

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No... 152/2003...

R.A/C.P No.....

E.P/M.A No... 71/2004...

1. Orders Sheet. O.A- 152/2003 Pg. 1 to 3 *M.P- 71/04 order pg- 1 to 2 dismissed 17/09/04*
2. Judgment/Order dtd. 25/02/2004 Pg. 1 to 3 *disposed*
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A... 152/03 Pg. 1 to 91
5. E.P/M.P... 71/2004 Pg. 1 to 13
6. R.A/C.P.....Pg.....to.....
7. W.S... *Submitted by the Respondents* Pg. 1 to 6
8. Rejoinder... *Filed by the Applicant* Pg. 1 to 3
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FROM No. 4.
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 182/03

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: - Talaluddin Ahmed

Respondants: - H.C.I. Farm

Advocate for the Applicants: - J. Ahmed

Advocate for the Respondants: - CASE

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in time. Condonation Petition is filed / not filed C.F. for Rs 50, deposited vide IPO No. 8649005 Dated 30/5/03.</p> <p><i>[Signature]</i> Dy. Registrar</p> <p><i>[Signature]</i></p> <p>mb</p>	<p>14.7.2003</p>	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. N.D. Dayal, Member (A).</p> <p>None appears for the applicant. Put up again on 22.7.2003 in presence of learned counsel for the applicant.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p><i>[Signature]</i> Member</p>
<p>Steps taken along with envelopes.</p> <p><i>[Signature]</i></p> <p>Notice prepared & sent to D/S for issuing the Respondent No. 1 to 4 by Regd. AID.</p> <p>D/N No <u>1618 W 1621</u></p> <p>Dtd <u>31/8/03</u></p> <p><i>[Signature]</i> 23/7/03.</p>	<p>22.7.2003</p>	<p>Heard Mr. I. Ahmed, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the application shall not be admitted. List on 25.8.2003 for admission.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p><i>[Signature]</i> Member</p> <p>mb</p>

2

O.A. 152/2003

25.8.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. K.V. Prahaladan, Administrative Member.

No reply has been filed.

By
22/8/03

Summation No 1618 K 1621
dtd. 31/7/03.
10/26/8.

Heard Mr. I. Ahmed, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.

The application is admitted.
Call for the records.

List again on 25.9.2003 for orders.

K.V. Prahaladan
Member

Vice-Chairman

mb

25.9.2003 It has been stated that written statement has been filed and the applicant received the same. Office to act accordingly.

26.9.03
W/S submitted by the Respondents.

Since pleadings are complete, the case may now be listed for hearing and the applicant may file rejoinder, if any, within two weeks from today.

List the case for hearing on 29.10.2003.

K.V. Prahaladan
Member

Vice-Chairman

bb

Rejoinder has been filed by the applicant.

29.10.2003 None appears for the applicant.
List the matter again on 8.12.2003 for hearing.

JS
26/12/03

Vakalatnama has been filed by the applicant's Advocate Mr. M.K. Mazumdar mb

K.V. Prahaladan
Member

Vice-Chairman

8/12/03 List on 25/2/04 for hearing.

JS
23/2/04.

By order

25.2.2004 Present : The Hon'ble Sri Shanker Raju,
Judicial Member.

The Hon'ble Sri K.V. Prahadani
Administrative Member.

9.3.04

Copy of the Judgment
has been sent to the
D/Sec. for issuing
the same to the applicant
as well as to the R.C.S.C.
for the Record.


KS.

Copy 11/3

Heard learned counsel for the
parties.

The O.A. is disposed of for the
reasons passed in separate sheets.


Member (A)


Member (J)

bb

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A.No. 1111 152 of 2003.

DATE OF DECISION 25.2.2004.

Md. Jalauddin Ahmed.

.....APPLICANT(S).

Mr. M.K. Mazumdar.

.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

Union of India & Ors.

.....RESPONDENT(S)

Mr. A. Deb Roy, Sr. C.G.S.C.

.....ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. SHANKER RAJU, JUDICIAL MEMBER.

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

1. Whether Reporters of local papers may be allowed to see the judgment ? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the judgment ? ✓
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Member (J). ✓

6
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.152 of 2003.

Date of Order : This, the 25th Day of February, 2004.

THE HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER.

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

Md.Jalaluddin Ahmed
S/o Late Kalimuddin
Vill: Gadaijhar
P.S: Dalgaon, Mangaldoi
Dist: Darrang, Assam.

. Applicant.-

By Advocate Mr.M.K.Mazumdar.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Communication
New Delhi.
2. The Post Master General
Assam Circle, Dibrugarh
P.S., P.O., Town & Dist: Dibrugarh.
3. Superintendent of Post Offices (By name)
Darrang Division
Tezpur - 784 001.
4. Post Master, Mangaldoi
District: Darrang.

. Respondents.

By Mr.A.Deb Roy, Sr.C.G.S.C.

O R D E R (ORAL)

SHANKER RAJU, MEMBER(J):

The applicant impugns respondents' order dated 6.12.1999 passed under Rule 19(1) of the CCS (CC&A) Rules, 1965 compulsorily retiring the applicant from service. The applicant also impugns the inaction on the part of the respondents by which the appeal preferred against the compulsory retirement has not been dispensed with.

1. The applicant worked as Group 'D' employee. On account of his detention in police custody for exceeding 48 hours, he was placed under suspension on 2.7.1998. An enquiry was ordered on 8.1.1999 under Rule 14 of the CCS (CC&A) Rules. However, the same was dropped on 12.8.1999 as the applicant was convicted of an offence under Section 353/323 IPC by an order passed on 23.7.1999 by the CJM, Mangaldoi.

2. By a show cause notice dated 12.8.1999 under Rule 19 of the CCS (CC&A) Rules a punishment of stoppage of next increment for two years was proposed. This has been responded by the applicant. By an order dated 6.10.1999 aforesaid show cause notice was dropped. By a show cause notice dated 20.10.1999 a punishment of compulsory retirement has been proposed. As the appeal preferred against the punishment was pending ^{before the} Chief Judicial Magistrate the respondents compulsorily retired the applicant.

3. However by the order dated 10.4.2002 in appeal the CJM, Darrang, Mangaldoi acquitted the applicant honourably from the charges. As the appeal remained pending and is still to be disposed of, the present O.A. has been filed.

4. The learned counsel for the applicant, Mr.M.K.Mazumdar raised several contentions to assail the order but at the outset acquittal order passed under Rule 19 of the CCS (CC&S) Rules is to be set aside having rendered nullity.

5. On the other hand, Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents, vehemently opposed the applicants' contentions. However, Mr.Deb Roy acknowledged that the appeal is still to be disposed of.


6. We have carefully considered the rival contentions of the parties. The Hon'ble Apex Court in its judgment passed in Union of India & Others vs. Ramesh Kumar reported in 1997 SCC (L&S) 1774 held that on acquittal by the Appellate Court the issue regarding re-instatement would have to be considered.

7. Having regard to ^{ibid} as we are satisfied with the acquittal of the applicant in appeal ^{honourable} and on merit, the stigma attached to the applicant due to his ^{Foundation} ~~conviction~~ is obliterated. The very ^{contention} of the order passed under Rule 19(1) of the CCS (CC&A) Rules ^{ibid}

is ceased to exist.

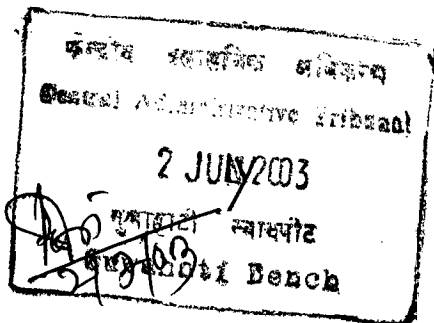
8. As we find that the appeal preferred against the compulsory retirement attaching copy of the appellate order of acquittal is still to be responded to, the O.A. is disposed of with a direction to the respondents to dispose of the pending appeal of the applicant having due regard to his honourable acquittal and also our observations made ibid by a detailed and speaking order to be passed within three months from the date of receipt of the copy of this order.

Copy of the order to be kept in file.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(SHANKER RAJU)
JUDICIAL MEMBER

bb



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
G U W A H A T I

ORIGINAL APPLICATION NO _____/03.

Sri Jalaluddin Ahmed..... Applicant.

-Vs-

Union of India & ors. Respondents.

S Y N O P S I S

Applicant made for setting aside and ~~quash~~ quashing impugned order no. PB-A/Assult/98 dt. 6-12-99 issued by Respondent No. 3 thereby ordering compulsory retirement of the applicant -impugned order is perse illegal, patently arbitrary-Applicant was a grade D. employee of postal department at Tongla. A complaint was lodged by Post master of Mangaldoi against the applicant Police registered a case GR case No 525/98 U/s 353/323 IPC. Applicant was arrested and suspended on 2-7-98 from service - Suspension was revoked vide order dtd. 20-7-98. He was convicted by Chief Judicial Magistrate - on Departmental Proceeding was initiated and dropped vide order 6-10-99 dtd _____. Again suspended vide order 6-10-99. Applicant preferred appeal against his conviction before sessions Judge, Darrang being Appeal No. 20(D-3/99) and the conviction was stayed -- Respondent vide order 6-12-99 sent the applicant on compulsory retirement without any financial benefits.

contd.

The GR case No 525/98 was remanded by Sessions Judge vide order dtd. 18-1-2001 for fresh trial. Applicant was acquitted on 10.4.2002. He applied for review of this case before Respondent vide letter dated 20-1-03 22.9.02, 9.12.02 & No action from the Respondent - Respondent's action are in violation of Article 14 & 311 of the constitution of India and Rule 14 and 19 of the CCS(CCA) Rules 1965 and other provisions - Action is patently arbitrary liable to be set aside - Reinstatement, Arrear of pay and other benefits, Costs etc. claimed - Applicant has become a pauper - He is pulling Ricksaw, Thalass and wife has become ~~max~~ maid servant in other household, Children are off school. Needs immediate financial aid.

-2-

Filed by -
Jyoti Bhandari,
Advocate,
Lawyer for & on behalf
of Applicant.

②

It is in
the
order of
the
court
on behalf
of the applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ::: GUWAHATI BENCH
GUWAHATI

ORIGINAL APPLICATION NO. _____/03

B E T W E E N

Md. Jalaluddin Ahmed,
S/o Late Kalimuddin,
Vill. Gadaijhar,
P.S. Dalgaon,
Mangaldoi,
Dist. Darrang, Assam. ... APPLICANT

- V E R S U S -

1. Union of India represented
by the Secretary, to the
Govt. of India,
Ministry of Communication,
New Delhi.
2. The Post Master General,
Assam Circle, Dibrugarh,
P.S & P.C. Town & District,
D I B R U G A R H.
- ✓ 3. Superintendent of Post Offices (By name)
Darrang Division,
T E Z P U R - 784001.
4. Post Master, Mangaldoi,
District- Darrang ... RESPONDENTS.

Jalal uddin Ahmed

DETAILS OF APPLICATION:-

PARTICULARS OF ORDER AGAINST WHICH APPLICATION
HAS BEEN MADE

1. This application is made against the order No. F-8-1/Assault/98 dated 6-12-99 issued by Superintendent of Post Office, Darrang Division, Tezpur, by which an order was issued that the applicant, Gr 'D' Tangla S.O. (now under Suspension) be retired compulsorily from service with immediate effect and all other orders issued by Respondent No. 3 in the matter of Disciplinary Proceedings initiated against the applicant and this application is also made against the arbitrary action of the Respondents in suspending the applicant and denying him even substance allowances and also for denying arrear of pay & other financial benefit.

J U R I S D I C T I O N

2. The applicant declares that this Hon'ble Tribunal has got jurisdiction to adjudicate the matter in regard to which this application is made.

3. L I M I T A T I O N

The applicant further declares that his application is well within the period of limitation prescribed under section 21 of the Administrative Tribunal Act, 1985.

4. F A C T O F T H E C A S E

4.1) That your applicant is a citizen of India and a permanent resident of Gadaijhar village of Mangaldoi, Assam. The applicant joined services in the postal department in the year 1966 as a

getal veldin Amma

Group 'E' Employee and thereafter he was allowed to officiating in the Group 'D' cadre on Ad-hoc basis by the Respondent No. 3 vide his letter dated 22-4-87. Subsequently the applicant was selected and approved for appointment in Group 'D' cadre in Darrang Division by the Respondent No. 3 vide his letter dated 25-11-87 after holding departmental examination and the applicant was posted at SDI, Mangaldoi.

A copy of appointment letter dtd. 22-4-87 & 25-11-87 is annexed herewith and marked as ANNEXURE I & IA.

4.2. That thereafter the Post Master, Mangaldoi Head Post Office vide his letter dated 27-8-92 appointed the applicant in the Group 'D' Post in a Quasi Permanent capacity with effect from 29-12-1990 after having satisfied with the quality of work, conduct and character of the applicant.

A copy of the letter dated 27-8-92 is annexed herewith and marked as ANNEXURE II.

4.3. That since then, the applicant discharged his duties to the full satisfaction of the superior authorities without any blemish. In the year 1997, one Sri P.K.Das joined as a Post Master at Mangaldoi, Head Post Office and started illtreating the applicant from time to time on one pretext and another. On 29-6-1998 the said Post Master lodged a false case before Police and made the applicant ^{arrested} ~~custody~~ and kept in Police Custody from 29-6-1998 to 4-7-1998.

contd. 4..

Farahuddin Ahmed

14
4.

and he was suspended by him vide order dated 2-7-98 and 29-7-1998.

A copy of the suspension order dated 2-7-98, 29-7-98, 30-7-98 and 3-8-98 is filed herewith and marked as Annexure III & III-A III-B and III-C.

4.4. That the applicant ^{humbly} submits, he also did not receive his pay for the period from 21-8-99 to 5-11-98 without any reasons at the instance of the above post master.

A copy of letter dated 8-10-97 and reply dated 14-3-98 is filed herewith and marked as ANNEXURE IV & V.

4.5. That the said suspension was finally revoked by the Post Master vide his letter dated 9-9-98 and the applicant was transferred to Tangla S.O.

A copy of the revocation letter dated 9-9-98 filed herewith and marked as ANNEXURE VI.

4.6. That the suspension order dated 2-7-98 has been revoked by the Post Master Mangaldoi vide order dated 9-9-98.

contd. 5..

15
5.

4.7. That in the meantime, a departmental proceedings was also initiated against the applicant and the Superintendent of Post Office, Darrang Division Tezpur vide his order dated 8-1-99 appointed one Sri M.C. Kalita as Inquiry Officer to enquire into the charges alleged against the applicant and the applicant meanwhile vide his letter dated 23-12-98 denied the charges levelled against him.

A copy of letter dated 8-1-99 and 23-12-98 is filed herewith and marked as ANNEXURE VIII.

4.8. That in the meantime, the Chief Judicial Magistrate, Darrang at Mangaldei vide Judgment dated 23-7-99 convicted the applicant GR No. 525/98 under Section 353/323 Cr. IPC and sentenced him to a fine of Rs. 500/- U/S 353 IPC ie default S.I for one month and a fine of Rs. 200/- U/S 323 IPC in default S.I. for 15 days and immediately after conviction the Superintendent of Post Office, Darrang Division, Tezpur vide his order dated 12-8-99 dropped the Departmental Proceeding which was parallaly drawn.

A copy of letter dated 12-8-99 is filed herewith and marked as ANNEXURE IX.

4.9. That the Respondents without holding any departmental inquiry, violating the principles of natural justice contemplated to impose a minor penalty

contd. 6...

U/R 19 of their CCS(CC & A) Rules 1965 and accordingly served a show cause notice vide memo No.F-8-1/Assault/98 dated 12-8-99 and in reply^{to} that the applicant sent registered letter dated 27-8-99 stating inter alia, that he had filed appeal against the judgment of learned CJM, Mangaldei, dated 23-7-99 and hope to get acquitted and the matter is subjudice, however the applicant was again suspended vide letter dated 6-10-99 by the Respondent No.3 and proposal for imposition penalty was dropped.

A copy of the letter dated 12-8-99; 27-8-99; and 6-10-99 is filed herewith and marked as ANNEXURE X, XI, XII, XIII respectively.

4.10. That the Respondent again served a show cause Notice No.F-8-1/Assault/98 dtd. 20-10-99 proposing to impose to applicant the penalty of "Compulsory Retirement" from service with immediate effect and the applicant vide letter dated 11-11-99 immediately replied the same but without effect and ~~in mosts~~ arbitrarily and the illegal manner in violation of CCS (CCA Rules, 1965 and principles of natural justice and the provisions of constitution of India vide order No.F3-1/Assault/98 dtd.6-12-99 the applicant was retired compulsorily from service with immediate effect.

A copy of show cause dtd. 20-10-99, reply dt. 11-11-99, letter of subsistence allowance dt. 1-11-99 and ~~retirement~~ order dtd.6-12-99 filed herewith and marked as ^{XIV}ANNEXURE XV, XVI, XVII, ~~and~~ respectively.

Salauddin Ahmed

4.11. That the above order of compulsory retirement is patently arbitrary and whimsical since the appeal against the Criminal case was subjudice before Sessions Judge and earlier order of learned C.J.M. was stayed, Therefore the applicant preferred a review petition before the Respondent vide letter dated 17.12-99^{25.5.2000}, but no action was taken.

A copy of review petition dtd. 17-12-99 and dtd. 5-5-2000 is filed herewith and marked as ANNEXURE XVIII & XIX, respectively.

4.12. That the Respondent did not review the compulsory Retirement order, but meanwhile the learned Sessions Judge delivered Judgment on 18-1-2001 in Criminal Appeal No. 20(D-3) of 1999 remanding the case to Chief Judicial Magistrate for re-trial and learned Chief Judicial Magistrate delivered the final judgment on 10-4-2002 and copy received by applicant, lawyer on 24-6-02 and the applicant received the same on 20-7-2002; in that Judgment the learned Chief Judicial Magistrate^{held} Darrang held that accused Jalaludin Ahmed is/not guilty of the offence under section 353/323 of the Indian Penal Code and he is accordingly acquitted from the alleged charge. The accused is set at liberty forthwith.

Jalaludin Ahmed

8.

A copy of learned Chief Judicial Magistrate, Darrang's judgment dtd. 23-7-99, learned Sessions Judge Judgement dt. 18-1-01 and learned Chief Judicial Magistrate, Darrang final Judgment dt. 24-6-02 is filed herewith and marked as ANNEXURES XX, XXI, XXII, respectively.

4.13 That thereafter, the applicant being absolved from all the charges preferred representing before the Respondent for re-instatement vide letter dtd. 22-7-02 and dtd. 7-12-02 and 20-1-03 also to release all his outstanding dues but no avail.

A letter dated 22-7-02 & 7-12-02 (both written in Assamese) translated and a letter dated 20-1-03 is filed herewith and marked as ANNEXURES XXIII, XXIV and XXV, respectively.

4.14. That the applicant humbly states that he was first convicted by the learned Chief Judicial Magistrate Mangaldai on 23-7-99 and against the conviction he preferred an appeal before the Sessions Judge, Darrang and during pendency of the said appeal he was placed under suspension by the Respondent vide memo no F3-1/ Assult /98 dt. 6-10-99 and after that he was allowed to draw half salary from 11-10-99 till his compulsory retirement on 6-12-99 and thereafter no payment has been made to the petitioner till this date.

contd.9

4.15. That the applicant was appointed to the post of Group 'D' Cadre on 15-11-87 after duly held departmental examination conducted by the Respondent No.3 and since then applicant continued to work in that post with efficiency and to the satisfaction to all and also without any blemish till 29-6-98 when a false complaint was lodge against him by Respondent No.4 his superior officer Mr. P.K.Das, Post Master, Mangaldoi Head Quarter (now retired) and accordingly he was placed under suspension on 2-7-98 and the said suspension order was however revoked on 9-9-98 and thereafter the applicant was transferred to Tangla, Sg. on 23-7-99 the petitioner was convicted by learned Chief Judicial Magistrate, Mangaldoi in G.R. Case No. 525/98 U/s 353/323 IPC and thereafter on the basis of the said conviction, the departmental proceeding was dropped on 12-8-99 by the Respondent and a proposal for imposition of minor penalty for stoppage of his next increment for two years without cumulative effect was made. After that on 6-10-99 he was again placed under suspension by the Respondent No.3 but the penalty already proposed to impose on him was dropped by the said respondent. Thereafter the petitioner was untimely placed under compulsory retirement on 6-12-99 on the said ground of his conviction by a criminal court and this order of compulsory retirement was passed during the pendency of criminal appeal preferred by the applicant before the court of Sessions Judge, Darrang and the said Judge after setting aside the conviction and sentence passed by the Chief Judicial Magistrate, Mangaldoi, remanded the matter to the trial court for deciding the matter afresh and ultimately the Chief Judicial Magistrate,

Mangaldei acquitted the applicant on 10-4-62 after finding him innocent. After that the petitioner made review petitions before the Respondent higher authority in order to allow him to reinstate him, pay arrear salaries and other consequential benefits he entitled to but there is no action on the part of Respondent.

4.16. That the applicant has become a pauper he undertook pulling recksaws, thallas, etc, his wife has become a maid servant in other house hold, he has to put off his three minor daughters from school, Thus his financial plight is beyond one's apprehension, all this due to the base, arbitrary, malafide actions of the Respondent.

4.17. That the action of the authority is patently arbitrary, abuse of power and in total violation of Constitution of India and CCS(CA) Rules 1965.

4.18. That the applicant states that he is entitled to reimbursement of legal expenses.

4.19. That under the circumstances states that the Hon'ble Tribunal may be pleased to set aside the order dated 6-12-99 issued by the Respondent No. 3.

4.20. That this application is made bonafide and for the interest of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

G R O U N D S

Jalaluddin Ahmad

- 5.1. For that the disciplinary authority committed manifest error of law apparent on the face of records in compulsorily retiring the applicant. On the basis of some vague and wild allegations not substantiated by any facts. Therefore, the impugned order dt. 6-12-99 is liable to set aside and quashed.
- 5.2. For that the applicant has been discriminated in violation of Article 14 of the Constitution of India, in as much as, the applicant has been single out for harsh treatment.
- 5.3. For that the impugned action of the Respondent is in clear violation of Article 311 of the Constitution of India as there was no departmental enquiry and he was acquitted from Criminal Charges, ought to have been reinstated.
- 5.4. For that the impugned action in retiring the applicant compulsorily have been denied in gross violation of Rule 14 of the CCS(CCA) Rules 1965.
- 5.5. For that the disciplinary authority acted illegally, therefore, the impugned order is not legally maintainable and the same is liable to be set aside and quashed.
- 5.6. For that the applicant was suspended twice, disciplinary proceeding was dropped, he was show cause for minor penalty and ultimately in the face of stay of lower Criminal Court's Judgment he was

Gulzar uddin Ahmad

ordered to compulsorily retire , this shows complete lack of mind, abuse of process, arbitrary, whimsical attitude of the Respondent towards the applicant, hence impugned order is liable to be set aside and quashed.

5.7. For that if an Appeal/Revision in higher court against conviction, succeeds and the Govt. servant is acquitted, the order imposing of penalty on him on the basis of conviction , which no longer stands, becomes liable to be set aside, since the applicant is acquitted by learned J.S.M. order of compulsory retirement is liable to be set aside in not doing so the Respondent acted in arbitrary manner and committed gross abused of powers.

5.8. For that the applicant has been discriminated in violation of Rule 14 ,19 and other provisions of the CCS(CCA) Rules, 1965 and the provisions of the Constitution of India.

5.9. For that the Respondents have violated the administrative fairplay and has displayed object arbitrariness in retiring the applicant compulsorily and denying financial benefits to him..

Gulabuddin Sharma

6. DETAILS OF REMEDIES EXHAUSTED

The applicant begs to state that he was exhausted all remedies available to him and there is no other alternative remedy than to approach this Hon'ble Tribunal by way of filing this application.

7. THE MATTER NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT.

The applicant further states that he was not previously filed any Writ Petition, application or suit before any court or any authority or any other Bench of this Hon'ble Tribunal regarding the grievances for which this application has been made and they are pending before any of them.

8. RELIEF SOUGHT FOR

Under the aforesaid circumstances the applicant prays that the application be admitted records be called for, and after hearing the parties and on causes shown and on perusal of the records be pleased to grant the following relief.

- 8.1. To set aside and quash the order No. F 8-1/Assault/98 dated 6-12-1999.
- 8.2. To pay arrear pays and other financial benefits;
- 8.3. Cost;
- 8.4. Any other reliefs entitled to.

Salal v. Salal

14.

9.

INTERIM ORDER PRAYED FOR:

Pending disposal of this application
prays that;

9.1. Further, the compulsory retirement
order No. FB-1/Assault/98 dtd. 6-12-99
(Annexure) be stayed and pay salary
to him.

10. The application has been filed through
Advocate.

11. Particulars of I.P.O.

i) IPO No. 86 490825

ii) Date of Issue 30/5/03

iii) Issued from Goby. 21. PO.

iv) Payable at Gumrahati -

Verification...

Fazal uddin Ahmed

VERIFICATION

I Shri Jalaluddin Ahmed son of Late
Kalimuddin age 55 years, resident of Gadaijhar
village, P.S. Dalgaon, Mangaldoi, District Darrang
Assam do hereby verify that the contents of
paras 1, 4-1 to 4.16, 8 6, 7 and 8
are true to my personal knowledge and paras
4.17 to 4.20 & 5

believed to be true on legal advice and that I have
not suppressed any material fact.

Date 1-7-2003

Signature of the Applicant

Place Guwahati

Jalal uddin Ahmed

26

- 16 -

DEPARTMENT OF POSTS
OFFICE OF THE SUPDT. OF POST OFFICES: DARRANG DIVISION: TEZPUR

Memo No. B1/IV/Misc/Ch II

Dated at Tezpur the 22-4-87

The following ED Officials are hereby approved for officiating in the Group 'D' cadre on ~~ad hoc~~ basis and allotted to the unit shown against their name.

<u>Name</u>	<u>Unit Allotted</u>
1. Mohd Ali, EDA Chamuakhat (Kalaigaon)	SPM Tangla
2. Mahab Rajbangshi, EDDA Kokerukhanda	- (Missamari) SDI/Tz.
3. Jaluddin Ahmed, EDDA Dalgaon (Off. Postman Darrang Panbari)	- (Hatigarh) SDI/ Dhekiajuli
4. Abdul Hussain, EDDA, Chamuapara (MLD)	- SDI/Mangaldai.
5. Sri Manik Das, EDDC Atterikhat (Offg. as Runner Atterikhat Dimakuchi line)	- SDI/Mangaldai

6. ~~Sri Khagen Sharma, SDA Bgn~~ - ~~PM/Tezpur~~
~~Offg. PM/Tezpur~~

Sd/-
(M. N. Sharma)
Supdt. of Post Offices
Darrang Division
Tezpur-784001.

Copy to :-

1. The SDI Tezpur/Dhekiajuli/Mangaldai/Cheriali for information & necessary action
2. The SPM Tangla for information and n/a.
3. The Officials concerned.

M. N. Sharma
Supdt. of Post Offices
Darrang Division
Tezpur-784001.

124

17-

DEPARTMENT OF POSTS
OFFICE OF THE SUPDT. OF POST OFFICES:: DARRANG DN: TEZPUR

No. B-1/IV/Exam/87

Dated at Tezpur the 25-11-87

As a result of literacy & test held on 22-11-87 at Tezpur, the following E.D. Employees are selected and approved for appointment in Group 'D' Cadre in Darrang Division and allotted to the units shown against each.

Sl.No.	Roll No.	Name & Office where working	Community	Name & Unit in which allotted
1. Tez -4		Shri Madan Rajbangshi EDDA, Keherukunda	O/C	SDI/Dhekiajuli
2. Tez -5		Shri Khagen Sarma Offg. Mail Peon, Mijikajan	O/C	SDI/Tezpur
3. Tez -7		Jalaluddin Ahmed Offg. M/Peon, Hatigarh	O/C	SDI/Mangaldai
4. Tez -8		Shri Ambika Sarma Offg. Group 'D' Dvl. Office	O/C	Dvl. Office, Tezpur
5. Tez -11		Shri Manik Das Offg. Group 'D' Atterikhat	S/C	SPM/Tangla
6. Tez -13		Shri Durgeswar Saikia ✓ ED Messenger, Sootea	O/C	SDI/Charali
7. Tez -16		Shri Mona Ram Phukan ED Packer, Barangabari	O/C	SDI/Charali
8. Tez -18		Shri Dhaneswar Khaund ED, Mijikajan	O/C	SDI/Charali
9. Tez -31		Shri Nikodin Topno EDMS, Gormara	O/C	SPM/Charali
10. Tez -33		Shri Suren Kalita Offg. Postman, Tezpur	O/C	Postmaster/Tez.
11. Tez -38		Shri Narendra Kr. Barua ED Messenger, Panerihat	O/C	SDI/Tezpur.

Copy to :-

1. The Postmaster Tezpur/Mangaldai
2. All SDI(P) of Darrang Dn.
3. The SPM Tangla, Charali, Dhekiajuli
4. The candidates concerned.
5. Spare.

Sd/- (B.C.Roy)
Supdt. of Post Offices
Darrang Dn. Tezpur

They will issue posting order after observing necessary procedure i/r/o the candidates allotted to their units.

Supdt. of Post Offices
Darrang Division
Tezpur-784001.

18
20
Department of posts.

OFFICE OF THE POSTMASTER, MANGALDAI HEAD POST OFFICE.

No. B-1/Lion/Postman and Gr. 'D'

dated at Mangaldai the 22

In pursuance of Rule 3 and 4 of the CIS (Temporary) Rules 1965, The Postmaster, Mangaldai HO being satisfied having regard to the quality of work, conduct and character of the following officials that they are suitable to be appointed in the Quasi Permanent capacity under Govt of India in the post of Gr. 'D' (Scale 750-12-870 BB 14-940) hereby appointed the said in a Quasi Permanent capacity in the said post with effect from the date shown against each.

Name and designation

date of effect.

1. Shri Nila Kanta Mazumder
Gr. 'D', Mangaldai HO

1-4-88

2. Md Jalaluddin Ahmed
Gr. 'D', Mangaldai HO

29-12-90

(D.K. Sahai)

Postmaster

Mangaldai HO 784125

Copy to

- 1) The officials concerned.
2) P/F of the Officials
3) O/S

Md Jalaluddin Ahmed

(Signature)
Postmaster

Mangaldai

*Thence
Done*

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE POSTMASTER : MANGALDAI HO

No. B2/Staff/98-99 Hd 2.7 98
Government of India
Ministry of Communication

(Place of issue, ... Mangaldai Dated 2.7.98.....)

ORDER

Whereas a disciplinary proceeding against Shri...
..... is contemplated/pending.
Where a case against Shri.....
..... in respect of a criminal offence is under investigation/inquiry/trial.

Because of his detention in Police Custody, Now, therefore, the President (the undersigned) appointing Authority or an authority to which it is subordinate or any other authority empowered by the President in that behalf), in exercise of the powers conferred by sub-rule (1) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, hereby places the said Shri under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the Headquarters of Shri.....
..... (Name and designation of the Government servant should be..... (Name of the place) and the said Shri..... shall not leave the headquarters without obtaining the previous permission of the undersigned.

(By order and in the name of the President)

Signature:

Name and designation of the suspending authority.
Mangaldai-724125

1) Copy to Shri (Name and designation of the suspended officer). Orders regarding subsistence allowance admissible during the period of his suspension will be issued separately.

3P/Tz
Bak Marak

Sub Postmaster

Shri Jalaluddin Ahmed
Post Mangaldai
Self
POSTMASTER (H.O.)

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE POSTMASTER : MANGALDAI HO

No. B:/Staff/98-99

Dated Mangaldai, the 29-7-98.

CORRIGENDUM
ORDER

The Order issued vide Memo no. B2/Staff/98-99 dated 2-7-98 may please be ^{thus} as follows.

Whereas a case against Shri Jalaluddin Ahmed, Gr. 'D' Mangaldai HPO in respect of a criminal offence is under investigation

And whereas the said Shri Jalaluddin was detained in Police custody on 29-6-98 to 4-7-98 for a period exceeding 48 (forty-eight) hours.

Now therefore the said Shri Jalaluddin Ahmed, Gr 'D' to have been suspended w.e.f. the date of detention, i.e. the (29.6.98 to 4.7.98) in terms of Sub Rule 2 of Rule 10 of the CES(CC/) Rules, 1965 and shall remain under suspension until further order.

Sd/-
(P. K. Das)
Postmaster Mangaldai HO-784125
Mangaldai HO-784125.

Copy fd. to :-

- 1) The D.A.(P), Calcutta for information.
- 2) The Suptt. of Post Offices, Darrang Divn., Tezpur for information and necessary action into the matter.
- 3) The official concerned.
- 4) The ADM(A/c) Mangaldai HO for necessary action.
- 5) Spare.

Misra
(P. K. Das)
Postmaster Mangaldai HO-784125
Mangaldai HO-784125.

31

DEPT. OF POSTS: INDIA
OFFICE OF THE SUPDT OF POST OFFICES: DARRANG DIVISION
TEZPUR-784001.

R

Memo No. F8-1/Assult/98

Dated at Tezpur the 30.7.98

Md Jalaluddin Ahmed, Group 'D' Mangaldai HO has been placed under suspension with effect from 29.6.98 A/N vide Postmaster Mangaldai Memo No. B2/Staff/98 dtd. 29.7.98. During the period of suspension Md. Jalaluddin Ahmed will draw subsistence allowances at an amount equal to the leave salary admissible to him if he was on half pay leave or leave on half average pay as the case may be. In addition to this he will also draw dearness allowances which would have been admissible to him if he was on half pay leave or leave on half average pay as the case may be.

Any other compensatory allowances will also be admissible to him from time to time on the basis of pay of which the Govt servant was in receipt on the date of suspension subject to the fulfilment of other condition laid down for the drawal of such allowances.

Each claim of subsistence allowances and other compensatory allowances should be supported by a certificate by the Govt. servant to the effect that he was not engaged in any employment, business, profession during the period of which the claim relates.

Sd/-
(B. K. Marak)
Supdt. of Post Offices
Darrang Division, Tezpur

Copy to :-

1) The Postmaster Mangaldai for favour of information and necessary action.

2) The DA(P) Calcutta (through P.M. Mangaldai)

3) Md. Jalaluddin Ahmed, Group 'D' Mangaldai HO (now U/ S)

4) C/C.

Memo
@

Sd/-
Supdt. of Post Offices
Darrang Division, Tezpur

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE POSTMASTER : MANGALDAI HO

No. 82/Staff/98-99 Dated Mangaldai, the 3-8-98.

CORRIGENDUM

ORDER

The order issued vide Memo No. 82/Staff/98-99 dated 29-7-98 may please be read as follows.

Whereas a case against Shri Jalaluddin Ahmed, Gr. 'D' Mangaldai HO in respect of a Criminal offence is under investigation.

And whereas the said Shri Jalaluddin Ahmed was detained in Police custody on 29-6-98 to 4-7-98 for a period exceeding 48 (fortysight) hours.

Now therefore, the said Shri Jalaluddin Ahmed, Gr. 'D' is deemed to have been suspended w.e.f. 29-6-98, the date of detention in terms of Sub Rule 2 of Rule 10 of the CCS(CCA) Rules, 1965 and shall remain under suspension until further order.

(P. K. Das)
Postmaster
Mangaldai HO-784125.

Copy fdd. to :-

- (1) The D.A.(P), Calcutta for information.
- (2) The Supdt. of Post Offices, Darrang Division, Tezpur for information and necessary action into the matter.
- (3) The official concerns.
- (4) The APM(A/c) Mangaldai HO for necessary action.
- (5) Misc.

(P. K. Das) 3/8/98
Postmaster
Mangaldai HO-784125.

OFFICE OF THE POSTMASTER : MANGALDAI POST OFFICE

Regd No - 5338 (2079) -
10-10-97

Regd with 96

Mr. Jolaluddin Ahmad, Esq.
Vill :- Godoljhar,
P.O. Dehgaon (Darrang)

/ Ref No : G2/Staff/710/97-98 dated at MD the 3.10.97.
Sub : Unauthorised absence from duty wof. 30.9.97.

While you have been assigned duty of Night-guard on rotational basis wof. 20.8.97 you have taken leave for 40 days and resumed on 30.9.97. It is observed that you have been absent from duty and the work of the night-guard has been neglected which is most irregular on the part of a Govt. servant.

You have been asked today the reason of absence. You have claimed that your assignment must be changed and to come you to work in the day shift. Which is quite non-justified and unreasonable. Now the undersigned has considered to take action against you under rule 13 of CCS (CCA) 1956.

You are therefore asked to submit your representation if any within 3 days on receipt of this order.

Postmaster
Mangaldai-784125
Postmaster (H. S. G. E.)

C-27 to : The Supdt. of P.O., Darrang, Dm. for information and kind instruction.

Postmaster
Mangaldai-784125
Postmaster (H. S. G. E.)
Mangaldai 784125

Merine

Received
10/10/97

To,

The Hon'ble Post Master General Assam
Circle, Nerdoot Bhawan, Guwahat 15.

Through the Supdt. Post, Darrang,
Division, Tezpur.

14/3/98

Dated Mangaldai the 14th March/98.

Sub :- Non receipt of pay for the period from 21/3/97 to
5/11/97 and harassment cause by Sri P. Das, PM
Mangaldai H.O.

Honourable Sir,

With due respect and humble submission, I
beg to lay before you the following few lines for favour of
your kind information and immediate necessary action.

That Sir, I have been working as night guard at
Mangaldai H.O. Since 5/11/97.

1. Sri Prasanna Das P.M. Mangaldai H.O. chalked out
a conspiracy against me resulting family harassment and
facing a lot of troubles beyond description.

2. That Sir, Sri Pitambar Deka on transfer from,
joined as night guard vice Md. Mainuddin Ahmed transferred.
But Sri Deka has been ordered to work as group D and I have
been ordered to work as night guard.

3. After closing the office under lock and key by me
Sri Deka very often noticed that his enjoy office T.V.
Programme at night. This fact has already been informed to
SP-TZ. to avoid my responsibilities as night guard.

4. That Sir, I am the only earning member of my family
consist of nine members, out of which three matured daughters
and the rest four daughter about to be matured. Under these
circumstances leaving the above stated daughters alone with
my wife at Village Gadaitbar, Darrang at a distance of 20 k.m.
from Mangaldai. In these respect for the safety of my family
members had been intimated for consideration but omo effect
at all.

Contd....2/-

वीमा नहीं NOT INSURED

समाये गये डाक टिकटों का मूल्य रु

Amount of Stamps affixed Rs. 14/-

Received a Registered*

पानेवाले का नाम

Addressed to

The Supdt. Post, Darrang

Tezpur

क्रमांक

No.

4843

वारीख मोहर

Date Stamp

पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

5. That Sir, I am regret to inform you that I am Muslim by caste, but during 'Ramzan', I had not been allowed to observe 'FAST' during Ramzan which is an intregate part of the Muslims. Written application given to Sri Das P.M. Mangaldai to consider my case but of no effect. Even I could not pray 'NAMAJ' at night.

6. I had been on medical leave from 21/8/97 to 29/9/97 and from 6/10/97 to 5/11/97 till this date I have not received my leave salary from 21/8/97 to 5/11/97 rather I have been directed to appear before medical board at Mangaldai as per P.M. direction. On expiry of my medical leave and after two months from the date of joining, P.M. Mangaldai directed me to appear before medical board which is perhaps quite irrircular.

Sir, I do hereby earnestly pray you kindly to relief of above stated family hardessment and troubles faced by me duly caused by Sri P. Das P.M. Mangaldai. This for favour of your kind information and prayed to consider my deplocable condition.

Copy of my particulars enclosed herewith.

Yours faithfully

(Jalaluddin Ahmed)
Jalaluddin Ahmed
(MD JALALUDDIN AHMED)

Encloser :- 9 (nine).

Copy to :-

- 1) Advance Copy to P.E.G. Assam Circle Guwahati.
- 2) SITZ Darrang Division, Tezpur for information.
- (3) D.P.S Assam circle Meghal Bhakam Gorakhat.

Office of the postmaster : Mangaldoi Head Post Office

Memo no : 82/Staff/98-99 dated at Mangaldoi the 9.9.98

Whereas an order of placing Md. Jalaluddin Ahmed Gr.'D' ,Mangaldoi HO under suspension was made vide this office memo no. 82/Staff/98-99 dtd 2.7.98

Now the undersigned in exercise of the power conferred by clause (C) of rule (5) of Rule 10 of the C.C.S. (CCA) of 1965 by revokes the said order of suspension with immediate effect.

Sd/-
Postmaster (HSG-I)
Mangaldoi-784125.

- Copy to :
1. The Supdt. of P.Os. Darrang Division ,Tezpur for information.
 2. The D.A.(P), Calcutta-12 for information.
 3. The Official concered.
 4. The APM(A/Cs) Mangaldoi HO.
 5. P.F.
 6. CR file.
 7. Spare.

Attested
Mangaldoi

[Signature]
Postmaster (HSG-I)
Mangaldoi-784125.

97

37

Dep't. of Post

Memo No. F8-1/Assult/98

Date: 29/1/99

ORDER

Whereas an inquiry under Rule-16 of the CES (CCA) Rules, 1955, is being held against Md. Jafaruddin Ahmed, Group 'A' Jangla SO.

And whereas the undersigned considers that an Inquiry Authority should be appointed to inquire into the charges framed against Md. Jafaruddin Ahmed:

Now, therefore, the undersigned, in exercise of the powers conferred by sub-rule (2) of the said rule, hereby appoints Shri M. C. Kalita, SDI(P) Charali as Inquiry Authority to enquire into the charges framed against the said Md. Jafaruddin Ahmed.

Sd/-

डाक अधीक्षक

दरंग प्रमण्डल, तेजपुर-784001

Supdt. of Post Offices

Darrang Division, Tezpur-784001

108475

1) Md. Jafaruddin Ahmed, Group 'A' Jangla SO.

2) M. C. Kalita, SDI(P) Charali. A copy of the

108475 is enclosed.

3) M. C. Kalita, SDI(P) Charali.

Misuse
Order

Sd/-

डाक अधीक्षक

दरंग प्रमण्डल, तेजपुर-784001

Supdt. of Post Offices

Darrang Division, Tezpur-784001

25-12-98

38

To

The Superintendent of Post Officers,
Darrang Circle, Tezpur, P.O. Tezpur,
Dist. Sonitpur (Assam)

Sub

Written statements against the Article of
Charge.

Ref

Your Notice No. F/8-I/Assault/98 dt. 16/12/98.
Dated Tanga, December 26/12/98.

Sir,

In response to your aforementioned notice, most respectfully and humbly I beg to submit my written statement as follows for favour of your kind consideration and favourable orders.

- 1) That the allegation made against me in Article of charges No. 1 is stoutly denied by me. It is not true that I have ever assaulted Shri P.K. Das, postmaster of Mangaldai Head Post office on 29/6/98 while I was working there as grade 'D' employee and thereby I have ever violated the provisions of Rule 3 (ii) 3 (I) (III) of EGS (Conduct) Rules, 1964.
- 2) That the allegation made against me in Article of Charges No II is denied by me. It is not true that I have ever committed misconduct or misbehaviour, while I was working as grade 'D' employee at Mangaldai Head Post Office.
- 3) That the real facts are as follows :-
 - i) That I am a citizen of India by birth, but belong to religious minority.
 - ii) That I have joined postal Department in the year 1966 as grade 'E' employee and got the promotion to Grade 'D' employee after passing the Departmental examination.
 - iii) That during the last long period of service, I have been discharging my duties to the full satisfaction to my senior employees and officers including post master without any blemish.

Contd.....2

11/2/1

- 4) That to my utter surprise, soon after the joining of Shri P.K. Das, as the Post master of Mangaldai Head Post Office in the year 1997, I had to face ill treatment from the said postmaster Shri P.K. Das for the reasons best know to him.
- 5) That while I was working at Mangaldai Head Post Office as the grade 'D' employee the said Postmaster Shri P.K. Das did not allow me to move around the post office freely, to touch the furnitures and Papers as I am a "Miya" man.
- 6) That although I was a grade 'D' employee I was forced to work as the "Night Guard" at Mangaldai Head Post office by the said postmaster Shri P.K. Das, inspite of my representation stating my difficulties submitted before him.
- 7) That while I was forced to work as the night guard at Mangaldai Head Post office, I was not allowed to observe 'Fast' (Raja) and offer Prayer (Mamaji) during the month of Ramjan in the year 1997.
- 8) That ultimately I fell ill and went on Medical leave with effect from 21/8/97 to 5/11/97. I joined my duty on 6/11/97 and submitted fitness and medical certificate from the Doctor who had treated me. But the said Postmaster did not believe the said Medical certificate and forced me to appear before the Medical Board after expiry of two months from the date joining my duty and even then my leave salary has not been sanctioned and paid.
- 9) That my wife had submitted several representation before you while I was on Medical leave stating all the above mentioned facts for favour of your kind information and necessary action.
- 10) That bearing mental agony and torture meted out by the said postmaster by way of above facts and circumstances, I was discharging my duties regularly. But suddenly a scene was created by said Postmaster on 29/6/98 while I was sorting out the letters of Rangia near the mail-box and the said Postmaster Shri P.K. Das shouted alleging as he was thrust several blows on left forehead and eye. But it is a total concocted story. It has been

40
11/3/11

the higher authority about his motivated illegal actions done against me.

- 11) That I have not done anything against said Postmaster Shri P.K. Das wilfully and intentionally as alleged in Articles of Charges and therefore I am not liable to be punished as proposed.

You are therefore requested kindly to accept my written statements as above and after hearing both including my self, I may kindly be exonerated from the Articles of charges and for which acts of kindness, I shall remain ever grateful to you.

Yours faithfully,

Jalaluddin Shind

Group D Tangle

DEPARTMENT OF POST:INDIA
OFFICE OF THE SUPDT OF POST OFFICES:DARRANG DIVISION
TEZPUR-784001.

Memo No. F8-1/Assault/98

Dated at Tezpur the 12.8.99.

Charge sheet under Rule-14 of CCS(CC&A) Rules, 1965 against Md. Jalaluddin Ahmed, Group 'D' Tangla SO issued vide this office memo of even no. dtd. 16.12.98 is hereby dropped as the official was convicted by the CJM, Mangaldai Court vide GR Case No. 25/98 U/S 353/323 IPC dtd. 23.7.99 on the same charge.

scf/-
(B. HAZARIKA)
Supdt. of Post Offices
Darrang Division, Tezpur.

Copy to :-

- 1) Md. Jalaluddin Ahmed, Group 'D' Tangla.
2) Shri M.C. Kalita, SDI(P) Charali & I.O.
3) Shri R.N. Roy, SDI(P) Dhekiajuli. He will please return the documents to this office.
4) O/C.

Supdt. of Post Offices
Darrang Division, Tezpur.

Maharaj
Do

42

DEPARTMENT OF POST:INDIA
OFFICE OF THE SUPDT OF POST OFFICES:DARRANG DIVISION
TEZPUR-784001.

Memo No. F8.1/Assault/98

Dated at Tezpur the 12.8.99.

WHEREAS Md. Jalaluddin Ahmed, Group 'D' Tangla SO has been convicted on a criminal charge under Section 353/323 IPC of CJM, Mangaldai has been awarded a sentence of fine of Rs.500/- (Rs- five hundred)only in default S.I. for one month and also a fine of Rs.200/-(Rs. two hundred)only, in default S.I. for 15 days.


AND WHEREAS the undersigned proposes to award an appropriate penalty under Rule 19 of the CCS(CC&A)Rules, 1965 taking into account the gravity of the criminal charges;

AND WHEREAS before coming to a decision about the quantum of penalty Md. J.Ahmed was given an opportunity of personal hearing to explain the circumstances why penal action should not be taken against him in pursuance of the provisions of Rule 19 ibid.

AND WHEREAS on a careful consideration of the judgement order(copy enclosed), the undersigned has provisionally come to the conclusion that the gravity of the charge is such as to warrant the imposition of a minor penalty and accordingly proposes to impose on Md.Jalaluddin Ahmed,Gr. 'D' Tangla so the penalty of Stoppage of his next increment for 2(two)years without cumulative effect.

NOW,THEREFORE, Md. Jalaluddin Ahmed is hereby given an opportunity of making representation on the penalty proposed above. Any representation which he may wish to make against the penalty proposed will be considered by the undersigned. Such a representation, if any, should be made in writing and submitted so as to reach the undersigned not later than fifteen days from the date of receipt of this memorandum by Md. J.Ahmed.

The receipt of this memorandum should be acknowledged.


(B. HAZARIKA)
Supdt. of Post Offices
Darrang Division,Tezpur.

Regd. A&D

To

Md. Jalaluddin Ahmed,
Group 'D' Tangla SO.
P.O.Tangla.-

Misra
De

To

The Superintendent of Post Offices,
Darrang Division, Tezpur.

Sub : Show cause notice for stoping
increment for 2 years.

Ref : Your letter No. P8-1/Assault/98
dt. 12-8-99.

Sir,

With reference to the subject cited above, I have the honour to inform you that against the order of conviction U/S 353/323 I.P.C. made by learned C.J.M Mangaldai in GR= 525/98 dt. 23-7-99 I have filed an appeal before the learned District and Session judge, Darrang, Mangaldai (Vide CA=20(D-3) Until and unless the said appeal is finally disposed, I am not be considered as guilty and under such circumstances departmental punishment as contemplated by you would be infructous. Moreover I hope that I would be acquitted in appeal in the Session Judge Court, Mangaldai.

Therefore I request you kindly to wait till the appeal is disposed of and oblige.

भारतीय डाक



TELEPHONE

Yours faithfully,

M. M. M.

Recd
11-10-99

DEPARTMENT OF POST: INDIA
OFFICE OF THE SUPD OF POST OFFICES: DARRANG DIVISION
TEZPUR-784001.

Memo No. **PS-1/Assault/98** Dated at Tezpur the **6.10.99**

O R D E R

Whereas a disciplinary proceedings against Shri.....
Md. Jalaluddin Ahmed..... is contemplated/~~pending~~.

Now, therefore, the undersigned in exercise of the powers conferred by sub-rule (1), of Rule 10 of the CCS (CCA), 1955 hereby places the said Shri **J. Ahmed**..... under SUSPENSION with immediate effect.

It is further ordered that during the period that this order shall remain in force. The Head quarter of Shri **Jalaluddin Ahmed**..... should be **Tangla**.... and the said Shri **J. Ahmed**..... shall not leave the head quarter without obtaining previous permission of the undersigned.

sel/
(B. HAZARIKA)
Supdt. of Post Offices
Darrang Division, Tezpur

Copy to :-

- 1, Shri. **Md. Jalaluddin Ahmed, Group 'D' Tangla.**.....
orders regarding subsistence allowance admissible to him during the period of suspension will issue separately.
- 2, The Postmaster **Tezpur, Mangaldai.**
- 3, ~~The Staff Officer, Divisional Office, Tezpur~~ **The SDI(P) Mangaldai**
- 4, The SPM **Tangla**....
- 5, O/C.

Anwar
Supdt. of Post Offices
Darrang Division, Tezpur

Messrs
Messrs

35

Run
11/10/35

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कोर-7/Corr-7

भारतीय डाक विभाग/Department of Posts, India

कार्यालय/Office of the

N

Memorandum No. 8-1/185, dated 19.8.21, No. 6110288

The Proposal for imposing penalty
vide this office memo of even no. dt-
12/8/99 is hereby dropped.

[Signature]
(B. Hazarika)

प्रभु चन्द्र, डी.पी. 784001
Supdt. of Post Offices
Darrang Dist. Assam, Tezpur-784001

Copy to:-

[Signature] Md. Jakaluddin Ahmed, G.O.
Jangla So.

[Signature]

प्रभु चन्द्र, डी.पी. 784001
Supdt. of Post Offices
Darrang Dist. Assam, Tezpur-784001

Messel
[Signature]

Received
1-11-99
1130 Hons

36

46

DEPARTMENT OF POSTS, INDIA.
OFFICE OF THE SUPERINTENDENT OF POST, DARRANG DIVISION,
TEZPUR-784001.

No. F8-1/Assault/98

Dated at Tezpur-784001
The 20th October, 1999.

WHEREAS Md. Jalal Uddin Ahmed, the then Group "D" Mangaldoi H.O. and now Group "D" Tangla S.O. (U/S) has been convicted on a criminal charge under Section 353/323 of IPC by the C.J.M. Mangaldoi and awarded a sentence of fine of Rs. 500/- (Rupees five hundred) only in default S.I. for one month and also a fine of Rs. 200/- (Rupees two hundred) only in default S.I. for 15 days;

AND WHEREAS the undersigned proposes to award an appropriate penalty under Rule-19 of the C.C.S. (CCA) Rules, 1965, taking into account the gravity of the criminal charges;

AND WHEREAS before coming to a decision about the quantum of penalty Md. Jalal Uddin Ahmed was given an opportunity of personal hearing to explain the circumstances why penal action should not be taken against him in pursuance of the provisions of Rule-19 ibid;

AND WHEREAS on a careful consideration of the judgement order the undersigned has provisionally come to the conclusion that Md. Jalal Uddin Ahmed is not fit person to be retained in service and accordingly, proposes to impose on him the penalty of "Compulsory Retirement" from service with immediate effect.

NOW, therefore, Md. Jalal Uddin Ahmed is hereby given an opportunity of making representation which he may wish to make against the penalty proposed will be considered by the undersigned. Such a representation, if any, should be made in writing and submitted so as to reach the undersigned not later than 15 days from the date of receipt of this Memorandum by Md. Jalal Uddin Ahmed.

The receipt of this Memorandum should be acknowledged.

Sd/-
(B. Hazarika)
Supdt. of Post Offices,
Darrang Division, Tezpur-784001.

Copy to:

✓ Registered A/D
Md. Jalal Uddin Ahmed, Group "D" Tangla S.O.
(Now under suspension at Tangla).

[Signature]
Supdt. of Post Offices,
Darrang Division,
Tezpur.

*Muhammad
Omar*

To

The Superintendent of Post offices,
Darrang, Division.

- Sub :
- 1) Show cause notice stopping 2 years increment vide Your letter No. PB-1-/Assault/ 98 dt. 12-8-99.
 - 11) Show cause notice of compulsory retirement vide your letter No. PB/1/Assault/98 dt. 20-10-99.

Sir,

With reference to the subject cited above I beg to inform you that against the order of conviction U/S 353/322 I.P.C. made by C..J.M Mangalhai in GR- 525/98 dt. 23-7-99 I filed an appeal in the Court of before the District and Session vide (Criminal Appeal No. 20(D-3) 99 in which learned District and Session Stayed operation of impugned sentence and said appeal is admitted for hearing. Untill and unless said appeal is finally disposed I cannot be held guilty and as such no departmental action can be imposed upon me. Moreover I hope and belief that in the District and Session Judge court I will win and I will be acquitted . Under such circumstances departmental action against me will be infructuous.

Therefore I request your Honour to wait till disposal of appeal in the superior court viz. District and Session Judge.

Yours faithfully,

(2)

M. M. M.
N.B: A certified order of
learned Session Judge
dt. _____ in
CA 20(D-3) 99 is
enclosed herewith.

ORDER-SHEET FOR MAGISTRATE'S RECORDS

DISTRICTS

-Sessions Judge

IN THE COURT OF

Darrang, Mangaldoi.

No. 20(D-3) of 1999

of 1999

Versus

State

of

Serial No. of Orders	Date	Order	Signature
	23.08.99	<p><u>C.A. 20(D-3) of 1999.</u></p> <p>Seen memorandum of appeal, preferred under Section 374(3) of the Criminal Procedure Code, 1973 (Act 2 of 1974), by the accused convict/appellant Md. Jalaluddin, for setting aside the impugned judgment and order dated 23.7.99 appealed against. Perused certified copies of the impugned judgment and order appealed against passed by Shri D.C. Mahanta, learned Chief Judicial Magistrate, Darrang, Mangaldoi, convicting and sentencing the accused appellant in G.R. Case No. 525/98 U/S. 353/323 of the Indian Penal Code.</p> <p>Register the Memo as a</p>	
			Contd. (2)

NOTE - This form should be written up in English whenever possible (Sec. Vol. I, Chapter-III, Rule 22).

ORDER SHEET FOR MAGISTRATES RECORDS

Page 2

Criminal Appeal.

Heard learned Advocate Shri B.M.H.

Rahman for the appellant.

The appeal is admitted for hearing.

Call for the case records from the court

below and issue notice to the Respondent fixing

21.9.99.

Pending disposal of this Criminal Appeal,

the operation of the impugned sentence including

realisation of fine is hereby stayed. The accused

appellant is allowed to remain on previous bail.

as prayed for.

Dictated.

(J.S. Chetry)

Session Judge

Oarrang, Mangaldai.

and order dated 22.7.99

appealed against. Pursued

certified copies of the impugned

to be sent to the court below.

sent
called

26/8

(31)

DEPARTMENT OF POST: INDIA
OFFICE OF THE SUPDT OF POST OFFICES: DARRANG DIVISION
TEZPUR-784001.

Memo No. FB-1/Assault/98

Dated at Tezpur the 1st Nov'99

Md. Jalaluddin Ahmed, Group 'D' Tangla SO has been placed under suspension with effect from 11.10.99 A/N vide this office Memo of even No. dtd. 6.10.99. During the period of suspension Md. J. Ahmed will draw subsistence allowance of an amount equal to half pay leave or leave on half average pay as the case may be. In addition to this he will also draw dearness allowances which would have been admissible to him if he was on half pay leave or half average pay as the case may be.

Any other compensatory allowances will also be admissible to him from time to time on the basis of pay of which the Govt. servant was on receipt on the date of suspension subject to the fulfilment of other condition laid down for the drawal of such allowances.

Each claim of subsistence allowances and other compensatory allowances should be supported by a certificate by the Govt. servant to the effect that he was not engaged in any employment, business, profession during the period which the claim relates.

Self —————
Supdt. of Post Offices
Darrang Division, Tezpur.

Copy to :-

- 1) The Postmaster, Mangaldai.
- 2) The DA(P) Cal (Through P.M. Mangaldai)
- 3) Md. Jalaluddin Ahmed, Group 'D' Tangal now U/S at Tangla.
- 4) O/C.

M. J. Ahmed
Supdt. of Post Offices
Darrang Division, Tezpur

(20)

51

DEPARTMENT OF POSTS, INDIA.
OFFICE OF THE SUPERINTENDENT OF POST, DARRANG DIVISION,
TEZPUR-784001.

No. F8-1/Assaul/98

Dated at Tezpur-784001,
The 06th December, 1999

ORDER

Whereas Md. Jalal Uddin Ahmed, Group "D" Tangla SO (now under suspension) has been convicted on a criminal charge under Section 353/323 IPC made by the Chief Judicial Magistrate, Mangaldoi.

And whereas it is considered that the conduct of the said Md. Jalal Uddin Ahmed, Group "D" Tangla SO (now under suspension) which has led to his conviction is such as to render his further retention in the public service undesirable;

And whereas Md. Jalal Uddin Ahmed was given an opportunity of personal hearing and offer his written explanation;

And whereas the said Md. Jalal Uddin Ahmed has given a written explanation which has been duly considered by the undersigned;

Now, therefore, in exercise of the powers conferred by Rule-19(1) of the CCS (CC&A) Rules, 1965, the undersigned hereby ordered that Md. Jalal Uddin Ahmed, Gr "D" Tangla SO (now under suspension) be retired compulsorily from service with immediate effect.

Sd/-
(B. Hazarika)

Supdt. of Post Offices,

Darrang Division,

TEZPUR-784001

Ref
AD
Copy to:

1. Md. Jalal Uddin Ahmed, Gr "D" Tangla SO (now under suspension).
2. The Postmaster, Mangaldoi HO.
3. The SPM/Tangla SO.
4. The SDI(P)/Mangaldoi.
5. Vh. STL file.
6. Punishment Register.
7. P/O of the official concerned.
8. C/R file of the official.
9. S p o r t

Amul
Supdt. of Post Offices,
Darrang Division,
TEZPUR-784001.

Musce
On

(41)

To
The Postmaster General,
Assam Circle,
Meghdoot Bhowan, Guwahati- 1

17/12/99

D. P. S. Guwahati - 1
(Director of Postal Service)

Sub : An appeal against the order passed by Superintendent of Post Office, Darrang Division, Tezpur vide his order No.FB/1/ Assault/98 dt. 6th Dec. 1999.Placing the petitioner under compulsory retirement.

Sir,

With reference to the subject cited above I beg to place the following few lines for favour of your kind perusal and necessary order.

- (1) That a case was filed against me in the court of C.J.M, Mangaldai U/S 353/322 323 I.P.C. (Vide GR- 525/98) and the said case the C.J.M. Mangaldai passed a judgement convicting me to pay a fine of Rs. 500/- U/S 353 I.P.C. and Rs.200 U/S 323 I.P.C. I/D 45 days S.I.
- (2) That against the order and judgement of learned C.J.M, Mangaldai I filed an appeal (vide criminal appeal No.20(D-2)99) in the Court District and Session Judge, Darrang, Mangaldai.
- (3) That aforesaid appeal (Criminal appeal No. 20(D-3)99) was admitted for hearing by learned District and Session Judge and also stayed the operation of impugned Sentence passed by the C.J.M. Mangaldai (Copy of order is enclosed herewith as anne@ure - A-)
- (4) That until and unless the aforesaid criminal appeal is heard of ~~order~~ and until the passing of order by the district and session Judge, Darrang, Mangaldai. I can not be held guilty and without conclusion of ~~my~~ appeal; no shoe cause notice or punishment upon it will be illegal and unconstitutional In fact unless said appeal is finally disposed of I can not be held guilty and no departmental action can be passed against me which will be double Jeor.....

contd, 2

- 5) That the superintendent of Post Offices, Darrang, Division Tezpur, Illegally issued show cause notice against me first time stopping my increment for 2 years. vide his letter No. FBI/Assault/98 dt. 12-8-99. Against the aforesaid show cause notice I submitted my reply in which also I pointed that my appeal against is still pending.
- 6) That thereafter I was again served with Suspension order and I was placed under suspension. Against this order of Suspension I filed my replies stating that since my appeal against conviction is not heard, I should be presumed as innocent.
- 7) That thereafter the superintendent of Post Offices, Darrang, Division, Tezpur he passed another order Directing me to accept compulsory retirement (Vide his letter No. FB-1/Assault/ 98 dt. 6th Dec. 99)
- 8) That against every show cause notice suspension order increment held up order I filed replies in which I submitted the order of District Judge, Darrang, Mangaldai by which he stayed the judgement and order of C.J.M, Mangaldai. But superintendent Darrang, Tezpur illegally and biaselly did not pay any heed and ultimated by passed the aforesaid order Giving me compulsory retirement.
- 9) That I am completely innocent and as per law and rules I am not be held guilty until appeal is heard.

It is therefore prayed that Your Honour may be pleased to review the order passed by the Supdt. Tezpur and allow me to work as before.

copy to

Sf T3

DPS Guwahati - 1

Yours faithfully,

Jahaduddin Ahmed
Group D, Tanga

(43)

54

The Superintendent of Post Offices,
Darrang, Division, Tezpur. 784001.

Dated Dalgam the 6th May/2000.

Sub:- Prayer for an appeal against the order passed by the
Supdt. of Post.

Ref:- My letter No. nil dt. Gauhati RL.No. 45 dt. 17-12-99-
against the DPS. Ghy. copy to S.P. /Tezpur order No. FBI/Assault
/95 . dt. 6 th Dec/99.

Sir,

With due respect and humble submission I beg to inform you
that with reference to your letter No. as cited above may kindly
to be consider my case at an early date and obliged. An appeal
copy to the DPS. Ghy. / S.P. Tezpur against the order placing me
under compulsory retirement is again submitted to you for your
kind consideration so that I may get the Pay and allowances to
help my family consisting 9 (nine) Girls as an unmarried still
with their parents suffering from hungry day to day . The appeal
copy is enclosed herewith as reminder as follows:-

- 1). That a case was filed against me in the court of C.J.M. -
Mangaldai W/S 353/323/ I.P.S. (vide GR.525/98) and the said
case the C.J.M. Mangaldai passed a Judgement convicting me
to pay a fine of Rs. 500/-U/S 353 I.P.C. and Rs. 200/- U/S-
323 I.P.C. I/D 45 days S.I.
- 2). That against the order and Judgement of learned C.J.M. M/dai.
I filed an appeal ~~xxxxxx~~ (vide criminal appeal No. 20(D-3
99) in the court District and Session Judge , Darrang ,M/dai.
- 3). That aforesaid appeal (Criminal appeal No. 20(D-3)99) was -
admitted for hearing by learned District and Session Judge
and also stayed the operation of impugned Sentence passed by
the C.J. Mangaldai (Copy of order is enclosed herewith as
annexure -A-).
- 4). That until and unless the aforesaid Criminal appeal is heard of
and until the passing of order by the District and Session -
Judge , Darrang , Mangaldai. I can not be held guilty and
without conclusion of appeal , no show cause notice or punish-
ment upon it will be illegal and unconstitutional in fact unless
said appeal is finally disposed of I can not be held guilty
and no Departmental action can be passed against me which
will be double jeer.

Contd.....2.

- 5). That the Superintendent of Post Offices , Darrang , Division, Tezpur , Illegally issued show cause notice against the first time stopping my increment for 2 years vide his letter no. FBI/- Assault/98 dt. 12-8-99, Against the aforesaid show cause notice I submitted my reply in which also I pointed that my appeal against is still pending.
- 6). That thereafter I was again served with suspension order and I was placed under suspension . Against this order of suspension I filed my replies stating that since my appeal against conviction is not heard , I should be presumed as innocent.
- 7). That thereafter the Superintendent of Post Offices , Darrang , Division Tezpur , is passed another order Directing me to accept compulsory retirement (vide his letter No. PB-1/Assault /98- dt. 6th Dec/99).
- 8). That every show cause notice suspension order increment held up order I filed replies in which I submitted the order of District Judge Darrang , Mangaldai by which he stayed the Judgement and an order of C.J.M. Mangaldai . But Superintendent Darrang , Tezpur illegally and biasly did not pay any held and ultimatted by passed the aforesaid order giving me compulsory retirement .
- 9). That I am completely innocent and as ^{per} law and rules I am not to be held guilty until appeal is heard .

It is therefore prayed that your Honour may be pleased to review the order passed by the Supdt. Tezpur and allow me to work as before.

Yours faithfully.

Jalaluddin Ahmed
Group 'D' Tangle SO

Copy to:- The D.P.S. Gauhati - 1.
for information and necessary action please.

Jalaluddin Ahmed

O/c

45

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE :: DARRANG AT
M A N G A L D A I.

Judgment in G.R. Case No. 525/98



The State of Assam..... Complainant/Informant
Sri Prasanna Kr. Das,
Postmaster, Mangaldai
Post Office,
Mangaldai, Darrang.

- V E R S U S -

Md. Jalaluddin Ahmed,
S/O Lt. Kalimuddin,
Vill- Gadaijhar,
P.S. Dalgaon,
Group 'D' (Peon), Mangaldai
Head Post Office.

..... Accused person

Charged under Section 353/323 of the Indian
Penal Code.

Dates of hearing : 25-2-99, 5-4-99, 26-4-99,
29-5-99, 22-6-99 and 3-7-99.

Date of argument : 14-7-99.

Date of Judgment : 23-7-99.

P R E S E N T

Shri D. C. Mahanta,
Chief Judicial Magistrate,
Darrang, Mangaldai.

(Contd...page 2)

Attorney
[Signature]

(46)

APPEARANCE :

Advocate for prosecution, Md. Abdur Rahman, Addl.
P.P., Mangaldai.

Advocate for defence, B.M. Hamidur Rahman, Mangaldai.

J U D G M E N T

1. This case was started on the basis of a written F.I.R. lodged on 29-6-98 at Mangaldai Police Station by Sri Prassanna Kr. Das, Postmaster of Mangaldai Head Post Office.
2. The fact giving rise to the prosecution case is that on 29-6-98 at about 14.05 hrs. while complainant said Sri Prasanna Kr. Das, Postmaster of Mangaldai Head Post Office, Mangaldai visited the Mail Section and consulting on the matter of water supply with PRI (P) Shri Maneswar Hira, Accountant Shri Bhagiram Nath and Asstt. Postmaster(Mail) Shri Basundhar Sarma, accused Md. Jalaluddin Ahmed, Group "D" and employee of the same Post Office, suddenly attacked the complainant and assaulted with fist blows on his left side forehead and eye and also attempted to kill him, holding on his neck with two hands. The Officer-in-charge, Mangaldai Police Station registered a case under Section 448/353/307 of the Indian Penal Code against the accused person and after investigation submitted formal charge-sheet under Section 353/323 of the Indian Penal Code for his prosecution.
3. Accused appeared and stood for trial. Particulars of offence under Section 353/323 of the Indian Penal Code when explained the accused pleaded not guilty and claimed to be tried.

(Contd....page 3)



4. In support the prosecution side has examined as much as 6 (six) witnesses and one Sri Jit Ch. Sarmah was examined as Court Witness under Section 311 of the Cr.P.C.

5. The defence of the accused is total denial. He denied everything and also declined to give evidence in defence.

POINT FOR CONSIDERATION :

Now, the points for consideration are :-

- 1) Whether the accused person assaulted or used criminal force to the complainant and also prevented in the execution of his duty as such public servant ; and
- 2) Whether he voluntarily caused hurt on the person of complainant.

DECISION AND REASONS THEREOF :

7. I have heard argument of learned counsel for both sides and also taken into account and also have taken into consideration the statement of accused recorded under Section 313 of the Cr.P.C.

8. T.W.1 Shri Prabanna Mr. Das is the alleged injured and complainant of the case. The prosecution duly proved the F.I.R. Ext-1 through him and his signature as Ext-1.(1). By reiterating his earlier statement made in the F.I.R. he has deposed in his evidence on that that on 29-6-93 at about

2 name he was on duty at Mail Section as Protector and while he was on duty he went to his own office room from said Mail Section, accused interrupted him on his way and inflicted the blow on his left side of head. He then fell down and at that position he was again assaulted him by first blow on his chest and during that time Jiten Sarmah came and resisted the accused. Thereafter he went to hospital and after taking treatment from doctors, he lodged the F.I.R. No. 1 at Police Station for taking action against the accused person.

9. P.W.2 Sri Theogor Nath is the Assistant of the same Post Office where both complainant and accused person worked. According to him, he knew when an altercation took place between the complainant and accused on the date of occurrence.

10. P.W.3 Sri Maheswar Hira also has deposed the same statement and according to him, an altercation took place between the complainant and the accused on the date of occurrence in the office.

11. W.4 Dr. Binod Ch. Khaita by giving evidence on behalf of P.W.1, has deposed that on examination of P.W.1 on 29-6-22 he found Haematoma, size- 1.5 c.m. X 1 c.m. on the forehead on the left side; tenderness over the area around the left nipple and tenderness around the neck. According to him, the above injuries are simple in nature, caused by blunt object and also were caused within 6 hours.

12. According to P.W.5 Sri Basundhar Sarmah, at the time of occurrence he was sitting in his room and on being asked, P.W.1 told him that the accused assaulted him.

13. P.W.6 Md. Fazlul Haque Khan is the Investigating Officer. His evidence is that on the same day of occurrence he investigated the case, recorded the statements of witnesses and after collecting the medical report concluded the investigation and submitted the formal charge-sheet against the accused for prosecution.

14. Sri Jiten Sarmah who was examined under Section 311 of the Cr.P.C. as Court Witness, has deposed that on 29-6-98 at about 2-10 p.m. while accused assaulted P.W.1 Prasanna Kr. Das he was present and saw the incident.

15. The only point is whether the accused assaulted P.W.1 Sri Prasanna Kr. Das while he was on duty as a public servant to be ascertained first.

16. On point of duty of a public servant there is no dispute. On point of assault on P.W.1 by the accused, the learned counsel for the latter submitted that the relation between the accused and P.W.1 complainant was not cordial and for that P.W.1 falsely launched the prosecution case against the accused person.

17. On the basis of the evidence of witnesses and the facts and circumstances of the case, particularly from the evidence of P.W.2 and 3, it appears that there was a wordy altercation between P.W.1 and accused. Now, the question is whether said altercation resulted in assault on P.W.1 by the accused. According to

Version of P.W.1, the accused first inflicted the blow on his left side of head and then when he fell down again the accused inflicted blow on his chest. This evidence of P.W.1 is fully corroborated by the evidence of Jiten Sarma (Court Witness) and according to him, he saw when the accused inflicted blow on P.W.1. According to P.W.3, Sri Basunchar Sarma, injured P.W.1 immediately told him about the incident on being asked. Further evidence of injured P.W.1 is that he received injuries on his head, chest and neck when the accused inflicted blow on him. It is fully supported by the medical evidence adduced by Doctor P.W.4. According to said Doctor P.W.4, on examination of P.W.1 on the same day of occurrence he found Haematoma on head of the left side, and tenderness over chest and neck. The defence did not dispute the said injuries but in cross examination by the defence to said Doctor put a suggestion that above injury may be caused by falling and friction with hard substance. According to injured P.W.1, he fell down receiving blow of accused. So, it is clearly established that said P.W.1 received the above injuries which were found by doctor on examination of assault by the accused per

10. Coming to the occurrence with regard to assault on head, chest and neck of P.W.1 complained by the accused, the evidence of P.W.1 and Sri Jiten Sarma are cogent and consistent. Said Jiten Sarma who was examined as Court Witness, saw the occurrence from a close distance. They were subjected to cross-examination by the defence, but failed to disprove them. Except Doctor P.W.4 and I/O P.W.6 the other witnesses for the prosecution and the accused were from the same department and they were all on duty on the date of occurrence at Singalda office. There is no

materials to show that the witnesses appeared against the accused person and they falsely implicated him. There is also no materials to show that any one of them had any enmity with the accused person.

19. So, considering the entire fact and circumstances of the case and evidence on record, I found no ground to disbelieve the evidence of above witnesses. The F.I.R. Ext-1 was also lodged promptly just after 25 minutes of the occurrence at Police Station as it appears from the record and P.W.1 complainant deposed its full contents by giving evidence on oath. P.W.6 I/O also investigated the case, recorded the statements of witnesses just after receiving the F.I.R. Ext-1 on the same day and P.W.4 Doctor on examination of said P.W.1 found simple injury which I mentioned earlier caused within 6 hours. So, from the above cumulative evidence on record it is clearly established that complainant P.W.1 was assaulted by the accused causing simple hurt on the date of occurrence and while he was on duty as a public servant. Hence, I am constrained to hold that the prosecution proved the charge against the accused Jalaluddin Ahmed beyond all reasonable doubt for conviction of offence punishable under Section 353/323 of the Indian Penal Code and as such, I found the accused guilty and convicted under the said Section of law.

ORDER

20. Accused Md. Jalaluddin Ahmed is found guilty and convicted under Section 353/323 of the Indian Penal Code.

21. I have deeply considered the fact and circumstances of the case and manner of offence committed by the accused to his superior officer, I am constrained to hold that the accused is not entitled to get the benefit of Section 360 of the Cr.P.C. or under Section 4 of the Probation of Offenders Act. However, I form an opinion that lesser sentence, if imposed to the accused, would meet the ends of justice. Therefore, accused Md. Jalaluddin Ahmed is sentenced to pay a fine of Rs. 500/- (Rupees five hundred) under Section 353 of the Indian Penal Code in default S.I. for one month and also he is sentenced to pay a fine of Rs. 200/- (Rupees two hundred) only under Section 323 of the Indian Penal Code, in default S.I. for 15 (fifteen) days.

22. A copy of judgment be given to accused on free of cost.

Given under my hand and seal of this court this
23rd day of July, 1999.

Sd/-
(D.C. Mahanta)
CHIEF JUDICIAL MAGISTRATE,
DARRANG, MANGALDAI.

DICTATED AND CORRECTED BY ME:

Sd/-
(D.C. Mahanta)
CHIEF JUDICIAL MAGISTRATE,
DARRANG, MANGALDAI.

Transcribed and typed by me:

S. Dey
Steno.

(Contd...Appendix)

53

64

Ext-1, F.I.R.

DEFENCE EXHIBITS

N11.

EXHIBITS PRODUCED BY WITNESSES :

Nil.

PROSECUTION WITNESSES :

P.W.1, Sri Prasanna Kr. Das (Complainant and injured).

P.W.2, Sri Thagiram Nath.

P.W.3, Sri Maneswar Hira.

P.W.4, Dr. Binod Ch. Kalita (M/O).

P.W.5, Sri Basunchar Sarmah.

P.W.6, Md. Fazlul Haque Khan (I/O).

D-44-7.

DEFENCE WITNESSES:

III.

COURT WITNESSES :

C.W.1, Sri Jiten Sarmah^{1st}

(D.C. MAILING)

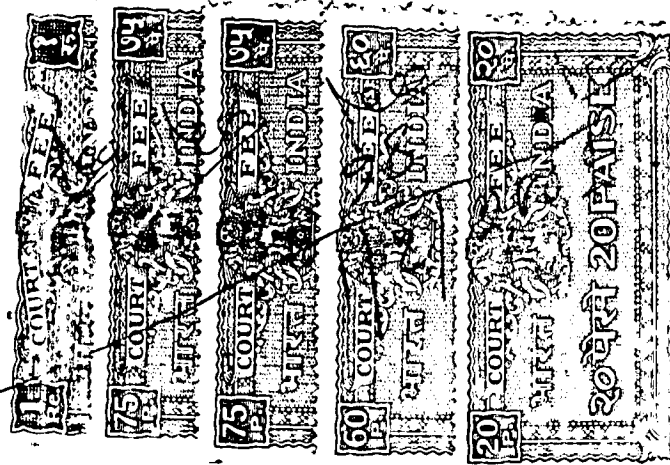
CHIEF JUDICIAL MAGISTRATE,
DARRANG, MANGALDAI.

CONFIDENTIAL - 44

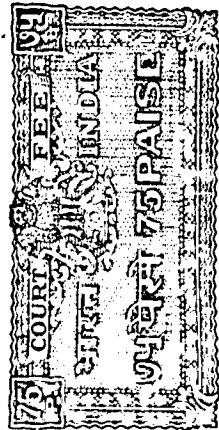
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ILLINOIS GOVERNMENT
BUILDING at 100 N. 2nd St.

Shawmut, Maryland
 Antislavery and Free Society No
 Nov. 1 of 1852



54



Copy	Date fixed for notifying the requisite number of stamps and folios	Date of delivery of the requisite stamps and folios	Date on which the copy was ready for delivery	Date of making copy to the applicant.
-1-2001	24- - 2001	24-1-2001	3-1-2001	3-1-2001

Copy of judgment and order in criminal Appeal No. 20(D-3)99.

In the court of the Sessions Judge of Darrang at Mangaldai.

Criminal Appeal No. 20(D-3)99.

Against the judgment and order dated 23.7.99. passed by learned chief Judicial Magistrate, Darrang, Mangaldai.

parties:-

Md. Talaluddin Accused appellant.

vers-

The State of Assam Respondent.

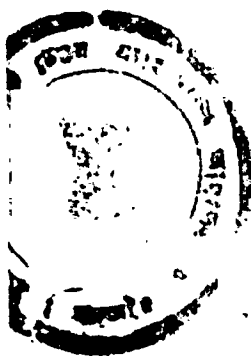
present:-

Shri H. A. Hazarika, LL.B.,
Sessions Judge, Darrang, Mangaldai.

Appearance:-

Shri G. Ahmed, Advocate for the accused appellant.
Shri P. C. Sarmah, Public prosecutor for the
Respondent/State of Assam.

contd.

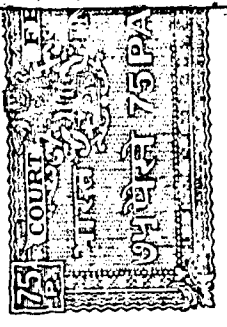


17/2001

Shri H. A. Hazarika
Sessions Judge
Darrang

56

66



Date of hearing arguments: 06.01.2001.

(2)

Date of judgment and order: 18.01.2001.

Judgment & order.

Being aggrieved, this appeal is preferred by accused appellant, Md. Tajaluddin, against the judgment and order dated 23-7-99, passed by learned chief judicial Magistrate, Darrang, Mangaldai, convicting and sentencing the accused appellant, to pay fine of 500/- (Five Hundred) in default, 1 (one) month's S.I. under Section 353 of the Indian penal code and also to pay fine of Rs. 200/- (Two Hundred), in default, to undergo S.I. 15 (fifteen) days, under Section 323 of the Indian penal code, in G.R. case NO. 525/98.

(2) The prosecution case, in brief, from P.R. that on 29.6.98 at about 14.05 while informant Shri Prasanna Das, post master, Mangaldai, sitting about water supply subordinate staff, Shri Manoj Kumar, Sri Thagiram Nath and Shri Barundhar Sarmah.

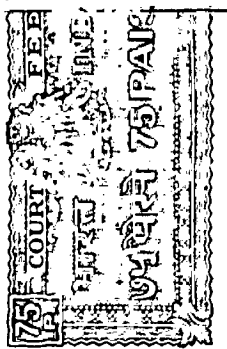
contd.



3/2/2001

On

(56)



(3)

The accused person was standing by their side. After that while the informant proceeded to sit in his share suddenly the accused attacked and assaulted the informant by holding his neck with fist and blows at forehead and eyes and fell down the informant to kill him.

(3) Having received the FIR, the Mangaldai police registered a case and on completion of the investigation charge-sheeted the case under Sections 353/323 of the Indian penal code.

(4) The learned chief judicial magistrate Mangaldai in course of trial having found a prima-facie case, charged the accused under Sections 353/323 of the Indian Penal Code, explained the same and the facts of the case explained to the accused to which the accused pleaded not guilty and claimed

(5) The learned lower court found

could



9/2/2008

Qr

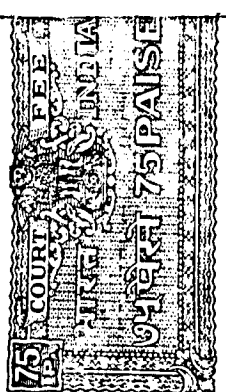
the accused guilty and delivered the
impugned judgment and order and
being aggrieved against the said
judgment and order this appeal is
preferred by the accused appellant.

6) From the narration of the appeal petition, the grounds preferred are as follows:-

That the materials on the record do not warrant a case under Sections 323/353 of the Indian Penal Code. That the evidence of court witness Shri Titen Sarmah recorded by the learned Chief Judicial Magistrate, Darrang, Mangaldai, in the petition filed by complainant he saw that none of the witnesses supported his case and as such, examination of C.W. Titen Sarmah is contradictory to the Evidence Act. That the C.W. is an interested witness. That the appellant was not heard under Section 248(2) of the Criminal Procedure Code, on the point of sentence and due to non-compliance of Section 248 of the Criminal Procedure Code.

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code the impugned sentence cannot maintained.

7. Heard arguments submitted by the learned Advocate Mr. Girarduddin Ahmed for the accused appellant and Mr. Probodh Chandra Sarmah, learned public prosecutor for the Respondent/State in details.

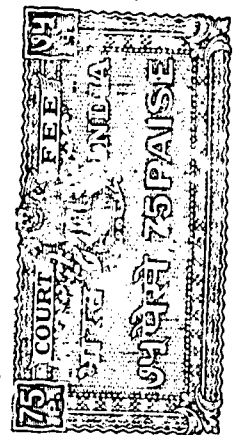
8) On perusal of the evidence, I find in the matter of point for determination, the learned court below failed to take up specifically and to discuss the point whether the accused committed the assault with intent to prevent or deter such public servant from discharging his duty. Further, I find the examination of the accused under Section 313 of the Criminal Procedure Code is made at length, & it became complex. The correct law is to question on simple point, point understandable to the accused, so that the accused can explain the circumstances of the case against him. The questions should be very very simple so that the accused can answer all the points.

contd.

contd.

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59



(2) Under the present facts and circumstances of the case, I do not like to discuss the merit of the case at this stage, as it may be prejudicial to any of the parties. But, I think, it will be just if the case is remanded to the learned chief judicial magistrate, Darrang, Mangaldai, with the following directions:

① That the points for determination is to be decided point by point referring the evidence already recorded;

② The accused is to be examined under Section 313 of the Criminal Procedure Code in a simple manner without making any complexed question so that the accused can answer in a simple way question referring the evidence in the record;

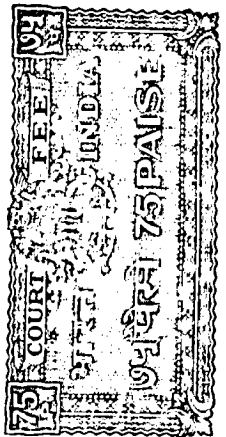
③ The court below is to hear the argument freshly and write a fresh judgment considering all points and as per full procedure

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dye,
galdai

2001

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(7)
(20) In the result, the conviction & sentence is set aside and the appeal is partly allowed. Accused is ordered to appear before the learned chief judicial magistrate Darrang, Mangaldai on 20.02.2001.

The criminal Appeal is disposed of.

Given under my hand and the seal of this court, this the 18th day of January, 2001 at Mangaldai.

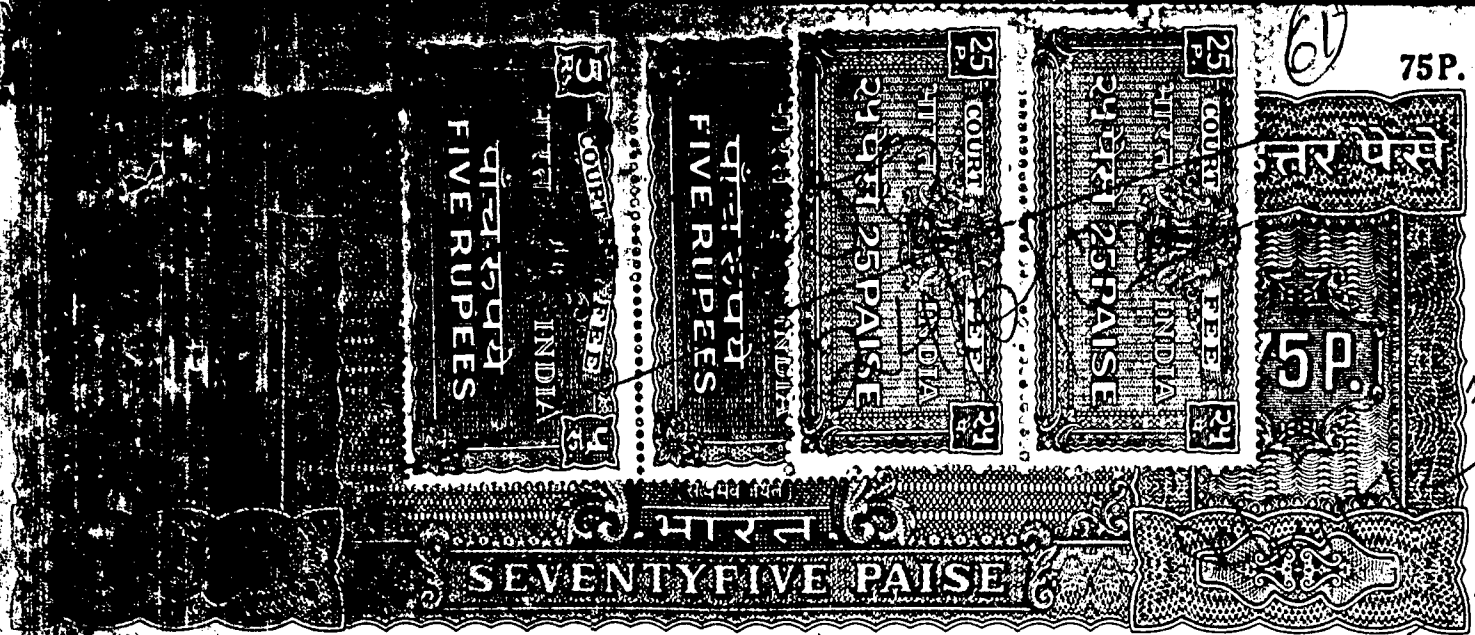
Certified that the judgment is typed to my dictation and corrected by me and it bears my signature.

Sd/- H. A. Hazarika,
18-1-2001
Sessions Judge,
Darrang, Mangaldai

H. A. Hazarika,
18-1-2001
Sessions Judge,
Darrang, Mangaldai.

Copied by [Signature]
2/2/2001

[Signature]
2/2/2001



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख (1) Date of making over the copy to the applicant.
19/4/02	19/4/02	18/6/02	24/6/02	24/6/02

Copy of Judgment dtd. 10.4.02 Passed
by S. Bora C.J.M (D) MLD in Comm. Case
GR. Case No 525/98 U/s 353/323 I.P.C



IN THE COURT OF CHIEF JUDICIAL
MAGISTRATE: DARRANG, MANGALDAI

Present: Mrs. S. Bora B.Sc. LL.B.
Chief Judicial Magistrate
Darrang, Mangaldai.

Judgment in GR Case No 525/98

The State of Assam.... Complainant

Sri Prasanna Kr. Das
Postmaster, Mangaldai
Post office, Mangaldai
Darrang.

Contd - 2.



प्रतिनिधि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख (2) Date of making over the copy to the applicant.

— VERSUS —

Md. Jalaluddin Ahmed

S/o Lt. Kalimuddin,

Vill - Gadaijher,

P.S. Dalgaon,

Group "D" (Peon) Mangaldai

Head post office.

... Accused person

Charge under Section 353/323 of
the Indian Penal Code.

Dates of recording evidence: 25.2.99

5.4.99

26.4.99

29.5.99

22.6.99 &

3.7.99 &

5.10.01.

Contd- 3.

(63) 75P.

COPY STAMP

सत्यमेव जयते

भारत

SEVENTYFIVE PAISE

पचहत्तर पैसे

75P.

आवेदन के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख (3) Date of making over the copy to the applicant.

Date of argument - 11.12.01, 8.1.02, 21.1.02,
4.2.02, 28.2.02 & 15.3.02.



Date of recording
Statement of accused
u/s 313 CrPc :- 3.4.2001

Date of delivery of judgment: 10.4.02.

APPEARANCE

Advocate for prosecution, Mr. Abdul Rahman
Addl, P.P. Mangaldai.

Advocate for defence - Mr. Giasuddin Ahmad
Mangaldai.

JUDGMENT & ORDER.

1) This Case was received back
from the Court of Sessions Judge.

Copy - 4

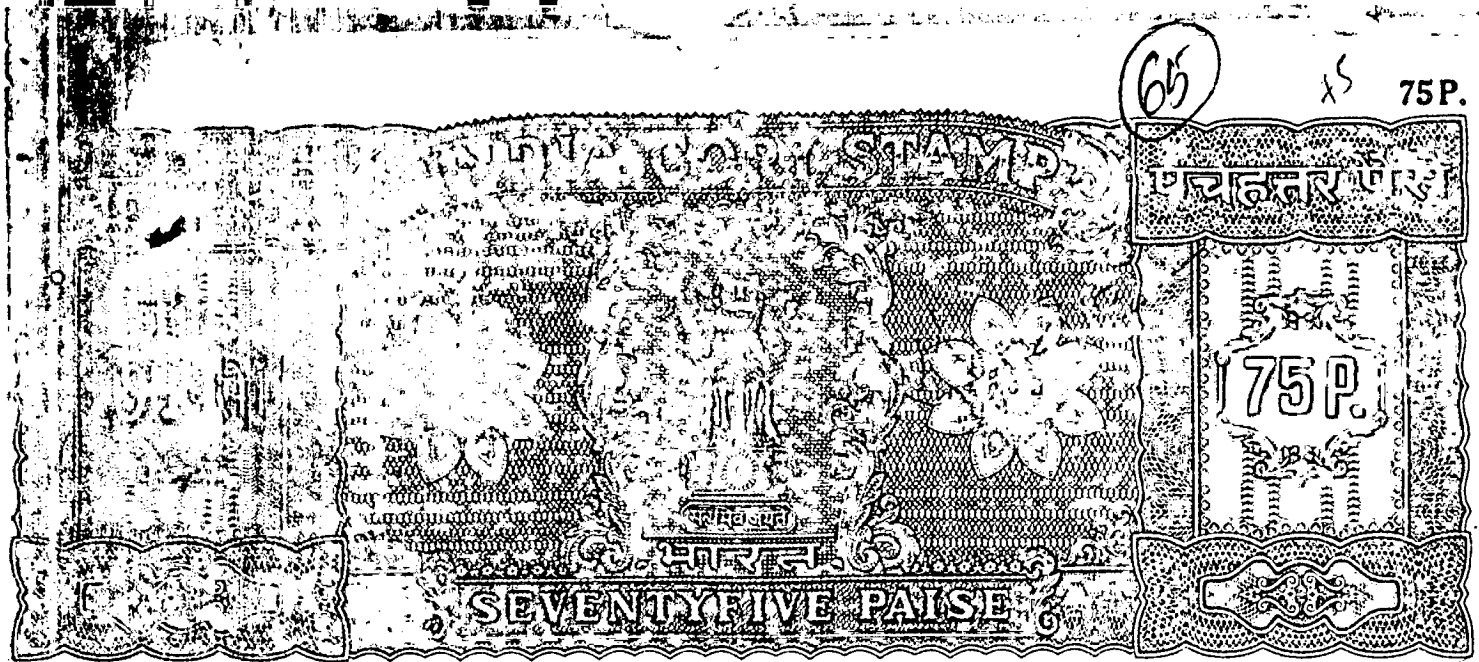


प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख (4) Date of making over the copy to the applicant.

Darrang, Mangaldai for pronouncing a fresh judgment after hearing argument and also after recording statement of accused u/s 313 of the CrPc against the judgment and order passed by my learned predecessor on 23.7.99 convicted the present accused under Section 353/323/ of The Indian Penal Code and Sentenced to pay a fine of Rs. 500/- (Rupees five hundred) under Section 353 of The Indian Penal Code in default S.I. for one month and also he is sentenced to pay a fine of Rs 200/- (Rupees two hundred) under Section 323 of the Indian Penal Code. in default S.I. for 15 days

corr- 5.





प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख (5) Date of making over the copy to the applicant.

2) Being aggrieved by the judgment and order dated 23.7.99 accused Talabuddin preferred an appeal before the Court of Sessions, Darrang and the appeal was registered as Criminal Appeal No 20 (0-3) 99. In the said appeal the learned Sessions Judge set aside the conviction and sentence of accused and the accused is ordered to appear before this Court on 20.02.2001. The learned Sessions Judge, Darrang remanded the case to this Court with the following directions.

1) That the points for determination is to be decided point by point referring the evidence already recorded;

2) The accused is to be examined

Contd - B



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख (6) Date of making over the copy to the applicant.

Under Section 313 of the Criminal Procedure Code in a simple manner without making any complexed question so that - The accused can answer in a simple way question by question referring the evidence in the record.



(2) The Court below is to hear the argument freshly and write a fresh judgment considering all points and as per full procedure.

3) As per order of Hon'ble Sessions Judge, the accused appeared before the Court on 20.02.2001.

4) The prosecution case as unfolded
Contd - 7

(67) 75 P.

INDIA COPY STAMP

पञ्चहत्तर पैसे

75 P.

भारत

SEVENTYFIVE PAISE

प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

to the F.I.R. (Ext-1) in brief is as follows:-

On 29.6.98 at about 14.05

hours while complainant Sri Prasanna Kr.

Das postmaster of Mangaldai Head Post Office, Mangaldai visited the Mail Section and Consulting on the matter of water supply with PRI (P)

Sri Maneswar Hira, Accountant Sri Thagiram Nath and Asst. Postmaster (mail) Sri Basundhar Sarma, accused Md. Jorahuddin Ahmed Group of person/employee of the same Post Office. Suddenly attacked the complainant and assaulted on his left side

Contd - 8



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख (8) Date of making over the copy to the applicant.

Side forehead with fist and blows and also eye. The accused also attempted to kill the Complainant by holding on his neck with two hands. The

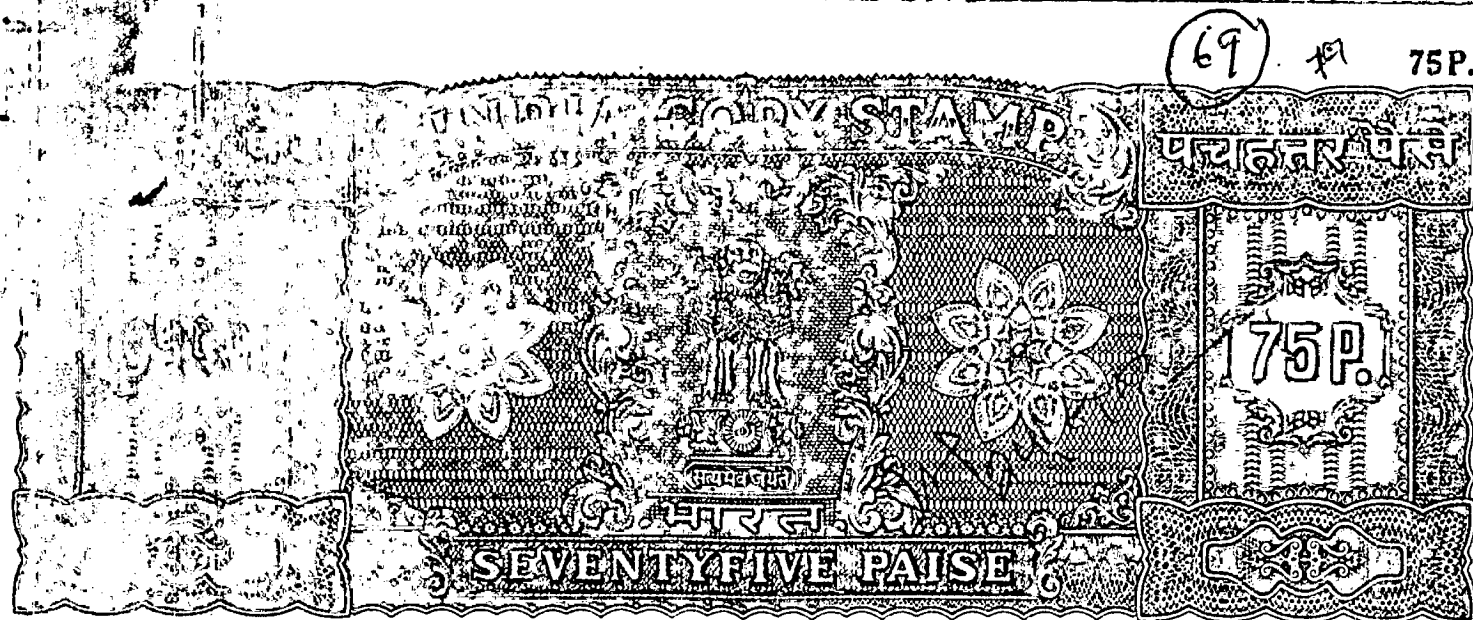


officer-in-charge, Mangaldai Police Station registered a case under Section 448/353/307 of The Indian

Penal Code against the accused person and after completion of investigation submitted Charge Sheet against the accused under Section 353/323 of the Indian Penal Code.

5) One appearance of the accused before the Court my learned Predecessor

Contd - 9



प्रतिनिधि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying - the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिनिधि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिनिधि देने की तारीख (9) Date of making over the copy to the applicant.

Explained the particulars of offence under Sections 353/323 of the Indian Penal Code to the accused to which he pleaded not guilty.



6) During trial, the prosecution side examined as many as 6 (Six) witnesses and are Sri Jiten Ch. Sarma has examined as Court witness of 311 of the CrPc.

7) In accordance with the order of the Hon'ble Sessions Judge, Darrang, the statement of accused of 313 CrPc had been recorded afresh. In his said statement, the accused denied everything when circumstances appearing in the evidence against him.

Copy - 10



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख (10) Date of making over the copy to the applicant.

Were explained to him and expressed his willingness to give evidence in defence. Accordingly, One Dr. Was examined and he was cross-examined by the prosecution side.

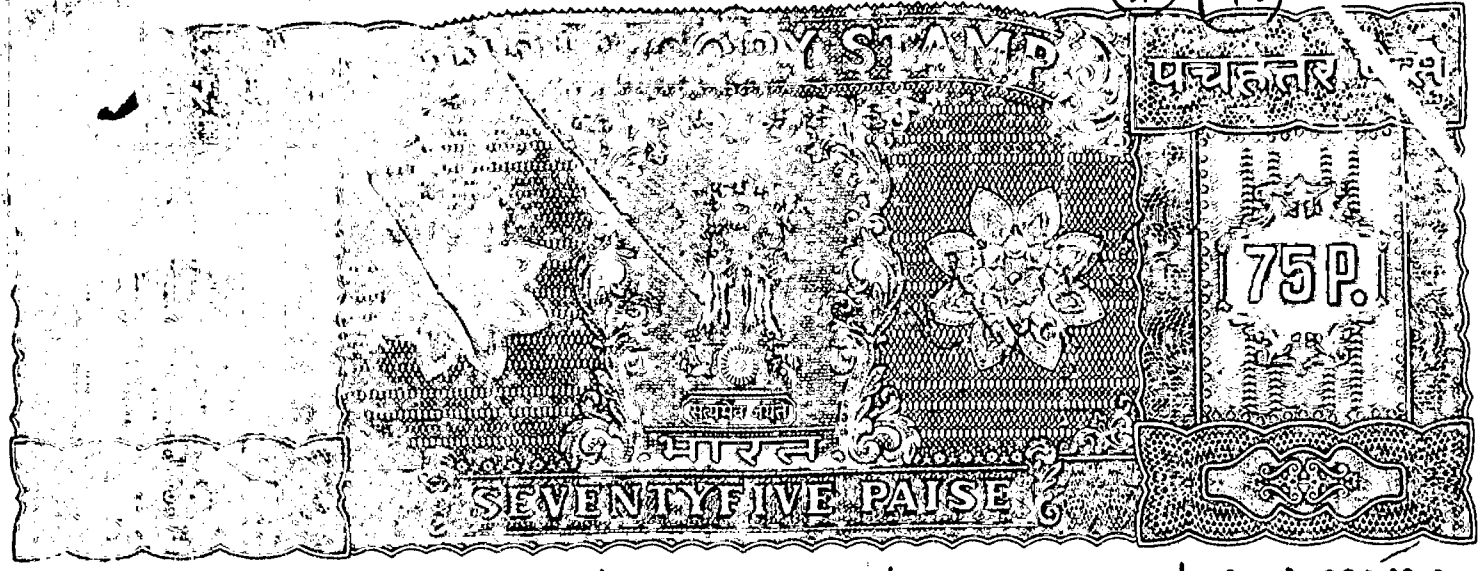


Points for DETERMINATION

8) Now, the points to be determined in this case are:-

a) Whether the accused person on 29.6.98 at about 14.05 hrs. assaulted Complainant Sri Prasanna K.R. as a public servant with intent to prevent or deter him (such public servant) from discharging his duty? and

b) Whether the accused person on the



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख 11 Date of making over the copy to the applicant.

Same day and time voluntarily
Camest hart to the Complainant.

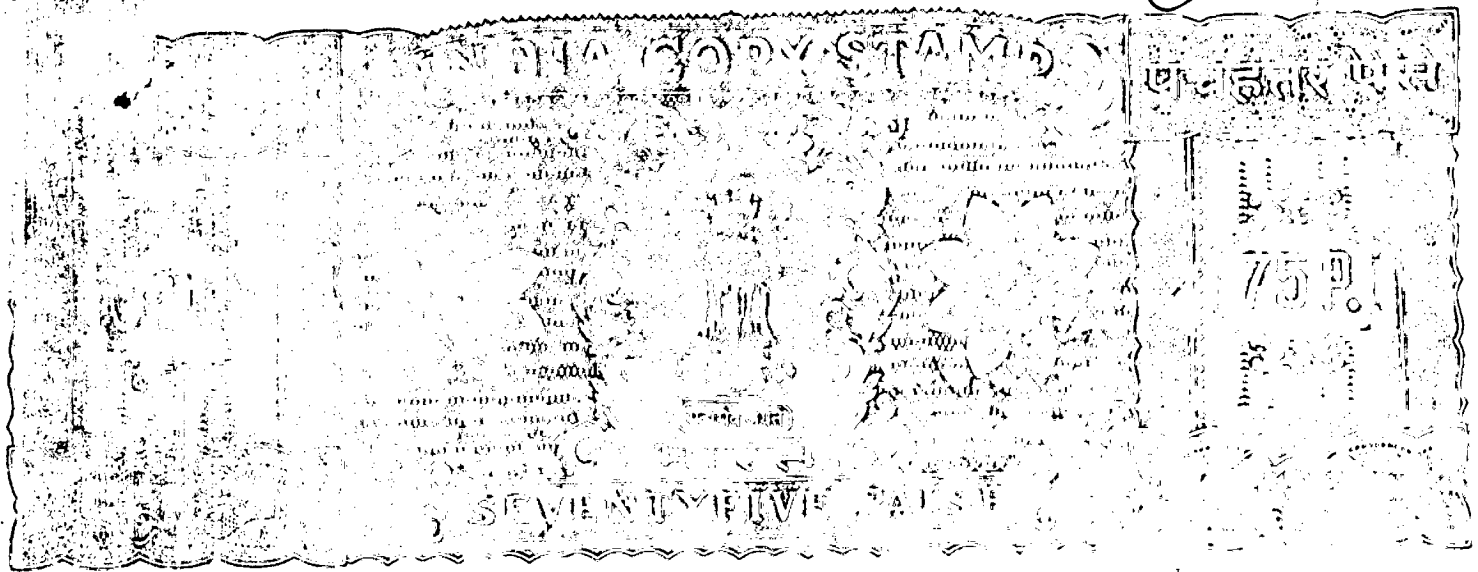
DECISION AND REASONS THEREOF



9). I have heard argument of learned Counsel for both sides afresh. I have also perused the materials on record and have taken into account the statements of accused recorded afresh under Section 313 of the Cr.P.C.

(10) P.W. 1 Shri prasanna kr. Das is the Complainant and injured of the case. The prosecution side duly proved the FIR (Ext-1) through him and his signature on Ext-1 as Ext-1 (1). In his

(D)



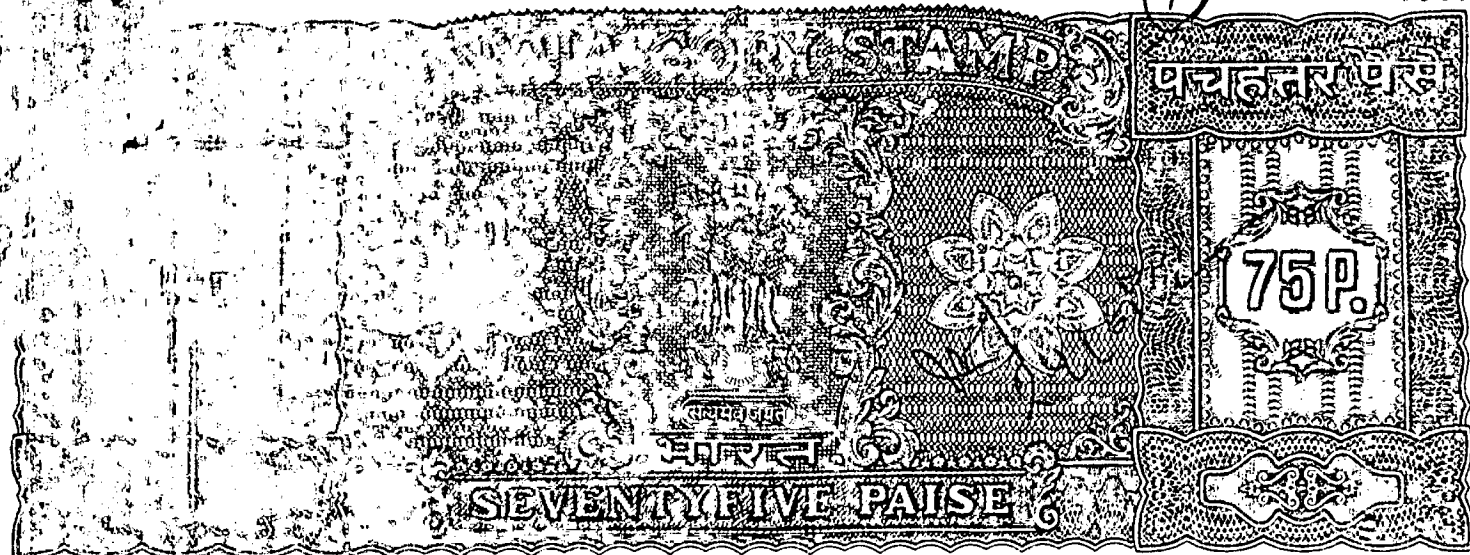
प्रतिनिधि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिनिधि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिनिधि देने की तारीख Date of making over the copy to the applicant.

Evidence P.W. 1 states that on 29.6.98
at about 2 P.M. he was on duty at
Mail Section as postmaster and clerk.



He went to his own office from said
Mail Section and then when he
was walking interrupted by a man
who and inflicted the blow on his left
side of head. He then fell down and
was moved again assaulted him by
first on his chest. At that time
Jitendra Singh came and resisted the
assault. Thereafter, he (the complainant)
went to hospital and after taking
treatment from doctor, he lodged the

Compl. - 11



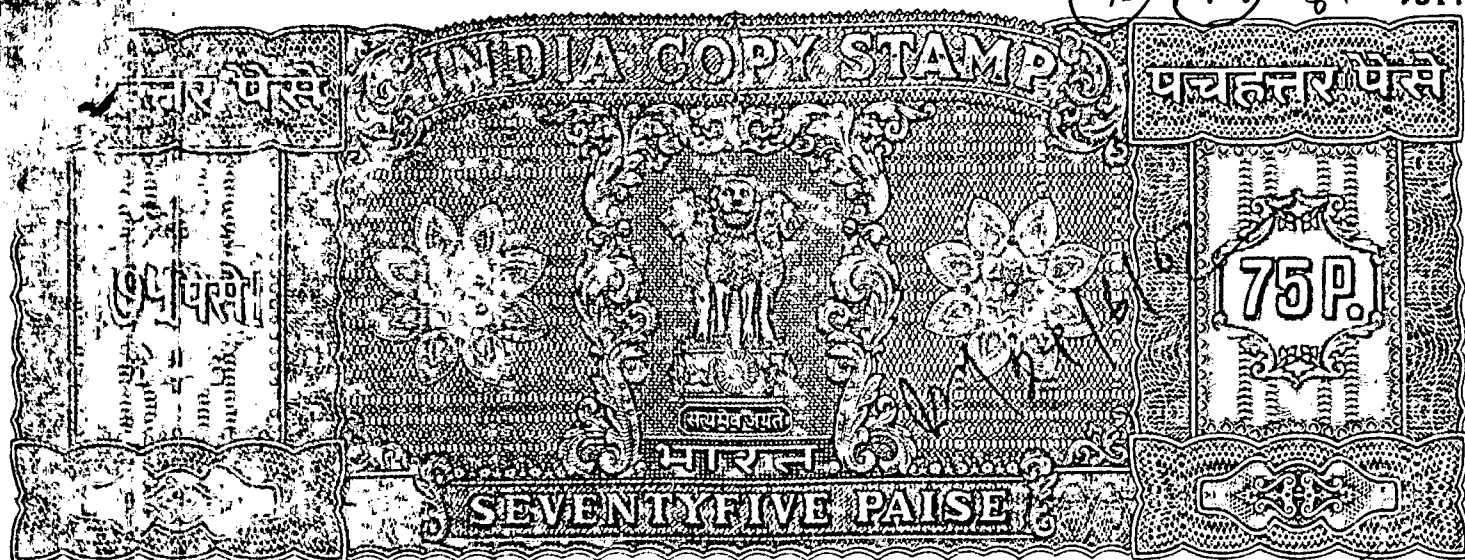
प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख 13 Date of making over the copy to the applicant.

F.I.R (Ext-1) in P.S. for taking necessary
action.

(11) P.W. 2 Sri Thagiram Naik is the
Accountant of the same post office where
both Complainant and accused person
serve. This P.W. has stated that
on the date of occurrence an altercation
between the Complainant and the accused
person took place.

12) P.W. 3 Sri Maneswar Hira has stated in
his evidence that he knows the Complainant
and the accused and according to him
an altercation took place between the Complainant
and the accused. On the date of occurrence,

Contd - 14



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
				14

13) P.W. 4 Dr. Binod Ch Kalita by giving evidence on injury of the Complainant (P.W. 1) has deposed that on the date of occurrence he examined said P.W. 1 Sri Prasanna K. Das and found Haematoma, size 1.5 C.m x 1 C.m. over the forehead on the left side, tenderness around the neck and tenderness over the chest around the left nipple. Doctor opined that the above injuries were simple in nature. Caused by blunt object and the injuries were also caused within 6 hours from examination & impounded.

Contd-15



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख 15 Date of making over the copy to the applicant.

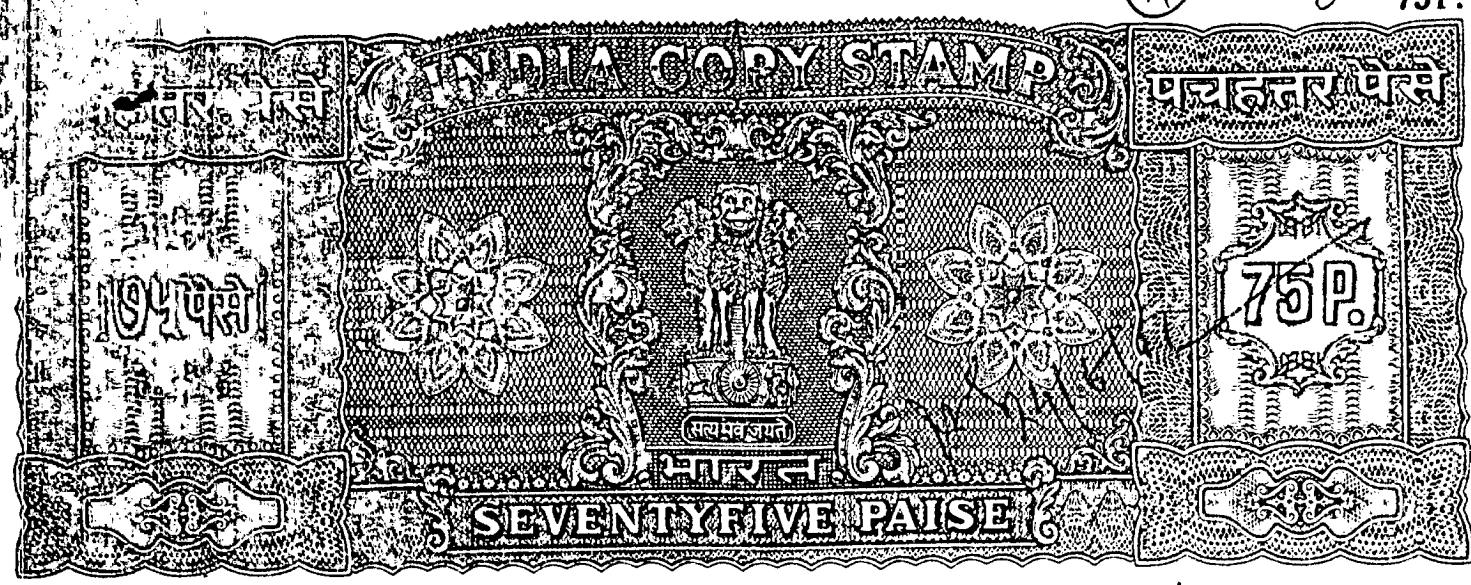
14) P.W. 5 Sri Basundhar Sarma has deposed that at the time of occurrence he was sitting at his office room and on being asked, the complainant (P.W. 1) told him that he accused assaulted him.



15) P.W. 6 Md. Fazlul Hoque Khan is the investigating officer of the case. He stated in his evidence that on the day of occurrence i.e. on the same day of occurrence he investigated the case as entrusted by the o/c Mangaldai P.S. recorded the statements of the witnesses and after collecting the medical report of the injured concluded the investigation.

7b

26 75P.



प्रतिलिपि दे लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख 16 Date of making over the copy to the applicant.

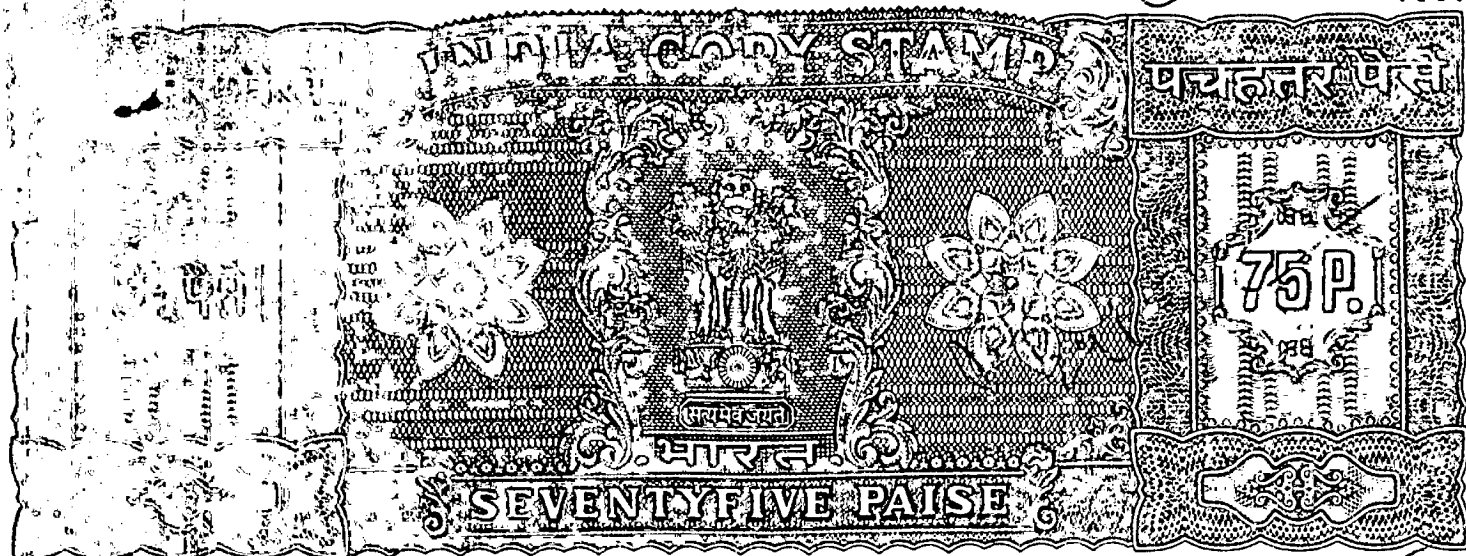
and submitted the charge sheet under Section 353/323 of the Indian penal code against the accused person.



16) Sri Jiten Sarma who was examined as Court witness under Section 311 of the Criminal Procedure Code, has stated in his evidence that on 29.6.98 he was working at Mangaldai post office and at about 2.10 P.M. the accused assaulted complainant prasanna koo. Das and he saw the incident.

17) From the evidence of medical officer (doctor) it is established that on the date of occurrence accused sustained injuries.

Contd - 17



प्रतिलिपि दे लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

18) Now the main point remains to be considered whether on the date of occurrence the accused assaulted the Complainant? To this effect



We have the oral testimony of Complainant (P.W.1) and C.W.1. It is the evidence of the Complainant (P.W.1) that on the day of occurrence while he was on his duty at the Mangalore post office as mail section the accused inflicted blow on his head. C.W. Sri Jiter Sarwan, an employee of post office Mangalore, has supported the evidence of Complainant But P.W.2 Sri Thagiram Nair P.W.3 Sri Maneswar Hira and P.W.4 Sri Basundhar Sarwan who

Contd - 18

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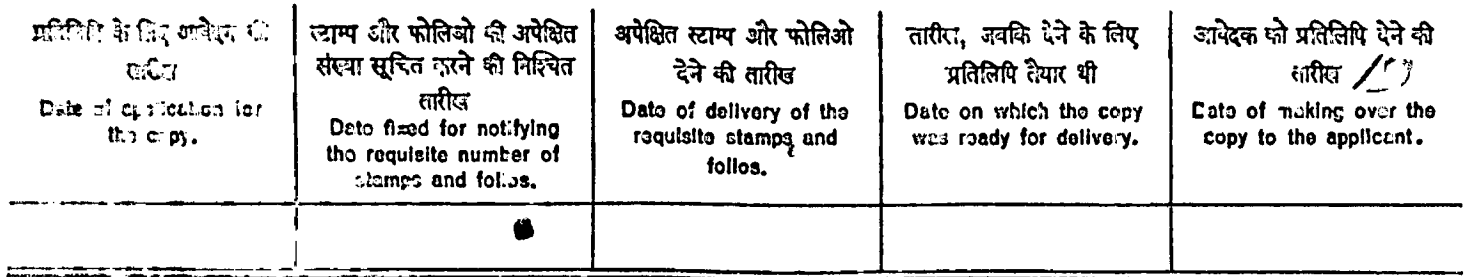
98 75P.



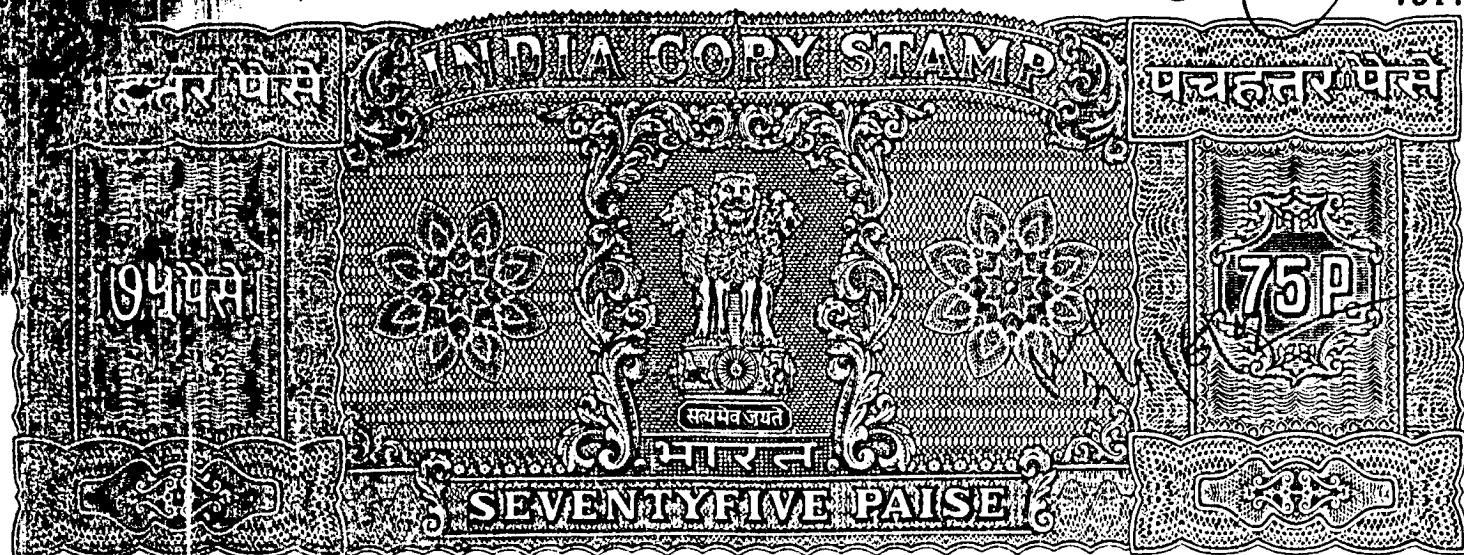
प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
				18

Here Serving at the time of occurrence at Mangaldai post office have not supported the evidence of Complainant (P.W.1) and C.W.1. It is the evidence of P.W.2 and P.W.3 Accountant and Public Relation Inspector of the said post office respectively, that on the relevant day i.e. on 29.6.98 only a quarrel took place between the Complainant and the accused person. From the cross examination of P.W.2 it reveals that for salary and not granting of leave to the accused an altercation was taken place between the Complainant and accused on the relevant day. From the cross examination of



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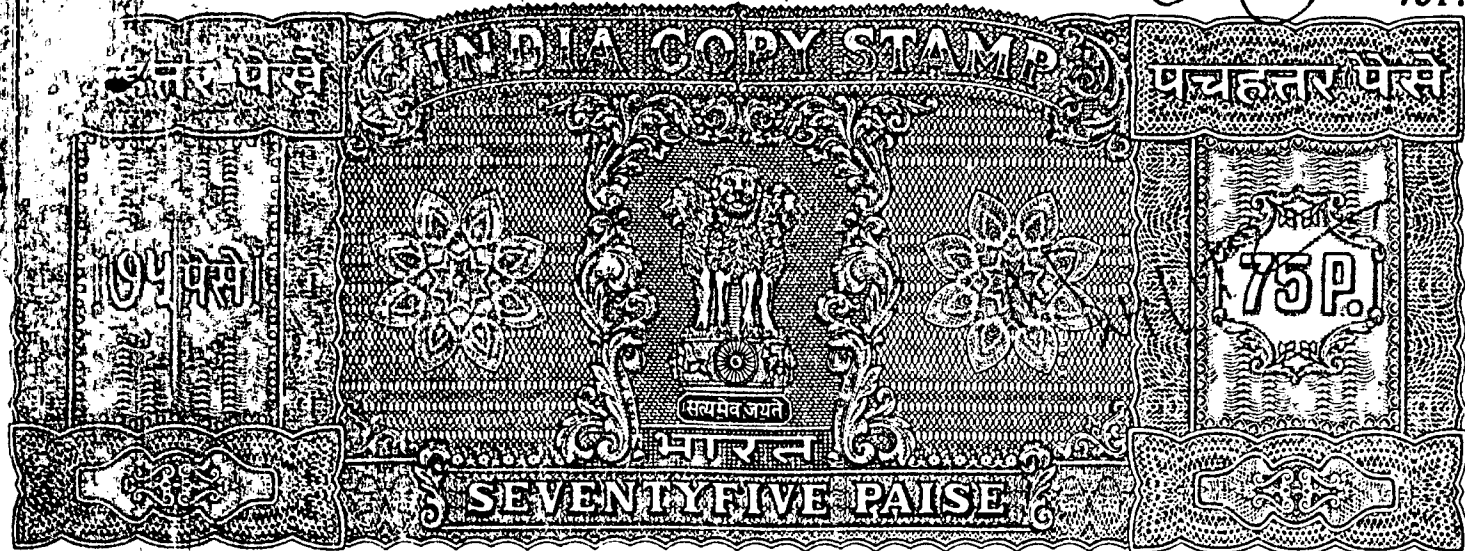
Case 1: 1990



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख 20 Date of making over the copy to the applicant.

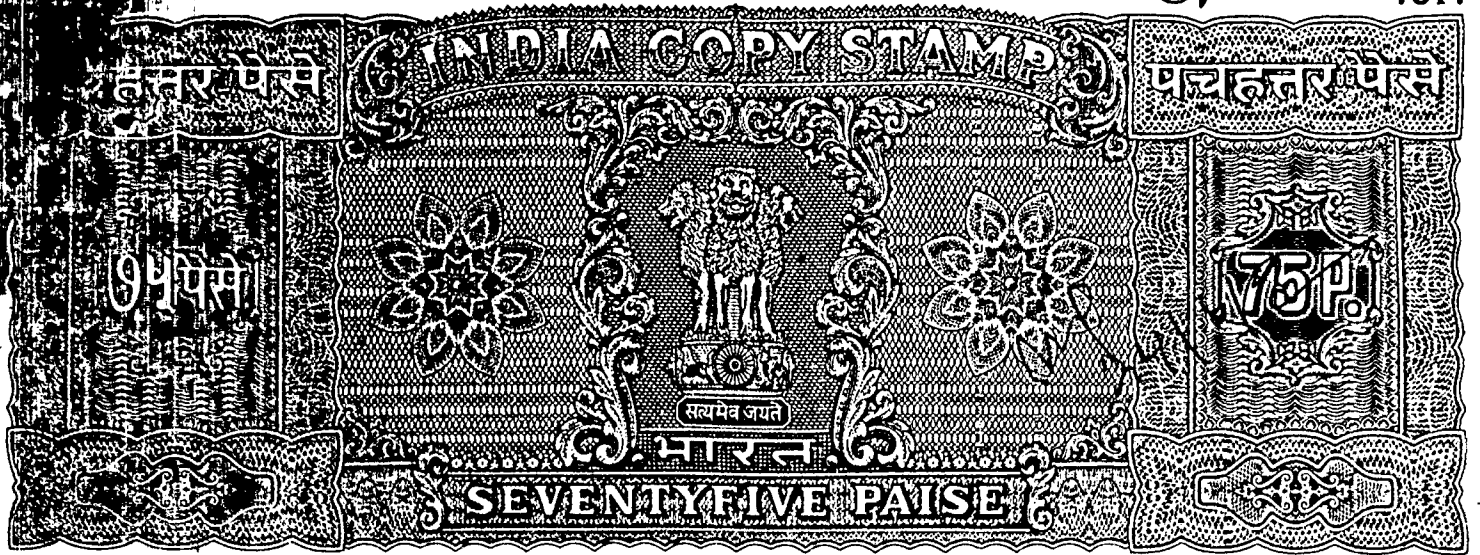
19) I have carefully perused the statement recorded under Section 313 of the Cr.P.C. at fresh on 3.4.2001. In his statement the accused denied the allegation of commission of assault on the complainant P.W.1 and he also stated that the complainant (P.W.1) stopped his leave salary for this reason an altercation took place between the complainant (P.W.1) who was the post master at the time of occurrence of Mangaldai Post office and the accused who was the Group-D (peon) of the said post office. In support of this contention the accused adduced evidence and P.W.1 is examined as defence witness.

Contd-21



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख 21 Date of making over the copy to the applicant.

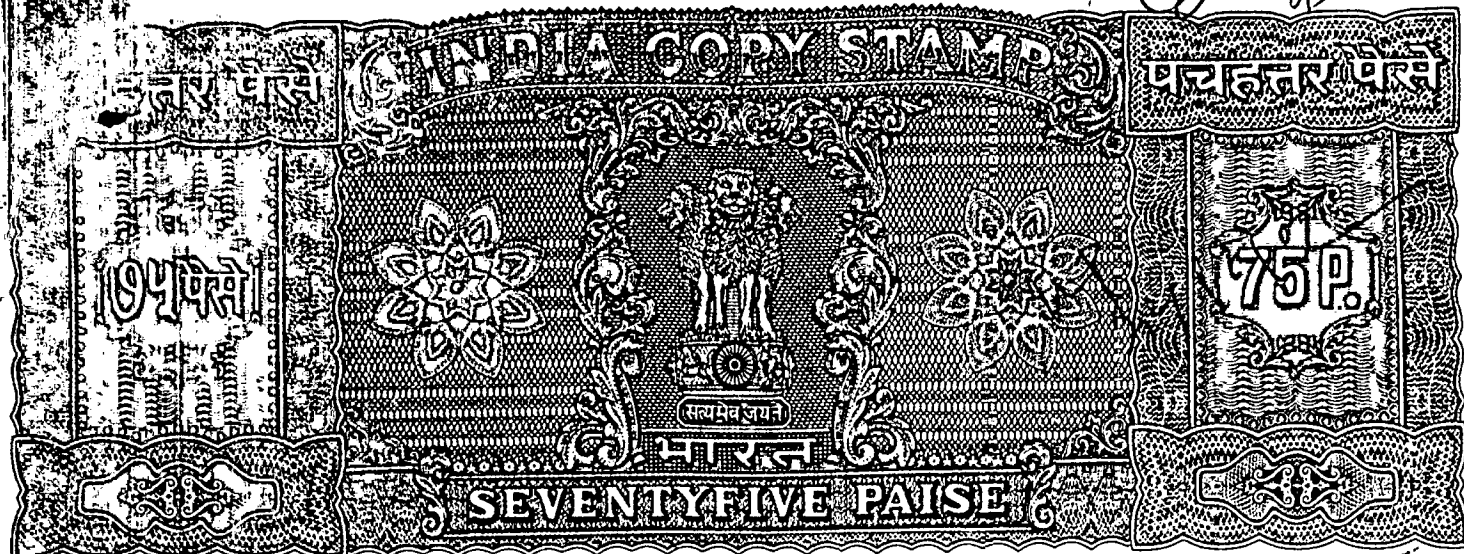
20) I have given my close scrutiny on the prosecution witnesses as well as defence witness, D.W. 1. Aisuddin Ahmed an employee of Mangaldai post office has deposed that on 29.6.98 while he was serving at Mangaldai post office at Mail Branch he saw that the accused and the then post master (P.W. 1) entered into an altercation at the Mangaldai post office at mail branch. The cause of altercation between the Complainant and the accused was for stopping of salary of accused Jalaluddin. At the time of occurrence P.W. 2, P.W. 3 and P.W. 5 were also present as per evidence of D.W. 1. D.W. 1 in his evidence has further stated



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख 22 Date of making over the copy to the applicant.

that the place where the incident was occurred, could not be seen from the post office counter. D.W. 1 has further stated that the complainant (post master) would not pay the salary of accused fataluddin and if it required he would be dismissed from service, thereafter the complainant handed over the accused to the police. This witness was cross examined by the prosecution. In his cross examination he has stated that he was present at the time of quarrel between the complainant and the accused. From the evidence of D.W. 1 it is established that on the date of

Contd-23



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख 23 Date of making over the copy to the applicant.

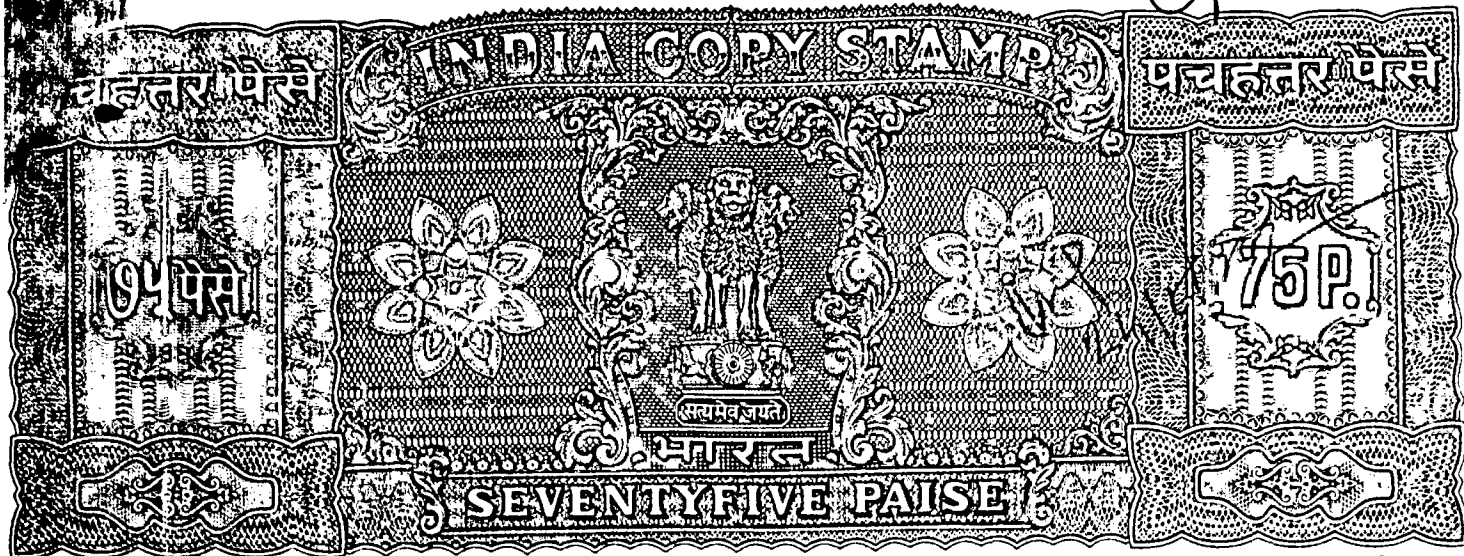
occurrence the accused did not assault the complainant only a quarrel was picked up between them for not paying the salary to the accused. D.W. 1 Aizuddin Ahmed was an



employee of Mangaldai post office and he was working at the relevant time of incident at Mail Branch of said post office in which the occurrence

took place. I also find that he (D.W. 1) has no interest to depose in support of the accused. There is nothing to show on record that the evidence of D.W. 1 suffers from any infirmity whatsoever. The evidence of defence witness cannot be disbelieve.

Contd—24



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख 24 Date of making over the copy to the applicant.

as because it is coming from the side of the accused.

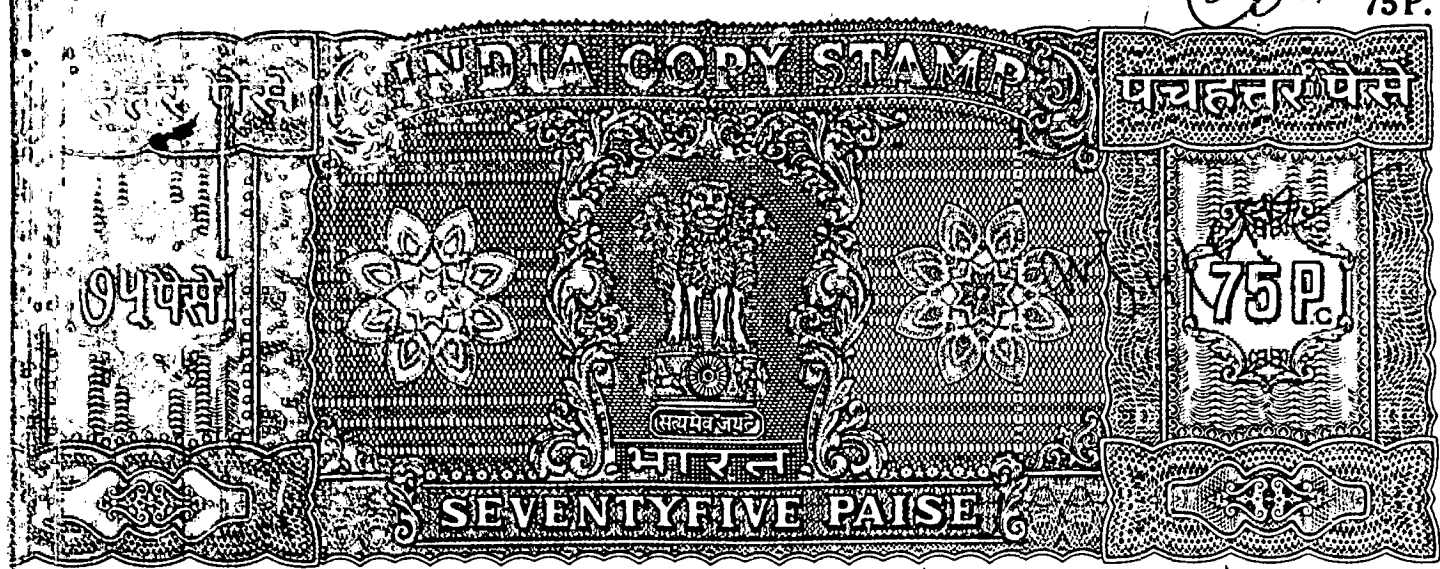
21) According to evidence of G/o (P.W. 6), the victim (complainant) got himself medically examined by the Doctor and he was not escorted by police for medical examination.



22) On perusal of the entire evidence it appears that the ratio is heavily in favour of the accused which outweighs the evidence for prosecution.

23) In view of the above discussion I am of the opinion that the prosecution side has failed to bring home the charge against accused Talaluddin Shored under

Code 25



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख 25 Date of making over the copy to the applicant.

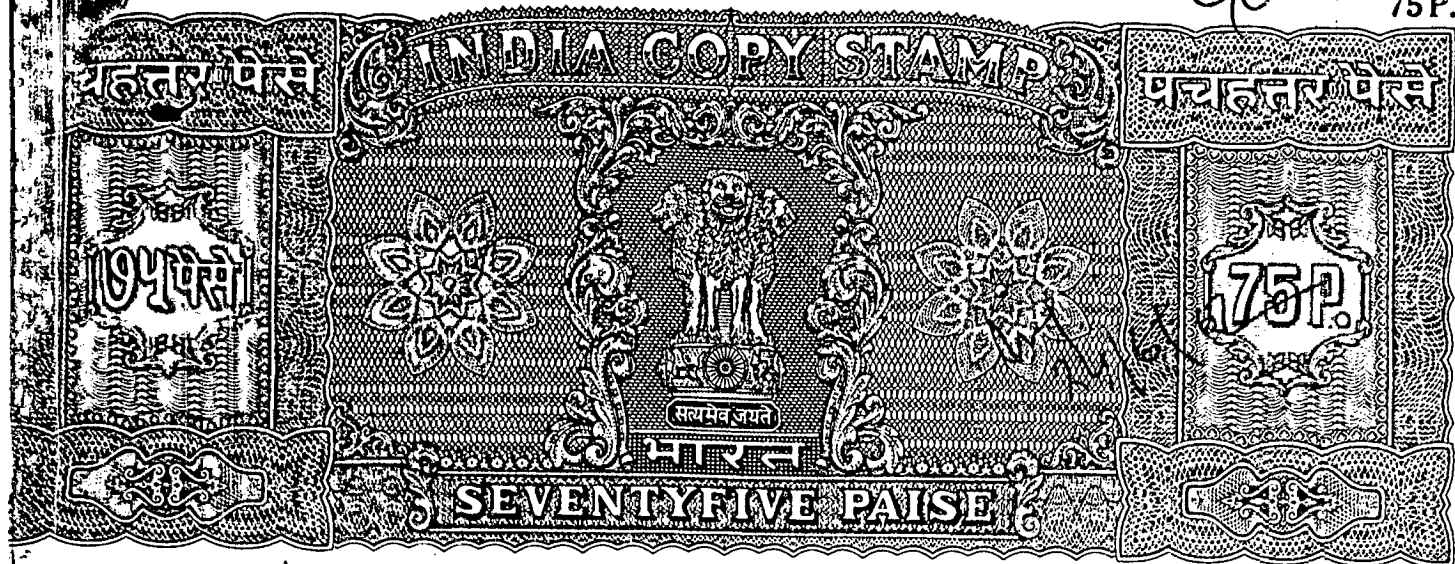
Section 353/323 of the Indian Penal Code beyond all reasonable doubt.

24) On the result accused Talaluddin Ahmed is held not guilty of the offence under Sections 353/323 of the Indian Penal Code and he is accordingly acquitted from the alleged charge. The accused is set at liberty forthwith.



Given under my hand and seal of this Court this 10th day of April 1902.

Sd/- S. Bora,
10.4.02.
Chief Judicial Magistrate
Darrang Mangaldai,
(Contd) — 26



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख 26 Date of making over the copy to the applicant.

DICTATED & CORRECTED BY ME

Sd/- S. Bora

10.4.02.

CHIEF JUDICIAL MAGISTRATE
DARRANG MANIGALDAI

Typed by me.

Stenographer.



Contd - 27.

Contd - 2.



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख 27 Date of making over the copy to the applicant.

APPENDIX

A) PROSECUTION EXHIBITS. EXT-1, F.I.R

B) DEFENCE EXHIBITS NIL.

C) PROSECUTION WITNESSES

P.W.1, Sri Prasanta Kr. Das (Complainant)

P.W.2, Sri Thagiram Nath,

P.W.3, Sri Maneswar Hira

P.W.4, Dr, Binod Ch. Kalita (M/o).

P.W.5, Sri Basundhar Sarma.

P.W.6, Md. Fazlul Haque Khan (M/o)

(Contd) - - 28

Contd - 28.





प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख 28 Date of making over the copy to the applicant.

D) COURT WITNESSES

C.W.I. Sri Jiten Ch. Sarma.

E) DEFENCE WITNESSES

D.W.I. Md. Aizuddin Ahmed.



Sd/- S. Bora
10.6.02.

CHIEF JUDICIAL MAGISTRATE
DARRANG, MANGALDUI

COPIED BY

Sd/- S. Sarma
24.6.02.

COMPARED BY

Office of the C. J. M.
Darrang, Morigaon

CERTIFIED TO BE TRUE COPY

Head Assistant

Office of the C. J. M., Darrang

Morigaon

Authorised Under Section

79 Act I of 1972

Translated from Assamese

To

The Hon'ble Superintendent of Post Office,
Darrang Division.

Sub: To Join Duty

Dtd. 22-9-02.

Sir,

With due respect, beg to state that I am a group D' Employee of Tongla under your Division. Post Master of Mangaldoi lodged a case against me before Mangaldoi Court in the year 1998 as I was asking for ~~work~~ arrear pay of my leave on medical ground and I had some altercations with him to this regard. During the pendency of the case vide order FBI/1/98 dt. 6-12-99 ordered my compulsory retirement. As I have many years of service and I am an able man hence my letter "Ghy Regd. L.No. 5" dtd. 17-12-99 I narrated my entire story to the D.P.S.

On the other hand, as the decision of the Courts case delayed I sent another letter "DLg R.L. No. 2252 dt. 6-5-2000 to the superintendent of Post Office.

Now I sent herewith the copies of previous letters, acquitted judgment of court with a prayer to reinstate me as I am facing financial difficulties

This my earnest request.

Enclo:-

Letter dated 17-11-99.
6-5-2000, Acquitted
Judgment of Hon'ble
Court.

Yours faithfully,

Sd/-Lalaluddin
Ahmed.

Group D' Tongla.

*Calling to be
in court.
for*

(98) (90) 100

- -

(Translated copy)

To

The Post Master General,
Dibrugarh, Assam.

Dtd. 9-12-92.

Sub: Prayer for Joining duty.

Sir,

With due respect, beg to state that I am a Group 'D' Employed of your area at Tongla. In 1998 when I was serving at Mangaldoi Post Office, I had alterations with Post Master for non payment of salary for leave period on medical ground and he lodged GR case before Court. The CJM, Mangaldoi convicted the exparte. I have filed an appeal before Hon'ble Sessions Judge. After perusal of documents he remanded the case for fresh trial.

The learned CJM acquitted me after considering all matters and documents with that proof I informed the Superintendent of Post Office, Tezpur. He told me that at about 4(four) months he set all papers to you.

Therefore, request you to kindly after perusing all documents allow me to join service as I am a very poor man. This my prayer before you.

Yours faithfully,

Sd/-Jalaluddin Ahmed.

Group 'D' Tangla.

*Accepted
by the
PO*

Post Master General,
Mangaldo Dibrugarh (Assam)

22-1-023

(27)

(92)

Prayer for issue Joining order.

With reference to the subject cited above, I have the honour to inform you that I am a group "D" employee of Tangla Post Office under your jurisdiction. When I was working in Mangaldo Post Office as group "D" I took Medical leave for 2 months 14 days for my illness. But the Hon'ble Post Master refused to grant my leave and not allow to draw my leave salary. A simple controversial discussion made between Post Master and me regarding the leave salary. But the Hon'ble Post Master filed a case against me blaming "I have assaulted him" But it was not true.

That sir, then the Hon'ble G.J.M. Mangaldo Court after hearing passed a judgment convicting me to pay fine Rs.500.00 w/s. 353 and Rs.200.00 w/s 323 I.P.C. I/D 45 days S.I.

That sir, against the order and judgment of learned G.J.M. Mangaldo, I tired an appeal to honble District and Session Judge, Darrang Mangaldo vide criminal appeal No.20(D-3) 99).

That Sir, the aforesaid appeal criminal case No.20(D-3) 99 was admitted for hearing by Hon'ble learned District & Session Judge also stayed the operation of impugned sentence passed by the G.J.M. Mangaldo to take hearing afresh. the G.J.M. again has taken the case and made fresh judgment after hearing argument and also after recording statement of accused and witness of the case w/s 313 of CRPG again at the judgment and order passed by the former Judge. The G.J. M. found me not guilty of the offence w/s 353/323 of I.P.C. and I am accordingly acquitted from the alleged charge.

That Sir, I want to draw your attention, when the case was filed against me made by the then post master convicting me to assault him he hold up both my medical & monthly salary and put me under suspension when the first order decreed which made against me the Supdt. of Post Offices Darrang Division, Tezpur, passed an order directing to accept compulsory retirement vide his letter No. PB/1/Assault/98 dtd.6th. December'99.

That Sir, I refused to accept the compulsory retirement and I have placed an application praying to my superior authority, that I am not guilty as my case still examining in the court.

That your honour, now the case is dismissed by the court and I am not held guilty of the offence w/s 353/323. The order was given the Hon'ble G.J.M. on 10/04/2002.

That sir, I have been suffering from poverty as I have no any other income source except this job and now I am unable to maintain even my family. Therefore I highly request to you kindly withdraw suspension and allow me to join the former post. I shall be grateful to you for your kind consideration.

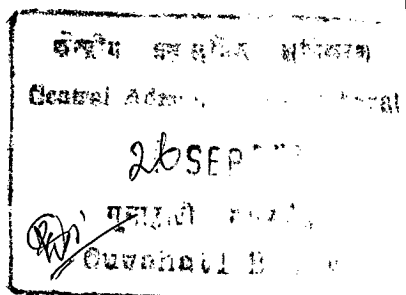
Yours faithfully,

(MD. JALALUDDIN AHMED)

MD Jalaluddin Ahmed

Application Submitted to P.M.G. (Dib).

on 20/1/03



Filed by
25/9/03
(A. DEB ROY) 102
Sr. C. C. J. C.
C. A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI

O.A. NO. 152 OF 2002

Md. Jalaluddin Ahmed.

..... Applicant.

- Vs -

Union of India & Ors.

..... Respondents.

- And -

In the matter of :

Written statement submitted by
the respondents.

The respondents beg to submit
brief history of the case,
before submitting para-wise
written statements which may
be treated as part of the
written statement.

(BRIEF HISTORY OF THE CASE)

On 29.06.1998 Md. Jalaluddin Ahmed, Group 'D' official
of Mangaldoi H.P.O. physically assaulted Shri P.K. Das the then
Postmaster, Mangaldoi HPO during office hours. The fact was
reported to the police and a police case was registered against

-2-

Md. Jalaluddin Ahmed at Mangaldoi Police station under GR case No. 525/98 under section 353/323 of IPC. The Chief Judicial Magistrate, Mangaldoi Court convicted Md. Jalaluddin Ahmed on 23.07.1999 and awarded punishment of fine of Rs. 500/- (Rupees five hundred) only default Sl. of 1(one) month and also a fine of Rs.200.00 (Rupees two hundred) only in default Sl for 15 days. On conviction by the court of law, Disciplinary action was taken as per Govt. of India's instruction no. 2(a)(i) of Rule 19 of CCS(CCA) Rules 1965 and said Md. Jalaluddin Ahmed was ordered for compulsorily retirement from service.

Md. Jalaluddin Ahmed preferred an appeal before District and Session Court, Mangaldoi against the judgement of conviction and the District Session Judge, Mangaldoi remitted the case the C.J.M. Court Mangaldoi for retrial. Accordingly the case was heard again by the C.J.M., Court Mangaldoi has acquitted the said Md. Jalaluddin Ahmed on 10.04.2002. ~~Meanwhile~~ Meanwhile the applicant also filed an appeal on 23.12.1999 before the Appellate authority against the punishment order dated 6.12.99. The said appeal is under consideration.

Para-wise Comments :

1. That with regard to the statement made in para 1, of the application the respondents beg to state that the applicant, Group 'D' official was compulsorily retired from service on conviction by the court of C.J.M. Mangaldoi. No arrears of pay subsistence allowance due to him were denied.

-2-

2. That with regard to paras 2, 3, 4.1 and 4.2, of the application the respondents beg to offer no comments.

3. That with regard to the statement made in para 4.3, of the application the respondents beg to state that the applicant Group 'D' official physically assaulted Sri Prasanna Kr. Das, Postmaster Mangaldoi HPO on 29.06.98 during office hours in the presence of Sri Thagiram Nath, Acctt., Sri Maheswar Hira X PRI(P), Sri Basundhar Sarma, APM (mails) etc. including other staff and hence an FIR was lodged at Mangaldoi Police Station. The police has registered a case against applicant under Mangaldoi PS Case no. GR case No. 525/98 and applicant was arrested and taken to police custody w.e.f. 29.06.98 to 04.07.98. The applicant was under the police custody exceeding 48 (forty eight) hours, therefore he was placed under suspension as per Rule 10 of CCS (CCA) Rule 1965.

4. That with regard to the statement made in para 4.4, of the application the respondents beg to state that this related to matter of leave salary. Leave salary can not be paid if leave is not granted. Further, leave cannot be claimed as a matter of right as per provision of leave rules. It is open to leave sanctioning authority to grant or not to grant leave applied for.

5. That with regard to the statement made in para 4.5, of the application the respondents beg to state that transfer and posting of Govt. servant is policy of Govt. and the competent authority is at liberty to transfer any subordinate official by the competent authority if requires. It was found necessary by

-3-

the authority and therefore he was transferred from Mangaldoi to Tangla in public interest.

6. That with regard to the statement made in para 4.6, of the application the respondents beg to state that the competent authority can revoke the orders of suspension therefore it was revoked by the competent authority.

7. That with regard to the statement made in para 4.7, of the application the respondents beg to state that the appointing authority or any other authority higher in rank than the appointing authority can initiate disciplinary proceedings in respect of subordinate officials for misbehaviour or misconduct of Govt. servant. In this case Suptd. of POs Darrang Division, Tezpur is higher in rank than the appointing authority, the Postmaster Mangaldoi. So Sri M.C. Kalita the then SDI(P), Chariali and Sri R.N. Roy, the then SDI(P), Dhekiajuli were appointed as Inquiry officer and presenting officer respectively to Inquire into the charges against said applicant.

8. That with regard to the statement made in para 4.8, of the application the respondents beg to state that the disciplinary authority is empowered to drop the charges proceeded against the official earlier as per provision of Disciplinary Rules, if necessary or on conviction in the court of law. In this case the applicant was convicted in the court of law and therefore the disciplinary proceedings were dropped to take further action.

-4-

9. That with regard to the statement made in para 4.9, of the application the respondents beg to state that show cause notice was sent to applicant to explain that why disc. action would not be taken against him for ~~xxx~~ conviction in the court of law, as per provisions of Departmental Rule.

10. That with regard to the statement made in para 4.10, of the application the respondents beg to state that on receipt of reply from said applicant, after careful examination, the orders of compulsorily retirement was passed.

11. That with regard to the statement made in para 4.11, of the application the respondents beg to state that the orders of compulsory retirement was not whimsical but in order, which was passed in the line of orders of court of law as convicted the official.

12. That with regard to the statement made in para 4.12, of the application the respondents beg to state that the case under review by the competent authority after appeal and judgement of court dated 10.04.2002, i.e. after acquittal of charges.

13. That with regard to the statement made in para 4.13, of the application the respondents beg to state that the case is under Review of the competent authority.

14. That with regard to the statement made in para 4.14, of the application the respondents beg to state that the departmental action was taken as per Rules on conviction in the court of law.

- 5 -

15. That with regard to the statement made in para 4.15, of the application the respondents beg to state that the applicant Group 'D' Official, physically assaulted on 29.06.98 Sri Pradanna Kr. Das the then Postmaster Mangaldoi H.O. (now retired) in the presence of staff and police arrested the applicant on the basis of FIR lodged to the police and chargesheeted against applicant after police inquiry and sent for trial before court of law . The C.J.M. convicted applicant and hence disciplinary action was taken as per provisions of Govt. of India's instruction no.2(a) (i) of Rule 19 of CCS(CCA) Rule 1965, and passed the order of compulsory retirement of applicant.

16. That with regard to para 4.16, of the application the respondents beg to offer no comments.

17. That with regard to the statement made in para 4.17, of the application the respondents beg to state that action is not arbitrary. Action is taken as per Rules.

18. That with regard to the statement made in para 4.18, of the application the respondents beg to state that he is not entitled to get any legal expenses.

19. That with regard to para 4.19, of the application the respondents beg to state that it will not be regular to set aside the order.

20. That with regard to the statement made in paras 5.1 to 8.2, of the application the respondents beg to state that the disciplinary authority taken action for violation of Rules and conduct as per provisions of Rules. His appeal is still under consideration.



-6-

V E R I F I C A T I O N

I, Shri *Kulon Chandra Sarma*, presently working as *Super Postmaster, Darrang Divn* being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para 1 to 20 are true to my knowledge and belief and those made in para being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this th day of
September, 2003.

Shri Kulon Chandra Sarma
Declarant.
Supdt. of Post Offices
Darrang Division
Tezpur-784001

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For by
Charles D. ...
Adverse
Law but in
Applicant 18/12/03

Md. Jalalluddin Ahmed

..Applicant

-Versus-

Union of India & Ors.,

.. Respondents.

John William Adams

The above-named Applicant begs to file his
Re-Joinder as follows :-

1. That a copy of the written statement has been served upon the Applicant and having understood the contents thereof give rejoinder to the same as hereinafter.
2. That save and except what has been specifically admitted all other statements made in the written statements are deemed to have been denied.
3. That the statements made in Brief History of the case is not wholly true hence denied by the Applicant. It is not true that on 29.6.98 the Applicant physically assaulted Sri P.K.Das and it is also not true that Disciplinary action was taken as per Govt. of India's Instructions and CCS(CCA) Rules, 1965. Such statements are misleading hence

contd....

denied by the Applicant. It is also true that Applicant filed an appeal but it is now about 3 years the same is pending hence safely can be assumed the same has not been considered arbitrarily in just manner.

4. That the averments made in paragraph 1 to 20 are not wholly true hence denied by the Applicant. That while suspending, compulsorily retiring the Applicant no Rules were followed by the Respondents, all was done in most arbitrary and unjust manner without doing any subjective assessment of the service record of the Applicant hence purported opinion forming to retire the Applicant is liable to set aside and quashed with all consequential benefits, costs of the suit, compensation etc.

5. That the applicant states that S.29 of part VIII of the CCS(CCA) Rules, 1965 provides that the Appellate authority, within six months of the date of the order proposed to be revised, may at any time, either on his or its own motion or otherwise, call for the records of any inquiry and revised any order made under these rules

a) Confirm, modify or set aside the order.

b) Confirm, reduce, enhance, or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed.

contd...

-101- 111

: 3 :

6. That in the instant case, though the applicant is acquitted by the learned Court, keeping him under retirement is contrary to rule of law, biased, arbitrary, unjust hence impugned order is liable to be set aside and quashed with all consequential benefits.

V E R I F I C A T I O N

I, Shri Jalalludin, son of Late Kamaluddin, the instant Applicant in the case, do hereby verify that the contents of paras 1 to 6 are true to my knowledge and the statements made in paragraphs 5 and 6 are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

I sign this verification on this the 19th day of December, 2003 at Guwahati.

Declarant -

Jalaluddin Ahmed
(Sri Jalalludin Ahmed)