withdrawals in respect of ONGC Colony matured CTD Account Nos. 45989 and 45622 twice each.

3.2.1 The Commission observe that all the six depositors in the above noted accounts have given written statements regarding the receipts of the first payment and not the second payment. There is documentary evidence to prove that the signatures on all these withdrawals were identified as those of the CO. The CO had acted as passing authority of all the withdrawals for final payments of RD and CTD Accounts on the dates and Account Nos. as shown in the concerned Exhibits.

3.2.2 The Commission observe that the C.O. has deliberately violated the provisions of rules by allowing twice final withdrawals from the RD and CTD Accounts.

3.2.3 The Commission hold Articles-II and III of the charge as proved against the C.O.

4. In the light of their findings as discussed above and after taking into account all aspects relevant to the case, the Commission note that the charges are of grave

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nature and have been proved mainly through documentary evidence. The charges established against Shri Jadav Chandra Bezbaruah, the C.O. constitute grave misconduct on his part. The Commission consider that the ends of justice will be met if the penalty of 100% of the monthly pension otherwise admissible to him, is withheld on permanent basis and further the entire amount of gratuity admissible to him also be withheld. They advise accordingly.

5. The case records, as per list enclosed, are returned herewith. A receipt may kindly be acknowledged. A copy of order passed by the Ministry in this case may be endorsed for Commission's perusal and records.

Yours faithfully,


(Dharam Pal)
Under Secretary

Encl: 1. Case records as per list attached.
2. Two spare copies of this letter.