

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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21/11/12*
SECTION OFFICER (Judl.)

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

ORDER SHEET

Original Application No. 182/2005

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant(s): S. B. Hazarika

Respondent(s): CDL LONG

Advocate for the Applicant(s): Dr. Person

Advocate for the Respondent(s): C.G.S.C.

| Notes of the Registry | Date | Order of the Tribunal |
|--|-----------------|--|
| This application is in form is filed/C. F. f. r. Rs. 50/- d. posted v. d. S.P.L/BD No. <u>206/134622</u> Dated <u>30.6.05</u> <i>Gleam</i> Dy. Registrar | <u>4.7.2005</u> | <p>Heard the applicant in person and also Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents.</p> <p>The application is disposed of at the admission stage itself in terms of the order passed in separate sheets.</p> |

G. J. D. G.
Vice-Chairman

Recd. Copy.
Printed copy
5/7/05
Applicant

Dr. M. U. Ahmed
5/7/05
C.G.S.C.

S.7.05
Copy of the Order
handed over to the applicant
as well as to the Addl. C.G.S.C.
for the Respondent.

BS

2
No compliance report
his ban lifted.

4-4-06

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. /R/A/ NO. 182/2005

DATE OF DECISION 4.7.2005

..... S.B. Hazarika APPLICANT(S)

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

-VERSUS -

..... Union of India & Ors. RESPONDENT(S)

..... Mr. M.U. Ahmed, Addl. C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the
judgment ?

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the
Judgment ?

4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.

G. Sivaranjan

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 182/2005

Date of Order : This the 4th day of July, 2005.

The Hon'ble Sri Justice G. Sivarajan, Vice-Chairman.

**Sri S.B. Hazarika
Ex-C.I., Nagaland, Kohima
Anandapara
P.O. - Sabroom
South Tripura
Pin - 799145.**

... Applicant.

The applicant in person.

- Versus -

1. **The Union of India**
Represented by the Secretary, Department of Posts,
Ministry of Communication,
Dak Bhawan, Samsad Marg,
New Delhi - 110 001.
2. **The Director of Postal Services,**
Nagaland, Kohima - 797 001.
3. **The Postmaster General,**
N.E. Circle, Shillong
793 001.

... Respondents.

By Mr. M.U. Ahmed, Addl. C.G.S.C.

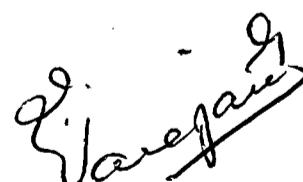
ORDER (ORAL)SIVARAJAN. J. (V.C.)

The applicant is an Ex-C. I. (Postal), Nagaland, Kohima. He has filed this application seeking for setting aside the penalty order dated 24.05.2004 (Annexure - A-1). The applicant appeared in person and submitted that against the penalty order dated 24.05.2004, he has preferred an appeal dated 22.06.2004 (Annexure - A-7) before the 3rd respondent. His present grievance is that the 3rd respondent has not so far disposed of the said appeal.

2. I have also heard Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents. He submits that if the appeal dated 22.06.2004 (Annexure - A-7) submitted by the applicant is pending before the 3rd respondent the said respondent will dispose of the same in accordance with law without further delay.

3. In the above circumstances, there will be a direction to the 3rd respondent to dispose of the applicant's appeal dated 22.06.2004 (Annexure - A-7) filed against the penalty order dated 24.05.2004 as expeditiously as possible at any rate within a period of three months from the date of receipt of this order.

The O.A. is disposed of as above at the admission stage itself. The applicant will produce this order before the 3rd respondent for compliance.



(G. SIVARAJAN)
VICE CHAIRMAN

/mb/

of 182/05

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWHATI BENCH : GUWHATI-5

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

Title :- S.B.Hazarika

Vs.

Union of India & Others

- 1 JUL 2005

गुवाहाटी न्यायदीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI - 5 : PIN - 781005

O.A. NO. 182 OF 2005

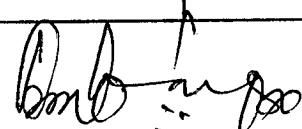
APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT, 1985

Title : S.B. Hazarika Vs. Union of India & Others

INDEX / *Synopsis*.

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| 1. | | Application Left over | - 25 |
| 2. | A - 1 | Copy of Impugned order dtd. 24.5.04 (3 pages) | 26 - 28 |
| 3. | A - 2 | Copy of Charge-sheet dtd. 19.2.98 (8 pages) | 29 - 36 |
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| 8. | A - 7 | Copy of Appeal dtd. 22.6.04 (13 pages) | 71 - 83 |
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Dated : 01.7.2005


Signature of the applicant

FOR USE IN TRIBUNAL'S OFFICE

1. Date of Filing :
Or,
Date of Receipt by post :
2. Registration No :

Signature
For Dy. Register

- 1 JUL 2005

गुवाहाटी बैच नं
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI- 5

O.A .NO 182 OF 2005

In the matter of :-

An application u/s 19 of the Administrative Tribunal Act ,1985

And

In the matter of :-

Sri S.B.Hazarika
Ex-C.I., Nagaland , Kohima
Anandapara ,
P.O.—Sabroom
South Tripura
Pin – 799145.

Applicant .

Vs.

1. The Union of India
Represented by —
The Secretary, Department of Posts,
Ministry of Communication ,
Dak Bhawan ,Samsad Marg,
New Delhi—110001.
2. The Director of Postal Services ,
Nagaland , Kohima -797001 .
3. The ~~Chief~~ Postmaster General ,
N. E.Circle , Shillong
793 001 .

Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the order against which the application is made :—

Order NO Rule-14/S.B.Hazarika dated 24.5.2004 passed by the Director of Postal Services (Resp.No.2),Nagaland , Kohima imposing the penalty of reduction of pay by 3 stages for a period of 3 years w.e.f. 1-6-04 with cumulative effect with further direction not to earn increments of pay during the period of reduction after the expiry of which the reduction will have the effect of postponing the future increments of pay.

A Copy of the impugned order is enclosed as Annexure A-1 .

Contd. - 2



2. Jurisdiction of the Tribunal:-

The applicant declares that the subject-matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

3. Limitation:-

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

4. Facts of the case :-

4.1. That , while the applicant was functioning as the Sub-Divisional Inspector of post offices (SDIPOs, for short) , Ukhrul Sub-Division , Ukhrul , Manipur during the period of 1996-1998 he was served with a Charge-Sheet under Rule 14 of the CCS (CCA) Rules 1965 on the ground of non-submission of inspection reports of some Post offices and for non-inspection of some offices allotted to the applicant for inspection vide charge-sheet No. Diary / SDIPOs -Ukhrul/97 dated , Imphal , 19.2.98 . The charge-sheet contained 2(two) Articles of Charge . The Article of Charge No-1 related to non-submission of Inspection reports of 45 offices while the Article of Charge No-II related to non inspection of 6 (six) post offices .

A Copy of the Charge-sheet is enclosed as Annexure A-2 .

4.2. That , the applicant was transferred and posted as C.I.(Postal) , Divisional office , Kohima and on joining of the new incumbancy by the applicant the Resp. No.2 became the succeeding disciplinany authority in respect of the applicant .

4.3. That , after an oral inquiry was held the Inquiry officer submitted his report with the findings that the charge under Article-I was not proved and the charge under Article-II was partially proved i.e. out of 6(six) offices 3 offices were found not inspected and the remaining 3 offices were not found to be not inspected by the applicant .

A copy of the inquiry report is enclosed as Annexure A-3 .

4.4 That , the Resp.No-2 did not agree with the findings of the Inquiry officer in respect of charge under Article - I but agreed with the findings in respect of charge under Article-II and had drawn his own findings according to which the charge under Article-I was found proved and charge under Article-II was partially proved . So, on the basis of his

own findings the Disciplinary Authority (Resp.No. 2) passed his final order on 8.6.01 in which it was orderd that the pay of the applicant would be reduced by 6(Six) stages for a period of 3years wef. 1.6.01 with cumulative effect with further directions that the applicant should not earn increments of pay during reduction and after reduction it would have the effect of postponing his future increments of pay .

A copy of the final order dated 8.6.01 is enclosed as Annexure A-4.

4.5. That, after the appeal against the penalty being rejected by the appellate authority , the said impugned order of penalty dated 8.6.01 was set aside by this Hon'ble Tribunal vide order dated 07.8.2003 in OA. No . 59/2002 and the disciplinany authouity was directed to pass appropriate orders as per law on the basis of the findings in respect of Charge No.-II.

A Copy of the orders dated 7.8.2003 in OA. No. 59 of 2002 is enclosed as Annexure A -5.

4.6 That, the respondent No.2 did not pay heed to the orders of this Hon'ble Tribunal in spite of directions from the higher and appellate authority to comply with the Tribunal's order as a result of which the applicant had to approach this Hon'ble Tribunal again with a contempt petition vide CP.No, 15 of 2004 (of OA.No. 59 of 2002) .

A copy of C.P. orders of CAT , Guwahiti dated 20.7.04 is enclosed as Annexure A - 6.

4.7. That, after the filing of the Contempt Petition only ; the Resp.No.2.had risen and passed the revised order and imposed the penalty of reduction of pay by 3 stages for a period of 3 years w.e.f. 1.6.04 with cumulative effect with further direction that during the piriod of reduction the applicant would not earn increments of pay and after reduction it would have the effect of postponing his fature increments of pay vide his order dated 24.5.04.

A copy of the revised order of penalty dated 24.5.04 is enclosed as Annexure A-1 (Impugend order).

4.8. That , the applicant preferred an appeal on 22.6.04 to the appellate authority (Resp.No- 3) against the impugned order but no order has been passed by the Resp. No. 3 (appellate authority) though a period of 6(six) months has since expired , and, therefore, the applicant has approached this Hon'ble Tribunal for relief .

A copy of the appeal preferred on 22 . 6 . 04 is enclosed as Annexure A-7.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1. *The revised order of penalty is not an appropriate order and not as per law as directed by the Hon'ble Tribunal :-*

The Hon'ble Tribunal in their order dated 7.8.03 in O.A. NO.59 of 2002 directed and warned the respondents, after setting aside the original order, that the fresh order of penalty should be an "appropriate order" and "as per law". But the fresh or revised order passed by the disciplinary authority on 24.5.2004 is neither an "appropriate order" nor it is "as per law". Because the penalty imposed is not proportionate to misconduct as reported by the I.O. and it failed to afford legal protection against bias or discrimination. In other words, Article-14 of the Constitution of India which guarantees equality before law or equal protection of law has been offended. The charge under Article - II is that the applicant did not inspect 6 (six) post offices. Non-inspection of 6(six) offices collectively makes the single charge of Article-II which cannot be split to two parts with 3 offices for each.

The I.O. reported that 3 offices were found proved as not inspected and 3 offices were found not proved as not inspected. It, therefore, shows that 50% of the charge was proved and the rest 50% of the charge was not proved. Hence, if the Prosecution can claim that when 50% of the charge has been proved it can be held that the whole charge has been proved; the applicant i.e, the defence side also can equally and safely claim that when 50% of the charge has not been proved it can be equally and safely claimed that the charge has not been proved at all.

This equality before law or equal treatment of law falls within the purview of Article- 14 of the constitution of India. But the applicant has been discriminated against by splitting / bifurcating the Charge No-II into two parts or charges as one part with 3 offices was proved and the other part with remaining 3 offices was not proved and penalty has been imposed on the basis of the part proved which is violative of Article-16 of the constitution as the discretion of the disciplinary authority to split or bifurcate the charge is unguided and arbitrary. As such, the findings of the inquiry officer as well as of the disciplinary authority are erroneous, faulty and unsustainable and penalty imposed on such bifurcated and faulty findings has no legs to stand as it is not proper & not as per law.

Case law relied upon - AIR 1954 SC 545 .

5.2 *Vindictive attitude arising from Contempt Petition leading to personal bias worked behind the cruelty of the order:-*

The disciplinary authority was hit sharply when the applicant filed a contempt peti

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S. J. D.

tion vide CP. No. 15 of 2004 on 13.5.04 in the Hon'ble CAT as the disciplinary authority failed to comply with this CAT's order dated 7.8.03 in O.A. No. 54 of 2002 even within 9 months of the order. The disciplaary authorty did not pay heed to the repeated requests of the applicant and departmental directions from the appellate authority to implement the CAT's order prior to filing of the contempt petetion. The disciplinay authorty who was refractory , being repressed , rose in repulse for revenge and resorted to refractonary rage and passed the fresh order on 24.5.04 which is but a reflationaly and refitting one of the previous order . The fresh order was not passed by the disciplinary authouity with a fresh and fair mind but with a mental block which prompted and tempted the order . The order is , therefore, perverse , arbitrary and a product of vindictiveness and personal bias .

The applicant has , therefore , reasonable ground of suspcion that the disciplinary authourity was very much likly to have been biased against the applicant and this final order was the product of such personal bias .Justice goes out through the window when injustice comes in through the door. The Hon'ble Supreme Court viewed as follows :

" The real question is not whether he was biased . It is difficult to prove the state of mind of a person . Therefore , what we have to see is whether there is reasonable ground for believing that he was likely to have been biased . (AIR 1970 SC 155) .

The above decision was described by Bhagawati, J. as a land mark Judge-
ment in the developement of administrative law vide *ibid* at p. 150.

Kindly see also case No. AIR 1987 SC 454(468) about the importance of the
abov case.

A copy of the orders on the contimpt petition is enclosed as Annexure A-6 .

5.3 Opportunity was not given to make representation before passing the fresh final order :-

After the annulment of the first final order dtd. 8.6.01 by the Hon'ble CAT on 7.8.03 and directions to issue appropriate order again ; it was presumed , as if there was no order issued at all . For issuing fresh order the disciplinary authority , before acting under sub-rule (4) of Rule 15 of the CCS(CCA) Rules 1965 , was required to act first under sub-rule (2-A) of Rule 15 of the CCS(CCA) Ruls 1965 which provides that the Disciplinary authority shall consider the representation, if any, submitted by the govt. servant and record its findings before proceeding further in the matter as specified in sub-rules (3)&(4) *ibid* .

But the applicant was not given the opportunity to make representation against the findings of charge under Article - II . The opportunity which was given earlier before the passing of first final order dated 8 . 6 . 01 was in respect of Articles -I & II, which has lost its force along with the loss of force of the first final order . The appli-

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Bomol. J. J. J.

cant is entitled to a fresh spell of opportunity for making representation against the findings on Article-II under Sub-rule (2-A) ibid before a fresh final order is passed under sub-rule (4) of Rule 15 ibid . The fresh order of penally dated 24.5.04 is, therefore , illegal and bad in law .

5.4 A great error in charge-II was lost sight of during inquiry :-

The Charge-Sheet was served , inquiry was held , inquiry report was submitted, inquiry report was acted upon, representation submitted , final order was passed , appeal was preferred , CAT was moved and orders passed ; but a **great error** in charge under Article - II was lost sight of during inquiry for which it could not be pointed out during agitation before the Inquiry officer,Disciplinary authority , appellate authority , CAT. etc; but it is not outside the records produced during the inquiry . As sub-rule (4) of Rule 15 the CCS(CCA) Ruls 1965 asks the disciplinary authourity to base its findings only on the evidences adduced during the inquiry, hence the evidence can safely be reviewed and findings thereon drawn .

The error is that out of 6(Six) offices as mentioned in Article-II for 4 offices the applicant was doubly charged—— once in Article -I and again in Article - II . The four offices are used as follows :

Under Article -I

| <i>Sl.No. of Annexury-C to Article - I</i> | <i>Name of the offices</i> | <i>Charge levelled</i> |
|--|----------------------------|--|
| 26. | Kamang kakchig | |
| 34. | Shamshak | |
| 43. | Nungsong | |
| 48. | Pushing | Inspection reports were not submitted for the year 1997. |

Under Article - II

| <i>Sl.No of office in Article - II</i> | | |
|--|----------------|---|
| 3. | Kamang kakchig | |
| 4. | Shamshak | |
| 5. | Nungsong | |
| 6. | Pushing | Offices were not inspected for the year 1997. |

It is, therefore , evident that once in Article-I charge was leveled as inspection- Reports in respect those 4 offices were not submitted i,e. offices were inspected but inspection reports were not submitted and again in Article II it has been charged that

offices were not inspected and if it is so there cannot be claim for inspection reports in Article-I. As such, there is contradiction between charge I and charge II and as such the charge under Article-II is erroneous, faulty and unmaintainable.

The **great error** could not be pointed out during inquiry as it did not come to notice. Naturally, when a Govt. servant is involved in a charge-sheet he loses 50% of his power of reasoning and thinking and when he faces the inquiry and defends himself personally i.e. without Defence Asstt., he loses another 25% of the remaining 50% of his power of reasoning and thinking and with the remaining 25% of his power of reasoning and thinking it is not possible and expectable on the part of the charge-sheeted official to apply his mind fully to the facts and figures constituting the merits of the case.

This was actually a serious mistake in the charge which could turn the table had it been detected during inquiry and before completion of inquiry and submission of inquiry report. Hence, findings on Article-II as proved is erroneous and penalty based only on such findings is also erroneous. After all, charge under Article-II, findings on it and action on such findings is but a *comedy of errors* for which the applicant has had to suffer *much ado about nothing*.

5.5 Incompetency of the Disciplinary Authority :-

The penalty under Rule 11 (V) of the CCS(CCA) Rules, 1965 (Reduction to a lower stage in the time scale of pay with cumulative effect) was imposed by the Director of Postal Services, Nagaland, Kohima. As per P&T Board's letter No. 17/7/32, Vig. III dated 17.7.84 (Annexure A-8) (Page-84) the Director of Postal Services, Nagaland, Kohima is a Divisional Director of Postal Services whose disciplinary powers are limited to those of a head of a division viz. Sr. Supdt. of Post offices / Supdt. of post Offices. The powers of Head of a Division is limited to the Penalties of (i) to (iv) of Rule 11 of the CCS (CCA) Rules, 1965 which can be imposed on an Inspector of Post offices working in a Divisional office or Sub-Divisional office as per item 1/3 in page 9 of the Schedule of Appointing / Disciplinary / appellate authorities in respect of Group 'B' 'C' and 'D' employees of the Department of Posts published vide Govt. of India No. 12/6/89 Vig. III dtd. 27.8.1990 (Annexure A-10) (pp. 88-100) (99).

As per some appellate orders passed by the Chief Postmaster General / Postmaster General, Shillong in some other cases, it has been seen that the Director of Postal Services, Nagaland, Kohima, has been shown as the Divisional Head, addressed as the *Director of Postal Services, Nagaland Division, Kohima*, while endorsing a copy to him, of the appellate orders vide Annexures A-11, A-12 & A-13 (pp. 288, 293, 297).

The Director of Postal Services, Nagaland, Kohima, is, therefore, **not**

competent to impose the penalty of reduction to a lower stage in a time-scale of pay with cumulative effect (major penalty) under Rule 11(v) of the CCS(CCA)Rule,1965 on an *Inspector of Post offices* working in a Divisional office or in a Sub-Divisional office .

Dated

6. Details of remedies exhausted :-

The applicant declares that he has availed of all the remedies available to him under the relevant service rules etc. as follows;

An Appeal under rule 23 (ii) of the CCS(CCA) Rules ,1965 preferred to the Chief Postmaster General , N.E circle ,Shillong on 22-6-04; but *NO* orders passed by the appellate authority has so far been received by the applicant till date.

A copy of the appeal preferred on 22-6-04 is enclosed as Annexure A -7

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

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

8. Relief(s) sought :-

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

The order of penalty dated 24.5.2004 passed by the Disciplinary authority (Annexure A-5) be set aside terming it as violative of orders and directions contained in this Hon'ble CAT's order dtd. 7.8.03 in OA No. 59 of 2002 and violative of principles of natural justice and fairplay .

Grounds for relief(s) sought for :

As have been explained in paras 5-1 to 5.5.and as follows :

A) INTERFERENCE BY COURT IN EVIDENCES :

The Departmental proceedings are quasi Judicial. The courts of law will be fully justified in interfering where it is established that the penalty is based on no evidence .

- Union of India Vs H.C Goel .

(AIR 1964 SC 364).

(B) FAIRNESS IN ACTION :-

It is heartening to note that courts are making all concerted efforts to establish a law of society in India by requiring "fairness" in every aspect of the exercise of powers by the State. Such development which has revolutionized administrative law owes its genesis to the decisions of the Supreme Court.

AIR 1979 SC 1728

AIR 1981 SC 487

(C) Pervasiveness of the Concept of Rule of Law :-

The rule of law pervades over the entire field of administration and every organ of the State is regulated by the rule of law. The concept of this rule of law would lose its vitality if the instrumentalities of the State are not charged with the duty of discharging their function in a fair and just manner.

(1969) 2 SCC 262, 269.

9. Interim order, if any, prayed for :

Pending final decision on the application, the applicant seeks the following interim relief :-

The operation of the order of penalty dated 24.5.2004 may be suspended from the date of its operation.

10. In the event of the application being sent by Registered post :

It may be stated whether the applicant desires to have oral hearing at the admission stage and if so, he shall attach a self addressed Postcard or Inland letter at which intimation regarding the date of hearing could be sent to him.

Filed in person.

11. Particulars of Bank Draft/ Postal order filed in respect of application fee:

(i) No of I.P.O. :- 20 6 134622

(ii) Date of purchase:- 30/6/05

(iii) Office from which purchased:- Guwahati 640 0

(iv) Value of the I. P. O. :- Rs. 50/-

(v) Payable at :- Guwahati-5

(vi) Payable to :- Dy. Registrar, Central Administrative Tribunal, Guwahati-5

12. List of Enclosures :

(i) I.P.O. No. 206 134622 Dated 30/6/05 for Rs 50/-

(ii) Annexure A -1 to A-13

(iii) Service notice to Sr. C.G.S.C , C.A.T , Guwahati-5

(iv) Application to the Dy. Registrar , C.A.T. Guwahati for pleading permission

*Subhankar
Bhattacharya*

VERIFICATION

I, Sri S.B.Hazarika S/O (Lt) Khargeswar Hazarika age 55 formerly working as C.I. ,Divl. Office, Kohima , Nagaland now residing at Anandapara , P.O. Sabroom , Tripura, Pin-799145 do hereby verify that the contents of paras-----1 to -4,6&7 are true to my personal knowledge and para-----5 to-----6 believed to be true on legal advice and that I have not suppressed my material facts .

Date:- 01.7.2005

Place:- CAT, Guwahati


*Subhankar
Bhattacharya*
Signature of the applicant.

To ,

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

IMPUGNED ORDER

Annexure A

Page No 26

DEPARTMENT OF POSTS : INDIA

OFFICE OF THE DIRECTOR POSTAL SERVICES
NAGALAND : KOHIMA - 797 001

No. Rule 14/S.B.Hazarika

Dated at Kohima the 24.05.04

CAT, Guwahati Bench in its judgement dated 07.08.2003 in OA No. 59/2002 has directed the disciplinary authority for appropriate order in terms of sub-rule 4 of Rule 15 for imposition of appropriate penalty as per law. It has specifically set aside the findings of disciplinary authority on charge No. I dtd. 08.06.01 and also the orders of appellate order to the extent indicated above.

1. Vide office memo No. Diary/SDIPOs-Ukhrul/97 Dtd. 19.02.98 of DPS, Manipur Imphal, it was proposed to hold an inquiry under Rule 14 of the CCS (CCA) Rules 1965 against Shri S.B.Hazarika, the then SDIPOs, Ukhrul Dn., Ukhrul. A statement of article of Charges and a statement of imputation of misconduct and mis-behaviour in support of article of charges and a list of documents by which and a list of witness by whom the article of charges were proposed to be sustained were also enclosed with the said memo.

2. Shri S.B Hazarika was given an opportunity to submit within 10 days of the receipt of the memo a written statement of defence and to state whether he desires to be heard in person.

Statement of articles of charges framed against Shri S.B.Hazarika the then SDIPOs Ukhrul-Dn., Ukhrul, is follows

ARTICLE - I

Shri S.B Hazarika, while working as SDIPOs Ukhrul Sub-Dn, during the period from 29-01-96 (A/N) to 31-01-98, he had shown to have inspected as many as 54 (fifty four) Post Offices in the year 1996, but had not submitted a copy of the inspection remarks in respect of forty five Post Offices, to the Supdt. of Post Offices, Manipur-Dn. Imphal. By his above acts, the said Shri S.B Hazarika violated the provision of Rule-300 (2) of P & t Man. Vol VIII read with Dept. of Posts/New Delhi letter No. 17-3/92-Inspn. Dated 02-07-1992, and Rule-3 (1) (ii) of CCS (Conduct) Rules, 1964.

ARTICLE - II

Shri S.B Hazarika, while working as SDIPOs ukhrul Sub Dn., during the period from 29-01-96 to 31-01-98, he had shown to have inspected the following EDBOs in Ukhrul Sub-Dn, on the date noted against each.

Name of the EDBO

1. Chingjarai EDBO
2. Sirarakhang EDBO
3. Kamang Kakching EDBO
4. Shangshak EDBO

Date of inspn. shown by Shri S.B.Hazarika

25-02-1997
29-03-1997
19-05-1997
10-06-1997

ATTESTED

24/5/05
APP

IMPUGNED ORDER

Annexure A

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(2)

5. Nungshong EDBO
6. Pushing EDBO

15-07-1997
20-07-1997

But in fact, the said Shri S.B.Hazarika did not at all inspect the above mentioned EDBO either on the date noted against each or on any other date in the year 1997. Therefore, by his above acts, the said Shri S.B.Hazarika, violated the provisions of Rule 300 (1) of the P & T Man. Vol. VIII, Rule-3 (1) (i) of the CCS (Conduct) Rules, 1964 and Rule-3 (1) (iii) of the CCS (Conduct) Rules, 1964.

3. Shri Sunil Das, the then Supdt. of Post Offices, Agartala Division, was appointed as the inquiry officer to inquire into the charges framed against Shri S.B.Hazarika. After adducing both oral and documentary evidences, the inquiry officer submitted his enquiry report vide his letter No. SP-1/N9 dtd.27.09.2000.

4. The disciplinary authority, the then Director, Postal Services, Nagaland Dn., Shri E.P.Solo, after going carefully through the chargesheet, deposition of state witnesses, written briefs of the presenting officer (P.O) and the charged official (CO), the inquiry proceedings, report of the inquiry officer and the representation of the CO against the inquiry report, accepted the findings of inquiry officer in respect of the Article II of the charges but disagreed with the I.O in respect of I.Os findings on Article I of charges due to various reasons recorded in his punishment order dated 08.06.2001. CAT, Guwahati bench in it's judgement dtd.19.02.98 has specifically stated the Article -I is not proved and unsustainable in law and set aside the orders of disciplinary authority and appellate authority to that extent.

5. That leaves Article No.-II only for consideration. I.O in his inquiry report dated 29.09.2000 has concluded that charges framed under Article -II is partially proved to the extent that out of 6 GDSBO's (earlier known as EDBO) alleged not to have been inspected, non-inspection of three B.O's, namely Kaimang Kanching, Pushing and Shangshak B.O's could only be proved.

The I.O has based his findings of non-inspection of 3 out of 6 GDSBO's alleged not to have been inspected on categorical oral and written statement of Shri L.Ito Singh, GDSBPM, Kamang Kakching B.O., Shri. Yarngai, GDSBPM, Pushing B.O and Shri V.S. Varcise, GDSBPM, Shangshak B.O that their offices were not inspected till 25.09.97, 09.1097 and Sept. 97 respectively. C.O has pleaded that the deposition of the three GDSBPM's suffered from shortcomings of (a) The original letter stated to be written by them to the SPO's, Imphal were not shown to them at the time of deposition. (b) The evidence are not conclusive. The C.O further added that inspection of a B.O cannot be confirmed only on the basis of oral statement of a BPM who does not constitute the establishment. There are other staff and equally relevant material. The I.O did not agree with the averments of the C.Os as photocopies of the letters written by 3 GDSBPM's of Kamang Kakching B.O, Pushing B.O and Shangshak B.O were shown to them at the time of deposition made before the I.O. and they admitted that these documents were written by them and sent by them to SPO's concerned. The I.O has further stated in his inquiry report that these evidences can not be stated to be non-conclusive simply on the ground that no other staff of these offices were produced as witness. I.O further held that GDSBPM's being in-charge of the respective B.Os are mainly concerned with the inspection and without them their offices can not be inspected while other staff of the establishment may or may not be present. He further stated that unless the veracity of the deposition of a witness is in question, no collaborative evidence is necessary. The other alleged shortcomings pointed out by C.O has been discussed in detail by the I.O in his inquiry report dtd.27.09.2000 and most of these were found to be extraneous and not having a bearing on the case.

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IMPOSED ORDER - 2

Annexure A|...

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(3)

6. After carefully going through the various records relevant to the case like the chargesheet, deposition made by state witnesses, written briefs of the P.O and the C.O, the inquiry proceedings, report of the inquiry officer, representation of the C.O against the enquiry report, the punishment order passed by my predecessor dtd.08.06.01 and the CAT judgement dtd.07.08.2003 in OA No.59/2002, I am of considered view that 3 B.Os namely Kamang Kakching B.O, Pushing B.O, Shangshak B.O were not inspected by the C.O on the dates shown by the C.O as reflected in his fortnightly diaries. The fact of non-inspection of 3 GDSBO's could not be established as GDSBPM's of Changaraj B.O, Sirarakhang B.O, Nungshang B.O could not attend the hearing on account of one reason or another. The charges of non-inspection and showing them as inspected falsely is a serious omission. One of the prime duties and responsibilities of an I.P.O is to inspect the Post Offices allotted to him and submit the inspection reports in time. But, Shri Hazarika failed to carry out this major duties and responsibilities of an I.P.O, while working as SDI(P), Ukhru sub-division between 29.01.96 to 31.01.98. Further, he tried to mislead the divisional office, Imphal that these three (3) offices were already inspected on different dates as mentioned in the article of Charges II (Para - 2). Such type of irresponsible behaviour and conduct is not expected out from a responsible officials of the department like that of an I.P.O. After going through the case very carefully and considering all relevant fact, I am of considered view that the following punishment should be imposed on Shri S.B.Hazarika so that this acts as a deterrence for his future work behaviour and conduct. It is hoped that he will take the punishment in the right spirit and try to transform himself in to a responsible and dedicated official of this department.

ORDER

Therefore, I, Shri. Rakesh Kumar, 'Director of Postal Services', Nagaland Division, Kohima and the disciplinary authority hereby order that the pay of Shri. S.B.Hazarika, the then SDIPO's Ukhru Sub-Dn., now posted as C.I, divisional office, Kohima (U/S) be reduced by three stages from Rs.6650.00/- to Rs.6125.00/- in the time scale of pay of Rs.5500-175-9000/- for a period of three years w.e.f 01.06.2004 with cumulative effect. It is further directed that Shri. S.B.Hazarika, C.I divisional office, Kohima, presently under suspension will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will have the effect of postponing his future increments of pay.

Rakesh Kumar
(Rakesh Kumar)

Director Of Postal Services.
Nagaland : Kohima - 797001.

Copy to :-

- 1) The CPMG (Inv.), N.E Circle for information.
- 2) The Postmaster, Kohima H.O for information and necessary action.
- 3) The DA(P), Kolkata (Through the Postmaster, Kohima H.O)
- 4) The Director of Postal Services, Manipur, Imphal for information.
- 5) Shri. S.B.Hazarika, C.I, divisional Office, Kohima (Presently under suspension)
- 6) PF of the official.
- 7) CR of the official
- 8) Office Copy.

Shri. S.B. Hazarika

*Complaint Inspector (u/s), Nagaland Div.
c/o Shri. R. Basumatary
ASPO's, first sub-division
Manipur, Imphal.*

ATTESTED

21/6/05 JPP

REPARTMENT OF POSTS, INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES: MANIPUR: IMPHAL-795001.

1. Diary/SDIPOS-Ukhrul/97

Dated at Imphal the 19.2.98

M E M O R A N D U M

The undersigned proposes to hold a inquiry against Shri S.B. Hazarika, SDIPOS-Ukhrul Sub-Dn, Ukhrul . . . under Rule -14 of the Central Civil Services (Classification, Control and Appeal) Rules 1965. The substance of the imputation of misconduct and/or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure-I). A statement of the imputation of misconduct or misbehaviours in support of each article of charge is enclosed (Annexure -II). A list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

1. Shri S.B. Hazarika, SDIPOS-Ukhrul Sub-Dn, Ukhrul. is directed to submit within 10 days of the receipt of this memorandum as written statement of his defence and also to state whether he desires to be heard in person.

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

4. Shri S.B. Hazarika, SDIPOS-Ukhrul Sub-Dn, Ukhrul. is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiry authority or otherwise fails or refuses to comply with the provision of Rule -14 of the CCS(CCA) Rules, 1965 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him. EX-PARTE.

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

6. The receipt of the Memorandum may be acknowledged.

Copy to:-

1. Shri S.B. Hazarika
SDIPOS, Ukhrul Sub-Dn,
Ukhrul.
2. Via/Stt.

Name and designation of
competent authority.

(LALHLUNA)

Director Postal Services
Manipur Division, Imphal-795001.

ATTESTED

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AAB

ANNEXURE-I

Statement of article of charges framed against
Shri.S.B.Hazarika, SD IPO a/Ukhrul Sub-Dn., Ukhrul.

Article-I

Shri.S.B.Hazarika, while working as SD IPO a/Ukhrul Sub-Dn., during the period from 29/01/96 (A/N) to 31/01/96, he had shown to have inspected as many as 54(Fifty Four) Post Offices in the year 1996, but had not submitted a copy of the Inspection Remarks in respect of each of these 54(Fifty four) Post Offices, to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur Division, Imphal. Similarly, the said Shri.S.B.Hazarika, had shown to have inspected as many as 70(Seventy) Post Offices during the period from 01/01/97 to 31/12/97, but had not submitted a copy of the Inspection Remarks in respect of 45(Forty five) Post Offices, to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur Division, Imphal. By his above acts, the said Shri.S.B.Hazarika violated the provisions of Rule-388(2) of P&T Man. Vol. VIII read with Deptt. of Posts/New Delhi letter No. 17-3/92-Inspn. Dated 62/07/1992, and Rule-3(1)(ii) of CCS(Conduct)Rules, 1964.

Article-II

Shri. S.B.Hazarika, while working as SD IPO a/Ukhrul Sub-Dn., during the period from 29/01/96 to 31/01/96, he had shown to have inspected the following EO's in Ukhrul Sub-Dn., on the date noted against each.

| Name of the EO | Date of Inspn. shown by Shri. S.B.Hazarika |
|-----------------------|--|
| 1. Chingjarsi EO | 25-02-1997 |
| 2. Sirerakheng EO | 25-03-1997 |
| 3. Kamang Kakching EO | 19-05-1997 |
| 4. Shangshak EO | 18-06-1997 |
| 5. Nungsheng EO | 15-07-1997 |
| 6. Pushing EO | 28-07-1997 |

But, in fact, the said Shri.Hazarika, did not at all inspect the above mentioned EO's either on the date noted against each or on any other date in the year 1997. Therefore, by his above acts, the said Shri.S.B.Hazarika, violated the provisions of Rule-388(1) of P&T Man. Vol. VIII, Rule-3(1)(i) of CCS(Conduct)Rules, 1964 and Rule-3(1)(iii) of CCS(Conduct)Rules, 1964.

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(LALHLUNA)
Director Postal Services,
Manipur:Imphal:795001.

21/5/98
APP

ANNEXURE-II

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Statement of imputations of misconduct and/or misbehaviour in support of the articles of charges framed against Shri. S. B. Hazarika, SDPOs/Ukhrul Sub-Dn., Ukhrul.

Article-I

That as many as 66(Sixty six) EDOS and 1(One) S.O in Ukhrul Sub-Dn., were allotted to the charge of Sub-Divisional Inspector of Post Offices, Ukhrul Sub-Dn., Ukhrul for inspection during the year 1996 vide SDPOs/ Imphal letter No. Inspection/Tour Programme/1996 dt. 19/02/96 alongwith a copy of inspection programme for the year 1996. The said Shri. S. B. Hazarika, took over the charge of SDPOs/Ukhrul Sub-Dn on 29/01/96(A/N) and prior to taking over the charge of the Sub-Dn., by the said Shri. S. B. Hazarika, one Shri. Meba Maring P.A., Imphal H.O was officiating as SDPOs/Ukhrul Sub-Dn from 01/01/96 to 29/01/96(A/N). Of the 66(Sixty six) EDOS assigned to the SDPOs/Ukhrul Sub-Dn., for inspection during the year 1996, the said Shri. Meba Maring already inspected as many as 13(Thirteen) EDOS during the period from 01/01/96 to 29/01/96. Thus, as many as 53(Fifty three) EDOS and 1(One) S.O were remaining for inspection, by the said Shri. S. B. Hazarika, during the year 1996 at the time of taking over the charge of Ukhrul Sub-Dn by the said Shri. Hazarika on 29/01/96(A/N). The said Shri. S. B. Hazarika, in his fortnightly diaries and monthly summaries of the SDPOs/Ukhrul for the period from 29/01/96(A/N) to 31/12/96, had shown to have inspected all the 53(Fifty three) EDOS and 1(One) S.O which were remaining for inspection by the said Shri. S. B. Hazarika as on 29/01/96(A/N). The list of 53(Fifty three) EDOS and 1(One) S.O shown to have been inspected by the said Shri. Hazarika has been enclosed as "ANNEXURE-A".

Similarly, as many as 71(Seventy one) Post Offices ie. 69(Sixty nine) EDOS and 2(two) S.Os were assigned to the SDPOs/Ukhrul Sub-Dn., for inspection during the year 1997 vide SDPOs/Imphal letter No. Inspection/Tour Programme/ 1997 Dtd. 29.1.97 alongwith a copy of Inspection programme for the year 1997. Of the 69(Sixty nine) EDOS and 2(Two) S.Os in the Ukhrul Sub-Dn., which were assigned for inspection by the said Shri. S. B. Hazarika as SDPOs/Ukhrul Sub-Dn., he had shown to have inspected all the 69(Sixty nine) EDOS and 1(One) S.O on different date/dates during the period from 01/01/97 to 31/12/97, in his fortnightly diaries and monthly summaries of the SDPOs/Ukhrul submitted by the said Shri. Hazarika, for the aforementioned period from time to time. The list of 69(Sixty nine) EDOS and 1(One) S.O which were shown to have been inspected by the said Shri. S. B. Hazarika during the year 1997 has been enclosed as "ANNEXURE-B".

That, as per Rule-38(2) of P&T Man. Vol. VIII, the said Shri. S. B. Hazarika, SDPOs/Ukhrul had to submit the copy of Inspection Remarks, in respect of the each of the EDOS and S.O inspected by him, to the Supdt. of Post Offices, Manipur Division, Imphal, and in accordance with Dept. of Posts/New Delhi Letter No. 17-342-Insprn. Dtd. 22/07/92 the time limit for

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 submission/issuance of Inspection Remarks/Inspection Reports in respect of EOBO and S.O are 10(Ten) days and 15(Fifteen) days from the date of inspection respectively. But, the said Shri.S.B.Hazarika, had not, at all, submitted the copy of Inspection remarks in respect of 53(Fifty three) EOBOs and 1(One) S.O, which were shown to have been inspected by him in 1996, as per ANNEXURE-A, to the Supdt.of Post Offices, Manipur Division, Imphal either within the prescribed time limit as specified above, or on any subsequent date. Similarly, the said Shri.S.B.Hazarika, had not, at all submitted the copy of Inspection remarks in respect of 44 (forty four) EOBOs and 1(One) S.O, which were shown to have been inspected by the said Shri.Hazarika on different date/dates during the year 1997. The list of 44 (forty four) EOBOs and 1(One) S.O, which were shown to have been inspected by the said Shri.Hazarika but in the year 1997, but he did not submit I.Rs has been enclosed as ANNEXURE-C.

Therefore, it is imputed that the said Shri.S.B.Hazarika, by his above acts, violated the provisions of Rule-388(2) of P&T Man.Vol.VIII and orders contained in Deptt.of Posts/New Delhi letter No.17-3/92-Inspn. Dated.22/07/1992, and also failed to maintain absolute devotion to his duties in violation of Rule-3(1)(ii) of CCS(Conduct)Rules, 1964.

Article-II

The following EOBOs in Ukhrul Sub-Dn, which were assigned to the SDIPOs/Ukhrul Sub-Dn., for annual inspection for the year 1997 vide SSPOs/Imphal letter No.Inspection/Tour Programme/1997 Dtd.29.01.97, were shown to have been inspected by the said Shri.S.B.Hazarika as SDIPOs/Ukhrul, on the date noted against each.

| Name of the EOBO | Date of Insn. |
|-------------------------|---------------|
| 1. Chingjai EOBO | 25-02-1997 |
| 2. Sirakhong EOBO | 29-03-1997 |
| 3. Kamang Kakching EOBO | 19-05-1997 |
| 4. Shangshak EOBO | 18-06-1997 |
| 5. Nungsheng EOBO | 15-07-1997 |
| 6. Pushing EOBO | 20-07-1997 |

The said Shri.S.B.Hazarika was working as SDIPOs/Ukhrul during the period from 29/01/96(A/N) to 31/01/98 and, he had shown to have inspected the above post offices as mentioned above in his fortnightly diaries pertaining to that period and also in the monthly summaries of SDIPOs/Ukhrul Sub-Dn., Ukhrul, submitted by the said Shri.Hazarika, for the respective months on which these offices had been shown to have been inspected. But, the EOBOs of the above EOBOs have intimated, to the Director Postal Services, Manipur, Imphal, in writing that the said Shri.S.B.Hazarika, SDIPOs/Ukhrul did not inspect the respective EOBOs in the year 1997 till the time of submission of respective intimations by each of the EOBOs in the months of Sept'97/Oct'97/Nov'97.

Therefore, it is imputed that the said Shri.S.B.Hazarika, did not at all inspect the aforementioned EOBOs on the dates noted against each and thereby violated the provisions of Rule-388(1) of P&T Man.Vol.VIII. In addition

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ANNEXURE-B

List of 69(Sixty nine) EDBOs and 1(One)S.O which were shown to have been inspected by Shri.S.B.Hazarika, SDIPOS Ukhrul during the year 1997

| Sl. No. | Name of the EDBO | Date of Inspection shown |
|---------|-------------------|--------------------------|
| 1. | Leikoiching | 03.02.97 |
| 2. | Maku | 05.02.97 |
| 3. | Lamlai | 04.03.97 |
| 4. | Yourbung | 11.01.97 |
| 5. | Takhel | 21.01.97 |
| 6. | Nongada | 10.01.97 |
| 7. | Chingjaro | 25.02.97 |
| 8. | Shiroi | 18.02.97 |
| 9. | Semol | 24.01.97 |
| 10. | Loute Tangkhul | 05.03.97 |
| 11. | Sirarakhong | 29.03.97 |
| 12. | Sawombung | 06.03.97 |
| 13. | Chadong | 13.03.97 |
| 14. | Mungung | 29.04.97 |
| 15. | Litan | 03.04.97 |
| 16. | Tongou | 18.03.97 |
| 17. | Sanakeithel | 22.04.97 |
| 18. | Ngaimu | 28.04.97 |
| 19. | Phadang | 26.04.97 |
| 20. | Sijang Mongjang | 24.04.97 |
| 21. | Huidrom village | 03.05.97 |
| 22. | Ningthemchakhl | 05.05.97 |
| 23. | Taretkhul | 08.05.97 |
| 24. | Chingmang | 12.05.97 |
| 25. | Kh.Makhong | 14.05.97 |
| 26. | Kameng Kakching | 19.05.97 |
| 27. | Yaingangpokpi | 20.05.97 |
| 28. | Thawai | 21.05.97 |
| 29. | Nongdam Tangkhul | 23.05.97 |
| 30. | Tuinem | 05.06.97 |
| 31. | Grihang | 29.05.97/03.09.97 |
| 32. | Aishi | 09.06.97 |
| 33. | Lambui | 11.06.97 |
| 34. | Shangshak | 10.06.97 |
| 35. | Huimi | 14.06.97 |
| 36. | Khongdei Simphung | 17.06.97 |
| 37. | Phaknung | 21.06.97 |
| 38. | Paoyei | 25.07.97 |
| 39. | Nungpi Khunou | 28.06.97 |
| 40. | Chamu | 05.07.97 |
| 41. | Maokot | 09.07.97 |
| 42. | Huining | 11.07.97 |
| 43. | Nungshong | 15.07.97 |
| 44. | Kongpat Khunou | 17.07.97 |
| 45. | Phungyar | 21.07.97 |
| 46. | Lungphu | 23.07.97 |
| 47. | Lamlong Gate | 30.07.97 |
| 48. | Pushing | 28.07.97 |
| 49. | Khamasom | 06.08.97 |
| 50. | Chassad | 02.08.97 |
| 51. | Moirang Purel | 29.08.97 |
| 52. | Choither | 11.08.97 |
| 53. | Khayang | 14.08.97 |
| 54. | Mapum | 11.09.97 |
| 55. | Leisen | 23.08.97 |
| 56. | Thiwa | 19.09.97 |
| 57. | Kachai | 18.09.97 |
| 58. | Ngari Khullen | 28.06.97 |
| 59. | Paorei | 27.09.97 |
| 60. | Tushem | 03.10.97 |

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ANNEXURE-B / Page-2

| (1) | (2) | (3) |
|-----|--------------|----------|
| 61. | Phungcham | 21.10.97 |
| 62. | Chehyang | 25.10.97 |
| 63. | Jessami | 05.11.97 |
| 64. | Kongai | 06.11.97 |
| 65. | Tolloi | 10.11.97 |
| 66. | Kharasom | 19.11.97 |
| 67. | Soraphung | 17.11.97 |
| 68. | T.C.Compound | 21.11.97 |
| 69. | Chingai | 25.11.97 |

NAME OF THE S.O

1. Somdal S.O 18.12.97/19.12.97

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ASB

ANNEXURE-C

List of 44 (Forty four) EDBOs and 1 (One) S.O which were shown to have been inspected by Shri. S.B. Hazarika, SDIPOS/Ukhrul during the year 1997, but he did not submit I.Rs to the Supdt. of Post Offices, Manipur Dn, Imphal

| Sl. No. | Name of the EDBO | Date on which the office was shown to have been inspected by Shri. S.B. Hazarika, SDIPOS, Ukhrul |
|---------|----------------------|--|
| 1. | Leikoiching | 03.02.97 |
| 2. | Yourbung | 11.01.97 |
| 3. | Ncngada | 10.01.97 |
| 4. | Chingjaroi | 25.02.97 |
| 5. | Shiroi | 18.02.97 |
| 6. | Semol | 24.01.97 |
| 7. | Loute Tangkhul | 05.03.97 |
| 8. | Sirarakhong | 29.03.97 |
| 9. | Sawombung | 06.03.97 |
| 10. | Chadong | 13.03.97 |
| 11. | Hundung | 29.04.97 |
| 12. | Litan | 03.04.97 |
| 13. | Tongou | 18.03.97 |
| 14. | Sanakeithel | 22.04.97 |
| 15. | Ngaimu | 28.04.97 |
| 16. | Phadeng | 26.04.97 |
| 17. | Sijang Mongjang | 24.04.97 |
| 18. | Huidrom village | 03.05.97 |
| 19. | Ningthemchakhul | 05.05.97 |
| 20. | Chingmang | 12.05.97 |
| 21. | Yaingangpokpi | 20.5.97 |
| 22. | Thawai | 21.05.97 |
| 23. | Nongdam Thangkhul | 23.05.97 |
| 24. | Tuinem | 05.06.97 |
| 25. | Lambui | 11.06.97 |
| 26. | Shangshak | XXXXXX 10.06.97 |
| 27. | Huimi | 14.06.97 |
| 28. | XXXXXXXXXXXXXX Chamu | XXXXXXXX 05.07.97 |
| 29. | Phaknung | 21.06.97 |
| 30. | Paoyei | 25.07.97 |
| 31. | Nungpi Khunou | 28.06.97 |
| 32. | Maokot | 09.07.97 |
| 33. | Nungshong | 15.07.97 |
| 34. | Kangpat Khunou | 17.07.97 |
| 35. | Phungyar | 21.07.97 |
| 36. | Lungphu | 23.07.97 |
| 37. | Lamlong Gate | 30.07.97 |
| 38. | Khamasom | 06.08.97 |
| 39. | Chassad | XX 02.08.97 |
| 40. | Khayang | 14.08.97 |
| 41. | Leisen | 23.08.97 |
| 42. | Thiwa | 19.09.97 |
| 43. | Kachai | 18.09.97 |
| 44. | T.C. Compound | 21.11.97 |

NAME OF THE S.O

1. Somdal S.O 18.12.97/19.12.97.

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ANNEXURE-IV

List of witnesses by which the articles of charges framed against Shri.S.B.Hazarika, SDIPS/ Ukhru Sub-Div., Ukhru are proposed to be sustained.

- 1. Shri.L.Pamching, EOPM, Chingjarei ED 80
- 2. Shri.L.Its Singh, EOPM, Kamang Kakching ED 80
- 3. Shri.V.S.Veraiwa, EOPM, Shangshak ED 80
- 4. Shri.S.Yarngai, EOPM, Pushing ED 80
- X 5. Shri.R.Tuingayung, EOPM, Sirarekhong ED 80
- X 6. Shri.AS.Andersen, EOPM, Nungsheng ED 80
- 7. Shri.B.Dwijamani Singh,
B.M(IR/VR), Divisional
Office, Imphal.

(LACHLUNA)
Director Postal Services,
Manipur:Imphal:79581.

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30
DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND : KOHIMA - 797001

No. Rule 14/ S.B.Hazarika

Dated Kohima the 12-10-2000

To,

Shri. S.B.Hazarika
C.I Divisional Office Kohima (u/s)
At Anandpara P.o:- Sabroom
Tripura (S)

I am directed to forward herewith a copy of the report submitted by the Inquiry Officer. The Disciplinary Authority will take suitable decision, after considering the report. If you wish to make any representation or submission, you may do so in writing to the Disciplinary authority within 15 days of the receipt of this letter.

(K.R.Das)

Supdt. of Posts Office (HQ)
For the Director of Postal Services
Nagaland : Kohima- 797001

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INQUIRY REPORT

In the Case Against
 Sri S.B.Hazarika,
 Complaint Inspector,
 o/o the D.P.S., Kohima

Under Sub-Rule (2) of Rule-14 of CCS(CCA) Rules, 1965, I was appointed by the Director Postal Services, Manipur State, Imphal as the Inquiry Authority to inquire into the charges framed against Sri S.B.Hazarika, the then SDIPOs, Ukhrul Sub Division, Ukhrul in Manipur Division, now Complaint Inspector, o/o the D.P.S., Kohima vide his memo no. Diary/SDIPOs-Ukhrul/97 dt. 8.5.98. I have since completed the inquiry and on the basis of the documentary and oral evidences adduced before me prepared my inquiry report as under.

2. Presenting Officer :

Sri N.C.Haldar, Dy. Supdt. of POs, o/o the DPS, Imphal was appointed as Presenting Officer except the date 10.05.2000 on which the said Sri N.C.Haldar was summoned to depose as defence witness and Sri Narayan Das, ASPOs, Agartala South Sub Division was appointed as adhoc Presenting Officer for the period of deposition scheduled to be made.

3. Participation by the Charged Officer in the Inquiry and defence Assistant available to him
 The C.O. did not participate in the inquiry till completion of the stage of presentation of prosecution's documents and witnesses. He, however, availed the opportunities of producing of defence evidences. He did not nominate any defence assistant to help him in producing the case on behalf of him; although he was apprised of the facilities available to him.4. Date of hearing of the case :

The case was heard on 25.8.98, 22.9.98, 27.1.99, 15.9.99, 16.9.99, 17.9.99, 18.9.99, 21.10.99, 22.10.99, 10.5.2000 & 14.6.2000.

5. 1. Documents Exhibited :

The following particularized documents were exhibited in the inquiry. Of them, the documents that particularized at Sl. No. 1 to 72 were produced on behalf of the Disciplinary Authority while that mentioned at Sl. No. 73 to 77 were produced on behalf of the defence. They were brought on records duly marking as indicated against each.

| Sl. No. | Particulars of the documents | Exhibit Nos. |
|---------|--|---------------------|
| 1. | SPOs, Imphal letter no. Inspection/Tour Programme/1996 dtd.19.02.1996 along with a copy of inspection programme for the year 1996 (of SDIPOs, Ukhrul Sub Division) | Ex.S - 1(a) to 1(c) |

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| Sl. No. | Particulars of the documents | Exhibit Nos. |
|---------|---|----------------------|
| 2. | SPOs, Imphal letter no. Inspection/Tour Programme/1997 dtd.29.01.1997 along with a copy of inspection programme for the year 1997 (of SDIPOs, Ukral Sub Division) | Ex.S 2(a) to 2(d) |
| 3. | Fortnightly Diary of SDI(P), Ukral. For the 1 st fortnight of Feb '96 No. A-1/Diary/SDI-UKL/95-96 Dtd.16.2.96 | Ex.S 3(a) to 3(b) |
| 4. | Fortnightly Diary of SDI(P), Ukral. For the 2 nd fortnight of Feb '96 No. A-1/Diary/SDI-UKL/95-96 Dtd.1-16.3.96 | Ex.S 4(a) & 4(b) |
| 5. | Fortnightly Diary of SDI(P), Ukral. For the 2 nd fortnight of Feb '96 No. A-1/Diary/SDI-UKL Dtd.1.3.96 | Ex.S 5(a) & 5(b) |
| 6. | Fortnightly Diary of SDI(P), Ukral. For the 1 st fortnight of Mar '96 No. A-1/Diary/SDI-UKL/96 Dtd.16.3.96 | Ex.S 6(a) & 6(b) |
| 7. | Fortnightly Diary of SDI(P), Ukral. For the 2 nd fortnight of Mar '96 No. A-1/Diary/SDI-UKL/96 Dtd.1.4.96 | Ex.S 7(a) & 7(b) |
| 8. | Fortnightly Diary of SDI(P), Ukral. For the 1 st fortnight of Apr '96 No. A-1/Diary/SDI-UKL/96 Dtd.17.4.96 | Ex.S 8 |
| 9. | Fortnightly Diary of SDI(P), Ukral. For the 2 nd fortnight of Apr '96 No. NIL Dtd. NIL | Ex.S 9 |
| 10. | Fortnightly Diary of SDI(P), Ukral. For the 1 st fortnight of May '96 No. A-1/Diary/SDI-UKL Dtd.17.5.96 | Ex.S 10 |
| 11. | Fortnightly Diary of SDI(P), Ukral. For the 2 nd fortnight of May '96 No. A-1/Diary/SDI-UKL Dtd.3.6.96 | Ex.S 11(a) & 11(b) |
| 12. | Fortnightly Diary of SDI(P), Ukral. For the 1 st fortnight of June '96 No. A-1/Diary/SDI-UKL/96 Dtd.17.6.96 | Ex.S 12(a) & 12(b) |
| 13. | Fortnightly Diary of SDI(P), Ukral. For the 2 nd fortnight of June '96 No. A-1/Diary/SDI-UKL/96 Dtd.1.7.96 | Ex.S 13(a) & 13(b) |
| 14. | Fortnightly Diary of SDI(P), Ukral. For the 1 st fortnight of July '96 No. A-1/Diary/SDI-UKL Dtd.16.7.96 | Ex.S 14 |
| 15. | Fortnightly Diary of SDI(P), Ukral. For the 2 nd fortnight of July '96 No. A-1/Diary/SDI-UKL Dtd.1.8.96 | Ex.S - 15 |
| 16. | Fortnightly Diary of SDI(P), Ukral. For the 1 st fortnight of Aug '96 No. A-1/Diary/SDI-UKL Dtd.19.8.96 | Ex.S - 16 |
| 17. | Fortnightly Diary of SDI(P), Ukral. For the 2 nd fortnight of Aug '96 No. A-1/Diary/SDI-UKL Dtd.2.9.96 | Ex.S - 17(a) & 17(b) |
| 18. | Fortnightly Diary of SDI(P), Ukral. For the 1 st fortnight of Sept '96 No. A-1/Diary/SDI-UKL/96 Dtd.16.9.96 | Ex.S - 18(a) & 18(b) |
| 19. | Fortnightly Diary of SDI(P), Ukral. For the 2 nd fortnight of Sept '96 No. A-1/Diary/SDI-UKL/96 Dtd.1.10.96 | Ex.S - 19(a) & 19(b) |
| 20. | Fortnightly Diary of SDI(P), Ukral. For the 2 nd fortnight of Oct '96 No. A-1/Diary/SDI-UKL Dtd.1.11.96 | Ex.S - 20(a) & 20(b) |
| 21. | Fortnightly Diary of SDI(P), Ukral. For the 1 st fortnight of Nov '96 No. A-1/Diary/SDI-UKL Dtd.16.11.96 | Ex.S - 21(a) & 21(b) |
| 22. | Fortnightly Diary of SDI(P), Ukral. For the 2 nd fortnight of Nov '96 No. A-1/Diary/SDI-UKL Dtd.2.12.96 | Ex.S - 22(a) & 22(b) |

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| Sl. No. | Particulars of the documents | Exhibit Nos. |
|---------|---|----------------------|
| 23. | Fortnightly Diary of SDI(P), Ukrul. For the 1 st fortnight of Dec 96 No.A-1/Diary/SDI-UKL Dtd.16.12.96 | Ex.S - 23(a) & 23(b) |
| 24. | Fortnightly Diary of SDI(P), Ukrul. For the 2 nd fortnight of Dec 96 No.A-1/Diary/SDI-UKL Dtd.1.1.97 | Ex.S - 24 |
| 25. | Fortnightly Diary of SDI(P), Ukrul. For the 1 st fortnight of Jan 97 No.A-1/Diary/SDI-UKL Dtd.16.1.97 | Ex.S - 25(a) & 25(b) |
| 26. | Fortnightly Diary of SDI(P), Ukrul. For the 2 nd fortnight of Jan 97 No.A-1/Diary/SDI-UKL Dtd.1.2.97 | Ex.S - 26(a) & 26(b) |
| 27. | Fortnightly Diary of SDI(P), Ukrul. For the 1 st fortnight of Feb 97 No.A-1/Diary/SDI-UKL Dtd.16.2.97 | Ex.S - 27(a) & 27(b) |
| 28. | Fortnightly Diary of SDI(P), Ukrul. For the 2 nd fortnight of Feb 97 No.A-1/Diary/SDI-UKL Dtd.1.3.97 | Ex.S - 28(a) & 28(b) |
| 29. | Fortnightly Diary of SDI(P), Ukrul. For the 1 st fortnight of Mar 97 No.A-1/Diary/SDI-UKL Dtd.16.3.97 | Ex.S - 27(a) & 27(b) |
| 30. | Fortnightly Diary of SDI(P), Ukrul. For the 2 nd fortnight of Mar 97 No.A-1/Diary/SDI-UKL Dtd.1.4.97 | Ex.S - 30 |
| 31. | Fortnightly Diary of SDI(P), Ukrul. For the 1 st fortnight of Apr 97 No.A-1/Diary/SDI-UKL Dtd.21.4.97 | Ex.S - 31 |
| 32. | Fortnightly Diary of SDI(P), Ukrul. For the 2 nd fortnight of Apr 97 No. NIL Dtd. NIL | Ex.S - 32(a) & 32(b) |
| 33. | Fortnightly Diary of SDI(P), Ukrul. For the 1 st fortnight of May 97 No.A-1/Diary/SDI-UKL Dtd.16.5.97 | Ex.S - 33(a) & 33(b) |
| 34. | Fortnightly Diary of SDI(P), Ukrul. For the 2 nd fortnight of May 97 No.A-1/Diary/SDI-UKL Dtd.2.6.97 | Ex.S - 34(a) & 34(b) |
| 35. | Fortnightly Diary of SDI(P), Ukrul. For the 1 st fortnight of June 97 No.A-1/Diary/SDI-UKL Dtd.16.6.97 | Ex.S - 35(a) & 35(b) |
| 36. | Fortnightly Diary of SDI(P), Ukrul. For the 2 nd fortnight of June 97 No.A-1/Diary/SDI-UKL Dtd.1.7.97 | Ex.S - 36(a) & 36(b) |
| 37. | Fortnightly Diary of SDI(P), Ukrul. For the 1 st fortnight of July 97 No.A-1/Diary/SDI-UKL Dtd.16.7.97 | Ex.S - 37(a) & 37(b) |
| 38. | Fortnightly Diary of SDI(P), Ukrul. For the 2 nd fortnight of July 97 No.A-1/Diary/SDI-UKL Dtd.1.8.97 | Ex.S - 38(a) & 38(b) |
| 39. | Fortnightly Diary of SDI(P), Ukrul. For the 1 st fortnight of Aug 97 No.A-1/Diary/SDI-UKL Dtd.16.8.97 | Ex.S - 39(a) & 39(b) |
| 40. | Fortnightly Diary of SDI(P), Ukrul. For the 2 nd fortnight of Aug 97 No.A-1/Diary/SDI-UKL Dtd.1.9.97 | Ex.S - 40(a) & 40(b) |
| 41. | Fortnightly Diary of SDI(P), Ukrul. For the 1 st fortnight of Sept 97 No.A-1/Diary/SDI-UKL Dtd.16.9.97 | Ex.S - 41(a) & 41(b) |
| 42. | Fortnightly Diary of SDI(P), Ukrul. For the 2 nd fortnight of Sept 97 No.A-1/Diary/SDI-UKL Dtd.1.10.97 | Ex.S - 42(a) & 42(b) |
| 43. | Fortnightly Diary of SDI(P), Ukrul. For the 1 st fortnight of Oct 97 No.A-1/Diary/SDI-UKL Dtd.16.10.97 | Ex.S - 43 |
| 44. | Fortnightly Diary of SDI(P), Ukrul. For the 2 nd fortnight of Oct 97 No.A-1/Diary/SDI-UKL Dtd.1.11.97 | Ex.S - 44(a) & 44(b) |

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| Sl. No. | Particulars of the documents | Exhibit Nos. |
|---------|--|----------------------|
| 45. | Fortnightly Diary of SDI(P), Ukrul. For the 1 st fortnight of Nov 97 No. A-1/Diary/SDI-UKL Dtd.16.11.97 | Ex.S - 45(a) & 45(b) |
| 46. | Fortnightly Diary of SDI(P), Ukrul. For the 2 nd fortnight of Nov 97 No. A-1/Diary/SDI-UKL Dtd.1.12.97 | Ex.S - 46(a) & 46(b) |
| 47. | Fortnightly Diary of SDI(P), Ukrul. For the 1 st fortnight of Dec 97 No. A-1/Diary/SDI-UKL Dtd.16.12.97 | Ex.S - 47(a) & 47(b) |
| 48. | Fortnightly Diary of SDI(P), Ukrul. For the 2 nd fortnight of Dec 97 No. A-1/Diary/SDI-UKL Dtd.1.1.98 | Ex.S - 48(a) & 48(b) |
| 49. | Monthly Summary of SDI(P), Ukrul. For the month of July 96 No. A-1/Summary/SDI-UKL Dtd.1.8.96 | Ex.S - 49 |
| 50. | Monthly Summary of SDI(P), Ukrul. For the month of Aug 96 No. A-1/Summary/SDI-UKL Dtd.2.9.96 | Ex.S - 50 |
| 51. | Monthly Summary of SDI(P), Ukrul. For the month of Sept 96 No. A-1/Summary/SDI-UKL Dtd.1.10.96 | Ex.S - 51 |
| 52. | Monthly Summary of SDI(P), Ukrul. For the month of Oct 96 No. A-1/Inspn/Summary/SDI-UKL Dtd.2.9.96 | Ex.S - 52 |
| 53. | Monthly Summary of SDI(P), Ukrul. For the month of Nov 96 No. A-1/Inspn/Summary/SDI-UKL Dtd.2.12.96 | Ex.S - 53 |
| 54. | Monthly Summary of SDI(P), Ukrul. For the month of Dec 96 No. A-1/Summary/96/Inspn Dtd.31.12.96 | Ex.S - 54 |
| 55. | Monthly Summary of SDI(P), Ukrul. For the month of Jan 97 No. A-1/Summary/Inspn/SDI-UKL Dtd.3.2.97 | Ex.S - 55 |
| 56. | Monthly Summary of SDI(P), Ukrul. For the month of Feb 97 No. A-1/Summary/Inspn/SDI-UKL Dtd.3.3.97 | Ex.S - 56 |
| 57. | Monthly Summary of SDI(P), Ukrul. For the month of March 97 No. A-1/Summary/Inspn/SDI-UKL Dtd.1.4.97 | Ex.S - 57 |
| 58. | Monthly Summary of SDI(P), Ukrul. For the month of Apr 97 No. A-1/Summary/Inspn/SDI-UKL Dtd.1.5.97 | Ex.S - 58 |
| 59. | Monthly Summary of SDI(P), Ukrul. For the month of May 97 No. A-1/Summary/Inspn/SDI-UKL Dtd.2.6.97 | Ex.S - 59 |
| 60. | Monthly Summary of SDI(P), Ukrul. For the month of June 97 No. A-1/Summary/Inspn/SDI-UKL Dtd.1.7.97 | Ex.S - 60 |
| 61. | Monthly Summary of SDI(P), Ukrul. For the month of July 97 No. A-1/Summary/Inspn/SDI-UKL Dtd.1.8.97 | Ex.S - 61 |
| 62. | Monthly Summary of SDI(P), Ukrul. For the month of Aug 97 No. A-1/Summary/Inspn/SDI-UKL Dtd.1.9.97 | Ex.S - 62 |
| 63. | Monthly Summary of SDI(P), Ukrul. For the month of Sept 97 No. A-1/Summary/Inspn/SDI-UKL Dtd.1.10.97 | Ex.S - 63 |
| 64. | Monthly Summary of SDI(P), Ukrul. For the month of Oct 97 No. A-1/Summary/Inspn/SDI-UKL Dtd.1.11.97 | Ex.S - 64 |
| 65. | Monthly Summary of SDI(P), Ukrul. For the month of Nov 97 No. A-1/Summary/Inspn/SDI-UKL Dtd.1.12.97 | Ex.S - 65 |
| 66. | Monthly Summary of SDI(P), Ukrul. For the month of Dec 97 No. A-1/Summary/Inspn/SDI-UKL Dtd.1.1.97 | Ex.S - 66 |

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| Sl. No. | Particulars of the documents | Exhibit Nos. |
|---------|--|--------------|
| 67. | Photocopy of statement of Sri L. Panching, BPM, Chingjaroi EDBO letter dtd. 1.10.97 addressed to SPOs, Imphal. | Ex.S - 67 |
| 68. | Photocopy of statement of Sri L. Ito Singh, BPM, Kameng Kakching EDBO letter dtd. 25.9.97 addressed to SPOs, Imphal. | Ex.S - 68 |
| 69. | Photocopy of statement of Sri V.S. Vareiso, EDBPM, Shangshak EDBO letter dtd. 29.9.97 addressed to SPOs, Imphal. | Ex.S - 69 |
| 70. | Photocopy of statement of Sri Yarnrai, EDBPM, Pushing EDBO letter dated. 09.10.1997 addressed to SPOs, Imphal. | Ex.S - 70 |
| 71. | Photocopy of statement of Sri R. Tuingayang, BPM, Sirarakhong EDBO letter dtd. 9.10.97 addressed to SPOs, Imphal. | Ex.S - 71 |
| 72. | Photocopy of statement of Sri A.S. Anderson, BPM, Nungshong EDBO addressed to D.P.S. Imphal received at Divisional Office on 4.11.97 | Ex.S - 72 |
| 73. | Photocopy of Dte. circular No. 28-162/62 P.E.-1 dtd. 5.8.65 fdd. | Exd - 1 |
| 74. | No. Rule 14/S.B. Hazarika, dtd. 11.02.2000 issued by D.P.S., Kohima — In original. | Exd - 2 |
| 75. | Letter No. Diary/SDIPOs, Ukhru/97 dtd. 4.3.98 issued from office of the DPS, Imphal. | Exd - 3 |
| 76. | Letter No. Diary/SDIPOs-Ukhru/97 dtd. 16.3.98 issued from DPS, Imphal. | Exd - 4 |
| 77. | Memo No. Diary/SDIPOs-Ukhru/92 dtd. 25.9.92 issued by D.P.S., Imphal. | Exd - 5 |

5.2. Documents not exhibited :

The charged officer (here under known as C.O.) prayed for production of monthly tour T.A. Adv file for the period from July 97 to March 98 of SDIPOs, Ukhru Sub Division, maintained by the o/o the D.P.S., Imphal. In support of his claim the C.O. stated that the file would enlighten the material fact as to the submission / non-submission of IRs in question as the office used to release / sanction T.A. advance only on submission of IRs. I find that the file might enlighten / reflect material fact related to the matter under inquiry and placed requisition for the same before the DPS, Imphal vide my letter no. INQ-1/SBH/98-Vol-I dt. 26.10.99 followed by reminder 12.1.00, 23.2.00 & 20.4.00. The custodian of the document had neither claimed privilege of the document nor forwarded the document. Nor made any communication showing the reason of non making of the availability of the requisitioned documents.

6.1. The prosecution had desired to examine the following particularised witnesses; among them the witness at Sl. No. 2, 4, 5 & 6 were examined on the date shown against each and their deposition were brought into records as 'Marked' at the last column. The rest

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witnesses did not turn up despite issuance of repeated summons. Neither they had communicate the reasons of their inability to attend, nor the P.O. could explain the reasons of their non-attendance. It is the duty of the party to ensure attendance of their witness on the appointed date, time and place.

| Sl. No. | Name and Particulars of witness | Date of deposition | Deposition marked as |
|---------|---|--------------------|----------------------|
| 1. | Sri L.Pamching, EDBPM, Chingjaroit EDBO | | Not turn up |
| 2. | Sri L.Ito Singh, EDBPM, Kamang Kakeching | 16.09.1999 | SW-1 |
| 3. | Sri A.S. Anderson, EDBPM, Nungshang. | | Not known |
| 4. | Sri O.Dwijamani Singh, OA (IR / VR), Divisional Office | 17.09.2000 | SW-4 |
| 5. | Sri V.S.Varcise, EDBPM, Shangshak EDBO | 17.09.2000 | SW-3 |
| 6. | Sri S.Yamgai, EDBPM, Pushing EDBO | 17.09.1999 | SW-2 |
| 7. | Sri R.Tuingayang, EDIPM, Sirarakhang EDBO | | Not turn up |

6.2. The C.O. prayed to produce Sri N.C.Haldar, DSPOs, Imphal and the P.O. of the case to clarify the circumstances under which the exhibit Exs-67 to Exs-71 were received by the office of the DPS, Imphal. I find the witness proposed to be examined as defence witness is likely to enlighten certain material fact and he was summoned. In response to the summon the said Sri N.C.Haldar in his letter no. nil dt.28.02.2000 addressed to DPS, Nagaland, the disciplinary authority and copy to me expressed his unwillingness to depose as defence witness. He did not turn up on the scheduled date and time. The C.O. did not press for further summoning of the said Sri Haldar and virtually dropped.

7. Article of charge and substance of imputation of misconduct or misbehaviour:
The following two articles of charges have been framed against Sri S.B.Hazarika, the then SDIPOs, Utkhrul Sub Division, now Complaint Inspector, o/o the D.P.S., Nagaland.

Article of charge - 1

Sri S.B.Hazarika, while working as SDIPOs, Utkhrul Sub Division during the period from 29.01.1996 (A/N) to 31.01.1998, he had shown to have inspected as many as 54 (fifty four) Post Offices in the year 1996, but had not submitted a copy of the Inspection Remarks in respect of each of these 54 (fifty four) Post Offices, to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur Division, Imphal. Similarly the said Sri S.B.Hazarika had shown to have inspected as many as 78 (seventy eight) Post Offices during the period from 01.01.1997 to 31.12.1997, but had not submitted a copy of the Inspection Remarks in respect of 45 (forty five) Post Offices, to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur Division, Imphal. By his above acts, the said Sri S.B.Hazarika violated the provisions of Rule-308(2) of P&T Man. Vol. VIII read with Department of Posts, New Delhi letter No.17-3/92-Inspn Dated 02.07.1992 and Rule-3(1)(ii) of CCS (Conduct) Rules, 1964.

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Article of charge - II

Sri S.B.Hazarika, while working as SDIPOs, Ukhrul Sub Division, during the period from 29.01.1996 to 31.01.1998, he had shown to have inspected the following EDBOs in Ukhrul Sub Division, on the date noted against each.

| Sl. No. | Name of the EDBO | Date of inspection shown by Sri S.B.Hazarika |
|---------|----------------------|--|
| 1. | Chingjaroi EDBO | 25.02.1997 |
| 2. | Sirarakhang EDBO | 29.03.1997 |
| 3. | Kamang Kakching EDBO | 19.05.1997 |
| 4. | Shangshak EDBO | 18.06.1997 |
| 5. | Nungshong EDBO | 15.07.1997 |
| 6. | Pushing EDBO | 28.07.1997 |

But, in fact, the said Sri S.B.Hazarika did not at all inspect the above-mentioned EDBOs either on the date noted against each or on any other date in the year 1997. Therefore, by his above acts, the said Sri S.B.Hazarika, violated the provisions of Rule-308(1) of P&T Man. Vol. VIII, Rule-3(1)(i) of CCS (Conduct) Rules, 1964 and Rule-3(1)(iii) of CCS (Conduct) Rules, 1964.

The Statement of Imputation of Misconduct or Misbehaviour in support of the charges are as follows :

Article - I

That as many as 66 (sixty six) EDBOs and one SO in Ukhrul Sub Division were allotted to the share of Sub Divisional Inspector of Post Offices, Ukhrul Sub Division, Ukhrul for inspection during the year 1996 vide SPOs, Imphal letter No. Inspection/Tour Programme /1996 dtd.19.02.1996 along with a copy of Inspection Programme for the year 1996. The said Sri S.B.Hazarika took over the charge of SDIPOs, Ukhrul Sub Division on 29.01.1996 (A/N) and prior to taking over the charge of the Sub Division by the said Sri S.B.Hazarika, one Sri Moba Maring P.A., Imphal H.O. was officiating as SDIPOs, Ukhrul Sub Division from 01.01.1996 to 29.01.1996 (A/N). Of the sixty-six EDBOs assigned to the SDIPOs, Ukhrul Sub Division, for inspection during the year 1996, the said Sri Moba Maring already inspected as many as 13 (thirteen) EDBOs during the period from 01.01.1996 to 29.01.1996. Thus, as many as 53 (fifty three) EDBOs and one SO, were remaining for inspection, by the said Sri S.B.Hazarika, during the year 1996 at the time of taking over the charge of Ukhrul Sub Division by the said Sri Hazarika on 29.01.1996 (A/N). The said Sri S.B.Hazarika, in his fortnightly diaries and monthly summaries of the SDIPOs, Ukhrul for the period from 29.01.1996 (A/N) to 31.12.1996 had shown to have inspected all the 53 (fifty three) EDBOs and one SO, which were remaining for inspected by the said Sri S.B.Hazarika as on 29.01.1996 (A/N). The list of 53 (fifty three) EDBOs and one SO, shown to have inspected by the said Sri S.B.Hazarika has been enclosed as "ANNEXURE-A".

Similarly, as many as 71 (seventy one) Post Offices, i.e., 69 (sixty-nine) EDBOs and 2 (two) SOs were assigned to the SDIPOs, Ukhrul Sub Division, for inspection during the year 1997 vide SSPOs, Imphal letter no. Inspection/Tour Programme/97 dtd.29.01.1997

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Annexure A

along with a copy of Inspection Programme for the year 1997. Of the 69 (sixty nine) EDBOs and 2 (two) SOs in Ukhrul Sub Division, which were assigned for inspection by the said Sri S.B.Hazarika as SDIPOs, Ukhrul Sub Division, he had shown to have inspected all the 69 (sixty nine) EDBOs and 1 (one) S.O. on different date(s) during the period from 01.01.1997 to 31.12.1997, in his fortnightly diaries and monthly summaries of the SDIPOs, Ukhrul submitted by the said Sri Hazarika for the aforementioned period from time to time. The list of 69 (sixty nine) EDBOs and one S.O. which were shown to have been inspected by the said Sri S.B.Hazarika during the year 1997 has been enclosed as "ANNEXURE-B".

That as per Rule-308(2) of P&T Man. Vol.VIII, the said Sri S.B.Hazarika, SDIPOs, Ukhrul had to submit the copy of Inspection Remarks, in respect of each of the EDBO and S.O. inspected by him, to the Supdt. of Post Offices, Manipur Division, Imphal and in accordance with Deptt. of Posts, New Delhi letter no.17-3/92-Inspn dtd.02.07.1992 the time limit for submission / issuance of Inspection Remarks / Inspection Reports in respect of EDBO and S.O. are 10 (ten) days and 15 (fifteen) days from the date of inspection respectively. But, the said Sri S.B.Hazarika, had not at all submitted the copy of Inspection Remarks in respect of 53 (fifty three) EDBOs and 1 (one) S.O., which were shown to have been inspected by him in 1996, as per "ANNEXURE-A", to the Supdt. of Post Offices, Manipur Division, Imphal either within the prescribed time limit as specified above, or on any subsequent date. Similarly, the said Sri S.B.Hazarika had not at all submitted the copy of Inspection Remarks in respect of 44 (forty four) EDBOs and 1 (one) S.O., which were shown to have inspected by the said Sri Hazarika on different date(s) during the year 1997. The list of 44 (forty four) EDBOs and 1 (one) S.O. which were shown to have been inspected by the said Sri Hazarika in the year 1997, but he did not submit IRs has been enclosed as "ANNEXURE-C".

Therefore, it is imputed that the said Sri S.B.Hazarika, by his above acts, violated the provisions of Rule-308(2) of P&T Man. Vol.VIII and orders contained in Deptt. of Posts, New Delhi letter no.17-3/92-Inspn dtd.02.07.1992 and also failed to maintain absolute devotion to his duties in violation of Rule-3(1)(ii) of CCS (Conduct) Rules, 1964.

Article - II

The following EDBOs in Ukhrul Sub Division, which were assigned to the SDIPOs, Ukhrul Sub Division, for annual inspection for the year 1997 vide SSPOs, Imphal letter no. Inspection/Tour Programme 1997 dtd.29.01.1997 were shown to have been inspected by the said Sri S.B.Hazarika as SDIPOs, Ukhrul, on the date noted against each.

| <u>Sl. No.</u> | <u>Name of the EDBO</u> | <u>Date of inspection</u> |
|----------------|-------------------------|---------------------------|
| 1. | Chingjaroi EDBO | 25.02.1997 |
| 2. | Sirarakhong EDBO | 29.03.1997 |
| 3. | Kamang Kakching EDBO | 19.05.1997 |
| 4. | Shangaihak EDBO | 18.06.1997 |
| 5. | Nungshang EDBO | 15.07.1997 |
| 6. | Pushing EDBO | 26.07.1997 |

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Annexure A.....

The said Sri S.B.Hazarika was working as SDIPOs, Ukhrul during the period from 29.01.1996 (A/N) to 31.01.1998 and he had shown to have inspected the above Post Offices as mentioned above in his fortnightly diaries pertaining to that period and also in the monthly summaries of the SDIPOs, Ukhrul Sub Division, Ukhrul, submitted by the said Sri Hazarika, for the respective months on which those offices had been shown to have been inspected. But, the EDBPMs of the above EDBOs have intimated, to the Director Postal Services, Manipur, Imphal, in writing that the said Sri S.B.Hazarika, SDIPOs, Ukhrul did not inspect the respective EDBOs in the year 1997 till the time of submission of respective intimations by each of the EDBPMs of above EDBOs in the months of Sept 97, Oct 97, Nov 97.

Therefore, it is imputed that the said Sri S.B.Hazarika did not at all inspect the aforementioned EDBOs on the dates noted against each and thereby violated the provisions of Rule-308(1) of P&T Man.Vol.VIII. In addition, the said Sri Hazarika, by his act of submission of false information regarding inspection of those abovementioned EDBOs failed to maintain absolute integrity and also acted in a manner unbecoming of a Govt. servant, and thereby violated Rule-3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

8. Case of the Disciplinary Authority:

A. The prosecution in article-I impute that in the year 1996 as much as 66 EDBOs and 1 S.O. were assigned to the SDIPOs, Ukhrul Sub Division for inspection for the said year. The C.O. took over the charge of the SDI, Ukhrul on 29.01.1996 (A/N) and till then the preceding IPOs had already inspected 13 EDBOs. Thereby leaving 53 EDBOs and 1 S.O. for the rest of the year. The C.O. in his fortnightly diary for the period from 29.01.1996 to 31.12.1996 had noted down that all the offices were inspected. The prosecution further mentioned that similarly as many as 69 EDBOs and 2 SOs were assigned to the C.O. for inspection during the year 1997. The C.O. in his fortnightly diary from 01.01.1997 to 31.12.1997 had reported that the inspection work of the offices had been completed. The prosecution further added that the C.O. although reported inspection of all the offices assigned to him during the year 1996 and 1997 did not at all submitted the Inspection Remarks of 53 EDBOs and 1 S.O. in respect of 1996 and 44 EDBOs and 1 S.O. in respect of the year 1997 and thereby violated the provision of the Rule-308(2) of P&T Man.Vol.VIII and Deptt. of Posts, New Delhi letter No.17-3/92-Inspn dtd.2.7.92 according to which the time limit of submission of IR is fixed 10/15 days from the date of inspection and attracted the Rule-3(1)(ii) of CCS (Conduct) Rules, 1964.

In support of the allegation the P.O. pleaded the following :-

- Since the C.O. did not attend the proceeding till completion of adducement of evidence on behalf of the prosecution / disciplinary authority, it is clearly proved that he has nothing to say on his defence.
- The P.O. emphasises over the deposition of SW-4, Sri O.Dwijamani Singh, Dealing Assistant, IR Branch, Divnl. Office, Manipur who stated that he

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received the fortnightly diary and monthly summary of the C.O. often irregularly during the year 1996 & 1997. He added that he received 25 IRs out of 70 for the year 1997 and none for the year 1996 from the C.O. despite several reminders issued to the C.O. under the instruction of the controlling authority. From this deposition the P.O. asserted that the charge is proved and the C.O. neither visited the 54 offices listed to the ANNEXURE "A" to the charge sheet and hence question does not arise about the receipt of the IR of 1996. Similarly he emphasised that the C.O. neither visited the 45 BCOs as listed in ANNEXURE "C" of the charge sheet nor inspected during the year 1997 and the question of submission of IR does not arise.

- iii) The P.O. in para 7 of his brief pleaded that despite repeated reminders the C.O. did not submit the IRs and even respond to the reminders.
- iv) The P.O. asserted that the C.O. being the in-charge of a Sub Division, it is his fundamental duty that he should response the letters received from the Higher Authority. Keeping himself mum, it is proved he has nothing to say and neglected the order of the higher authority.
- v) The P.O. further added that in reply to the question to the fact going against him made by the I.O. The C.O. reply "uncoroborated" which means the official has nothing to say against those points and thereby the charge is proved.

B. In article-II the prosecution put up that the C.O. in his fortnightly diaries and monthly summaries for the period from 01.01.1997 to 31.12.1997 noted the inspection of the following BCOs on the date showing against each.

| | | |
|----|----------------------|------------|
| a) | Chingjarai EDBO | 25.02.1997 |
| b) | Sirarakhong EDBO | 29.03.1997 |
| c) | Kamang Kadching EDBO | 19.05.1997 |
| d) | Sahgshak EDBO | 10.06.1997 |
| e) | Nungshang EDBO | 15.07.1997 |
| f) | Pushing EDBO | 28.07.1997 |

The EDBPMs of these offices intimated to the Director Postal Services in writing that their offices had not been visited for the year 1997 by the C.O. till writing of the said communications by each of them and alleged that the C.O. did not at all inspected these offices on the date mentioned against each violating the provision of Rule-308(1) of P&T Man.Vol.VIII and Rule-3(1)(i) & 3(1)(iii) of CCS (Conduct) Rules 1964.

The following pleadings had been put forward by the P.O. toward sustaining of the charge.

- i) That the SW-1, Sri Lito Singh, EDBPM, Kamang Kakching EDBO in his deposition stated that the SDIPCs, Likhul, Sri S.B. Hazarika or any other SDIPCs had not visited his office till 25.09.1997 and he did not received any

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Inspection Remarks till then and clearly proved that Sri S.B.Hazarika did not visit or inspect the office.

- ii) That the SW-2, Sri S.Yarangai, EDBPM, Pushing EDBO in his deposition stated that his office was not inspected by the C.O. till 09.10.1997 and thereby proved that the C.O. did not visit and inspect his office till then.
- iii) That the SW-3, Sri V.S.Varaiso, EDBPM, Sahgnshak EDBO in his deposition stated that his office was not inspected after 07.06.1995 till September 1997 for the year 1997 and thereby proved that the C.O. did not visit and inspect the office on the year 1997.
- iv) That on direction of the higher authority, the concerned offices had been asked to know the fact whether the office was actually visited and inspected by the C.O. In reply 25 offices intimated non-inspection of their offices and accordingly the report was submitted to the Chief P.M.G., Shillong on 11.12.1997.
- v) That out of 7 enlisted witnesses, 4 were examined. The rest 3 could not attend the hearing due to non-receipt of summons as these offices are situated in hilly and very backward area. Though they were asked again to attend the hearing at Agartala, they could not due to far distance.
- vi) That Sri Anderson, BPM, Nungsang in his letter dtd.14.10.1999 intimated that his health do not permit him to travel the long distance and as far the enquiry he begged to state that he did not know who was Hazarika, Inspector because he (Hazarika) never visited his office.

9. The case of the defendant.

The C.O. denied the charge and hold that the prosecution miserably failed to prove the charges brought against him. He pleaded the following in support of his claim. The points under 'A' are in r/o article of charge No.I and under 'B' in r/o article of charge No.II.

- A. i) Non-submission of written defence in response to the charges and non-attendance to the inquiry cannot be held as nothing to say in defence.
- ii) The plea of the PA that the reminders were issued asking submission of IR is not correct and the P.O. did not produce any such reminder to sustain the plea. The EXS-1 & EXS-2 not at all proved that the IRs were not submitted.
- iii) EXS-3 to EXS-66 are not at all the documents to prove that the IRs were not submitted, they are not transposing the submission / non-submission of IRs. The deposition of SW-4, Sri O.Dwijamani Singh is not corroborated by the documentary evidences. The deposition might have been made on the basis of some records not from memory as it was not expected to keep the figures of IRs submitted / non-submitted by different inspecting authority of the Division in his

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memory. Non-production of the said documents leads the deposition to be false and fabricated.

- iv) Non-production of hand-to-hand receipt book of receipt and despatch branch of the Divisional Office for the period from January 96 to April 98 had failed to show the actual fact as to handing over the IRs to the inspection branch.
- v) Non-production of additional documents shown by the C.O. viz. Monthly Tour T.A. advance file for the period from July 97 to March 98 of SDIPOs, Utkhrul maintained by the Divisional Office, Imphal and the reasons thereof has interred that the documents if produced be unfavourable to the person who withholds it i.e., prosecution.

B. i) EXS-68 to EXS-72 are not original ones, but photocopy. Therefore secondary evidence and can only be acceptable when the original destroyed or lost or cannot be produced in reasonable time. In this case no such reasons are explained and hence not admissible.

- ii) The deposition of SW-1, SW-2 & SW-3 are suffered from short coming of (a) the original letter stated to be written by them to SPOs, Imphal were not shown to them at the time of their deposition & (b) the evidences are not conclusive. Inspection of a BO cannot be confirmed only on the basis of oral statement of the BPM who not alone constitute the establishment. There are other staff and they are equally relevant and material.
- iii) Account Book, BO Journal, BO receipt book are the minimum documents, which required to be signed by the inspection authority in course of inspection of a Branch Office. These documents were not produced because, if produced, they would be unfavourable to the charge.
- iv) The veracity of the letter written to the SPOs by those witnesses who did not turn up before the inquiry authority could not be tested & the charge of non-inspection of these offices is dried up.
- v) Examination of Sri N.C.Haldar, DSPOs, Imphal was very essential as he engineered the whole episode in collaboration with SW-1 to SW-4. But he did not turn up & inference goes against the said Sri N.C.Haldar agreeable to the section 114 of Indian Evidence Act third which emphasis that the court may presume if a man refers to answer a question which he is not compelled to answer by law, the answer if given, would be unfavourable to him.

10. Analysis and assessment of evidences:

- (i) The article of charge-I is for non-submission of IRs in respect of the 54 offices enlisted in ANNEXURE 'A' to the charge sheet reported to have been inspected by the C.O. in the year 1996 as SDIPOs, Utkhrul Sub Division, Manipur Divn. Also for non-submission of IRs of 44 offices enlisted in ANNEXURE 'B' to the

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charge sheet reported to have been inspected in the year 1997 to SDIPOs, Ukhrul Sub Division in Manipur Divn. by the C.O. To prove the charge, the following ingredients are to be satisfied.

- (1) That the C.O., during the period in question, worked as SDIPOs, Ukhrul Sub Division.
- (2) That the offices enlisted in ANNEXURE 'A' & ANNEXURE 'B' to the charge sheet were allotted to the SDIPOs for inspection during the year 1996 & 1997 respectively.
- (3) That the aforesaid enlisted offices are reported to have been inspected on the date shown against the respective annexure by the C.O.
- (4) That the C.O. did not submit the IRs in respect of those offices mentioned in the said ANNEXURE 'A' & ANNEXURE 'B'.
 - (a) The C.O. in no stage of the inquiry denied the fact of his working as SDIPOs, Ukhrul Sub Division, in Manipur Division during the period from 29.01.1996 to 31.01.1998. The EXS-3(a) to EXS-48(b), the fortnightly diaries of the C.O. reflected that the C.O. worked as SDIPOs, Ukhrul during the said period except the period from 05.08.1996 to 18.08.1996 and again from 07.04.1997 to 21.04.1997. On both the occasions he was on EL. In addition, those exhibits manifest the enjoyment of EL and restricted holiday during the period from 06.10.1997 to 17.10.1997 by the C.O. Therefore, it can easily be held that the C.O. worked as SDIPOs, Ukhrul Sub Division to the strength mentioned herein above.
 - (b) The EXS-1 & EXS-2 clearly revealed that the offices particularized in the ANNEXURE 'A' & ANNEXURE 'B' were allotted to the SDIPOs, Ukhrul Sub Division for carrying out inspection for the year 1996 and 1997 respectively. There was no denial of the C.O. on this point nor the documents were in question. Thus it can be easily held that these office were allotted enclosed for inspection by the C.O. during the year 1996 and 1997 as categorized in the said ANNEXURE 'A' & ANNEXURE 'B'.
 - (c) The exhibit EXS-3 to EXS-48 are the fortnightly diaries of the SDIPOs, Ukhrul Sub Division for the period of Feb 96 to Dec 97 submitted to the SPOs, the SSPOs and the DPS, Imphal by the C.O. The EXS-49 to EXS-66 are the monthly summary for the period from July 96 to December 97 submitted by the C.O. in the capacity of SDIPOs, Ukhrul to the Divisional Head. The authenticity of these documents are not questioned, nor disordered them by the C.O. in any stage of inquiry. These documents can be taken into account as

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authentic and of C.O.'s. These documents enlightened that the C.O. reported the inspection of the offices enlisted in ANNEXURE 'A' & ANNEXURE 'B' on the date shown against each.

(d) The P.O. pleaded that the non-attendance of the C.O. clearly proves that the C.O. has nothing to say in his defence. While the C.O. argued that non-submission of written defence in response to the charge and non-attendance to the hearing of the inquiry not at all infer deficiency in defence. The law of the natural justice is that no adverse inference can be drawn for non-submission of written defence statement and non-attendance to the hearing by the C.O. And I don't think this will automatically prove the charge.

(ii) The P.O. emphasis over the deposition of SW-4, Sri O.Dwijamani Singh, the then Dealing Assistant, IR branch of the Divisional Office, Imphal who has stated that he received 25 IRs out of 70 for the year 1997 and none for the year 1996 from the C.O. From this deposition, the P.O. pleaded that the charge is proved and the C.O. neither visited the offices particularized in ANNEXURE 'A' & 'B' to the charge sheet on the dates shown "again" each and hence question does not arise about the receipt of the IR. The C.O. averted that the deposition of SW-4 is not corroborated by the documentary evidences and the deposition might have been made on the basis of some records not from his memory as it was not expected to keep the figure of IRs submitted / not submitted by the different inspecting authority of the Division in his memory and non-production of the documents leads the deposition to be false and fabricated. Although the veracity of the deposition of SW-4 was not tested by the C.O. in course of hearing, but putting the above argument, a question mark is invited. One cannot keep in his memory how much what is what unless he maintains a record. Non-production of the record is really a deficiency towards sustaining the charge unless and otherwise corroborated by the other documents produced.

(iii) The P.O. further pleaded that despite repeated reminders the C.O. did not submit the IRs and even paid no response to the reminders. In course of inquiry no such pleading except in the brief was put forward by the P.O. and not any documentary prove was produced. The allegation was also not brought in the charge sheet or in the statement of imputation therein. It is an extenuous and have no weightage.

(iv) The C.O. further added that the hand-to-hand receipt book for the period from Jan 96 to April 98 of the receipt and despatch branch is a vital document to the instant charge and non-production of the same has created deficiency in proving the charge. The argument of the C.O. cannot be held as correct. This document is not the vital document or primary document but the secondary. This document is required for corroboration to the truth-ness of maintenance of primary document i.e., the account of receipt of IRs. The I.O. has got the power to recall document / witness in case any lacuna arises on the evidence already adduced. But he cannot call witness or new document unless and otherwise mentioned by the either party

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and dropped later on. Or, name of which not come up in course of inquiry or mention in the statement of imputation or misbehaviour or misconduct. Calling of such document / witness is tantamount to bringing of personal knowledge. Therefore, the register of receipt of IR was not called for.

(v) The C.O. strongly pleaded that non-production of additional document sought by the C.O. and permitted by the I.O. viz. monthly tour T.A. advance file for the period from July 97 to March 98 of SDIPOs, Ukhru maintained in the Divnl. Office, Imphal and non-disclose of reasons of non-production has handicapped him in submission of effective defence. He urges to infer that the documents if produced, the unfavourable to the person who withhold it, i.e., prosecution. This argument has got irresistible forces. In course of requisition of the document the C.O. shown the relevancy of the document to the case as "First T.A. advances were not released on the ground that no IRs were submitted. But, later on, when the IRs were submitted T.A. advances were also released subsequently. It is necessarily ascertained under what circumstances the tour T.A. advances released subsequently". This relevancy was accepted by me and requisition for the documents was made followed by several reminders but no effect. Even no reason of withholding of the documents by the custodian was communicated. The P.O. also could not explain the reason of non-discovery of the document either in course of inquiry nor in his brief. The P.O., in his brief is quite silent on this score. And therefore, I can draw the inference that if the document produced, the position of non-submission of IRs would have not been supported what alleged to have.

From what discussed above at para 1(a) to 1(d) it is stood that while the ingredients delineated at para 1(1) to 1(3) are satisfied, the ingredients at para 1(4) is not satisfied and therefore, hardly sustained the article of charge-1

10.1. In article of charge No.11 it is alleged that the C.O. while working as SDIPOs, Ukhru during the period from 29.01.1996 to 31.01.1998 had shown inspection of following particularized offices on the date shown against each during the year 1997 in his fortnightly diaries of the year but he had not practically inspected on those dates or any subsequent dates of the year as asserted by the EDBPMs of those offices and thereby violated the provision of Rule-308(1) of P&T Man. Vol.VIII and failed to maintain absolute integrity, exhibited himself in a manner unbecoming of a Govt. servant attracted the provision of Rule-3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

| | | | |
|------|----------------------|----|------------|
| i) | Chingjarai EDBO | on | 25.02.1997 |
| ii) | Sirarakhong EDBO | on | 29.02.1997 |
| iii) | Kamang Kakching EDBO | on | 19.05.1997 |
| iv) | Sahgshak EDBO | on | 10.06.1997 |
| v) | Nungshang EDBO | on | 15.07.1997 |
| vi) | Pushing EDBO | on | 28.07.1997 |

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10.2. a) To sustain the charge, the following components are required to be sustained.

- (1) That the C.O. worked as SDIPOs during the period from 29.01.1996 to 31.01.1998.
- (2) That the offices mentioned in the sub-para were allotted to the SDIPOs, Utkrul for carrying out inspection during the year 1997
- (3) That the offices were reported to have been inspected by the C.O. on the date shown against each.
- (4) That the C.O. did not practically inspected these offices on the date shown against each and thereby violated the provision of Rule-308(1) of P&T Man. Vol. VIII and Rule-3(1)(i) & 3(1)(iii) of CCS (Conduct) Rules, 1964.

b) As observed in sub-para 1(a) supra it is well settled that the C.O. worked as SDIPOs, Utkrul during the period from 29.01.1996 to 31.01.1998 except the period from 05.08.1996 to 18.08.1996, from 07.04.1997 to 21.04.1997 and from 06.10.1997 to 17.10.1997 during which he was on EI. & CI.

c) The EXS-2 postulates that the offices particularized in the statement of imputation of misconduct or misbehaviour in support of charge of article-II were allotted to the C.O. for carrying out inspection during the year 1997. There was no denial of the C.O. on this point nor the document is disputed. Therefore, it is stood that these offices were allotted to the C.O. for carrying out inspection in the year 1997.

d) The exhibits EXS-28(a) & (b), EXS-30, EXS-34(a) & (b), EXS-35(a) & (b), EXS-37(a) & (b) and EXS-38(a) & (b) are the diary of the C.O. for the 2nd fortnight of Feb 97, 2nd fortnight of March 97, 2nd fortnight of May 97, 1st fortnight of June 97, 1st fortnight of July 97 and 2nd fortnight of July 97 reflected that the C.O. reported to have inspected Chingjarai EDBO, Sirarakhong EDBO, Kamang, Kaching EDBO, Satgha' EDBO, Nungshang EDBO and Pushing EDBO on 25.02.1997, 29.03.1997, 19.05.1997, 10.06.1997, 15.07.1997 & 28.07.1997 respectively. The authenticity of the documents were not questioned nor disowned by the C.O. Therefore, these documents can be taken into account as authentic and therefore it can easily be held that the C.O. had reported to the Divnl. Head inspection of these offices on the date shown against each.

e) (i) The C.O. pleaded that the EXS-68 to EXS-72 are not the originals ones, but photocopy. Therefore secondary evidence and cannot be accepted unless the original is reported destroyed or lost or not able to produce in reasonable time. As no such reasons are explained or disclosed by the prosecution the document cannot be taken into account. He further pleaded that the veracity of the letter written to the SPOs, Imphal by those witnesses, who did not turn up before the

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inquiry authority could not be tested and the charge of non-inspection of their offices is dried up. The contention of the C.O. is examined and find that the EXS-68, EXS-70 and EXS-69 were authenticated by the SW-1, SW-2 & SW-3 in course of deposition made before me and hence these documents are authentic documents and can be taken into account without any question. The veracity of EXS-71 to EXS-72 could not be tested nor could be authenticated in course of inquiry due to non-attendance of the respective writer who were summoned in two occasions. Since these documents were submitted beyond the knowledge of the C.O. and these are the photocopies of the reported letters, these documents cannot be entertained as authentic.

(ii)

The P.O. to sustain the charge mainly depend upon the deposition of the SW-1, SW-2 & SW-3 and pleaded that they have categorically stated their office were not inspected by the C.O. on the date shown against each in the imputation of charge of article-II. The C.O. pleaded that the deposition of SW-1, SW-2 & SW-3 are suffered from shortcoming of (a) the original letter stated to be written by them to the SPOs, Imphal were not shown to them at the time of deposition and (b) the evidence are not conclusive. He further added that inspection of a B.O. cannot be confirmed only on the basis of oral statement of a BPM who is not alone constitute the establishment. There are other staff and equally relevant and material. The averment of the C.O. is not at all on correct putting. The photocopy of the letters written by the SW-1, SW-2 & SW-3 were shown to them at the time of deposition made before the C.O. and they admitted that these documents were written by them and sent to the SPOs concerned. It also cannot be held that their evidences are not conclusive as no other staff of the offices are produced as witness. They are being in-charge of the respective offices are mainly concern to the inspection and without them their office cannot be inspected while other staff of the establishment may or may not be present. Unless the veracity of the deposition of a witness is in question no collaborative evidence is necessary. The SW-1, Sri Lito Singh, EDBPM, Kamang Kakching EDBO categorically stated that the C.O. did not visit his office till 25.09.1997 and also he did not receive any inspection remark till then. The SW-2, Sri S. Yarangai, EDBPM, Puslung EDBO authenticated that EXS-70 as a photocopy of his letter and categorically stated that his office was not inspected by the C.O. till 09.10.1997. Again SW-3, Sri V.S. Variso, EDBPM, Sahganshak EDBO also authenticated that the EXS-69 as of photocopy of his letter and emphasised that his office was not inspected by the C.O. up to Sept 97. The deposition of all these witnesses have not been questioned nor appeared any doubt on the truth of their deposition. Therefore, the depositions can be taken into account as a fact.

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(iii) The P.O. further pleaded that the higher authority asked to know the fact whether the offices were actually visited and inspected by the C.O. On query, 25 offices intimated non-inspection of their offices and accordingly a report was submitted to the C.O., Shillong. Nothing is in this sort was enumerated in the change of statement of imputation nor any document on this behalf was produced during the enquiry. Therefore, it is an extraneous matter and cannot be waited.

(iv) The P.O. again pleaded that the three enlisted witness could not attend the hearing due to non-receipt of summons as their offices are situated in very backward and hilly area. Although they were summoned again to attend the hearing at Agartala, they did not due to far distance. This is not based on fact. The summons were sent to the P.O. for serving on the prosecution witness under Regd. Post vide Agartala H.O. RL No.234 dtd.24.8.99 with A/17 and the said RL was received by him on 2.9.99 while the date of appearance of these witness was 17.9.99 and there was ample time to reach the summons to the respective witness. The transit can at the best requires 5 days to reach the corner of the Division. However, an opportunity was given to them to attend at Agartala. The distance cannot be a valid reason on the way of attending the proceedings. The P.O. should have ensured that his witnesses were attended on the fixed date and time. It is inactiveness on the part of the prosecution that their witnesses did not attend the hearing despite opportunities are offered.

(v) The P.O. pleaded that Sri A.S. Anderson, BPMI, Nungsang B.O. intimated him in letter dtd.14.10.99 that Sri Anderson could not attend due to his illness and categorically stated he do not know who was Hazarika, Inspector because he (Hazarika) never visited his office. No such letter is received by me, nor this type of document could be taken into account and therefore discarded.

(vi) The C.O. pleaded that the account book, B.O. Journal and B.O. Receipt book are the minimum documents are required to be signed by the inspecting authority in course of inspection of a B.O. These documents were not produced because if produced they would be unfavourable to the charge. This argument cannot be held a valid one. This document could be produced in support of the allegation but without them the issue can be decided one-way or the other way. These documents are not at all a part of a document or series of documents without which the series will not be completed. As a result these documents are not required to fill up the lacuna or in evidence produced before me. These are other independent set of documents.

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(vii) The C.O. again pleaded that the examination of Sri N.C.Haldar, Dy. Supdt. of POs, Imphal was very essential as he engineered the whole episode in collaboration with SW-1 to SW-4 but he did not turn up and emphasise that the inference may be drawn presuming that if a man refuse to answer question who is not compelled to answer by law, answer if given, would be unfavourable to him agreeable to the section 114 of Indian Evidence Act. The N.C.Haldar, Dy. Supdt. of POs, Imphal was cited as defence witness by the C.O. and summon was issued accordingly. Sri Haldar did not turn up for recording deposition on the date fixed for, instead expressed his willingness to the Disc. Authority endorsing a copy to the I.O. The C.O. did not press for further summoning of Sri N.C.Haldar as defence witness. Therefore, he was dropped. Again the I.O. was got no statutory power unless Govt. of India empower him under the enquiry act and in this instant case this was not done. Unless a person appeared before the I.O. for recording deposition and put question thereof, it cannot be said he did not answer the question and presumption can be drawn that if answered it would be unfavourable to the prosecution. It can be unfavourable to the defence also equally. This depends upon the question what would have been put if attended. The provision of section 114 of India Evidence Act is not applicable. Moreover, the witness was of the defence not of the prosecution. Nowhere in the charge sheet or in the statement of imputation the name of Sri N.C.Haldar or the designation of the Dy. Supdt. or the Supdt. was mentioned and therefore the deposition of the said Sri N.C.Haldar cannot be said material. His deposition was proposed for clarification of circumstances under which the exhibit EXS-68 to EXS-72 were addressed to the Supdt. of POs, Imphal. The circumstance under which the EXS-68, EXS-69 & EXS-70 written by the author of the letters, could have been got clarified by the cross examining them by the C.O., who did not avail the opportunity offered to him. Therefore, the argument mentioned to have made in this para by the C.O. is not sustained.

(viii) Under the conspectus of what discussed in para 10.2 to above, it is established that the C.O. had shown in his fortnightly diaries, EXS-34(a) & (b), EXS-35 (a) & (b) and EXS-38 (a) & (b) had reported inspection of Kamang, Kakechingh EDBO, Sahgsahk EDBO and Pushing EDBO on 19.5.97, 10.6.97 & 28.7.97 but he did not actually visit the offices on those dates or any other day till 17.10.97, Sept 97 and 9.10.97 respectively.

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FINDINGS

11. On the basis of documentary and oral evidences adduced in the case before me and in view of the reasons given, I hold that the article of charge-I not proved and article of charge no.II proved to the strength of 3 EDBOs particularised at para 10.2 (e)(vii) out of six alleged to.


Sunil Das
Dy. Supdt. of Post Offices
O/o the D.P.S., Agartala
&
Inquiry Officer

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Abh

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND : KOHIMA - 797001

No. Rule 14/S.B. Hazarika

Dated Kohima the 8-6-2001

In the office memo No. Diary: SDIPOs-Ukhrul/97 Dtd. 19.2.98 of DPS Manipur : Imphal, it was proposed to hold an inquiry under Rule 14 of the CCS (CCA) Rules 1965 against Shri. S.B. Hazarika the then SDIPOs, Ukhrul Dn, Ukhrul. A statement of articles of Charges and a statement of imputation of mis-conduct and mis-behaviour in support of the article of charges and a list of documents by which and a list of witnesses by whom the articles of charges were proposed to be sustained were also enclosed with the said memo.

2. Shri. S.B. Hazarika was given an opportunity to submit within 10 days of the receipt of the memo a written statement of defence and to state whether he desires to be heard in person.

Statement of articles of charges framed against Shri.S.B.Hazarika the then SDIPOs Ukhrul- Dn, Ukhrul.

ARTICLE - I

Shri. S.B. Hazarika, while working as SDIPOs Ukhrul Sub- Dn, during the period from 29-01-96 (A/N) to 31-01-98, he had shown to have inspected as many as 54 (fifty four) Post Offices in the year 1996, but had not submitted a copy of the inspection remarks in respect of each of those 54 (fiftyfour)Post Offices, to the Supdt. of Post Offices, Manipur Division Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur- Dn Imphal. Similarly, the said Shri. S.B. Hazarika, had shown to have inspected as many as 70 (Seventy) Post Offices during the period from 01-01-97 to 31-12-97, but had not submitted a copy of the inspection remarks in respect of 45 (fortyfive) Post Offices, to the Supdt. of Post Offices, Manipur- Dn Imphal or any other appropriate authority in place of Supdt. of Post Offices, Manipur- Dn Imphal . By his above acts, the said Shri. S.B. Hazarika violated the provision of Rule- 300 (2) of P & T Man. Vol VIII read with DEpt. of Posts/ New Delhi letter No. 17-3/92- Ispn. Dated 02-07-1992, and Rule-3 (1) (ii) of CCS (Conduct) Rules, 1964.

ARTICLE - II

Shri. S.B. Hazarika , while working as SDIPOs Ukhrul Sub-Dn, during the period from 29-01-96 to 31-01-98, he had shown to have inspected the following EDPOs in Ukhrul Sub-Dn, on the date noted against each.

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| Name of the EDBO | Date of Inspn. shown by Shri. S.B. Hazarika |
|-------------------------|--|
| 1. Chingjarai EDBO | 25-02-1997 |
| 2. Sirarakhang EDBO | 29-03-1997 |
| 3. Kamang Kakching EDBO | 19-05-1997 |
| 4. Shangshak EDBO | 10-06-1997 |
| 5. Nungshong EDBO | 15-07-1997 |
| 6. Pushing EDBO | 20-07-1997 |

But, in fact, the said Shri. Hazarika did not at all inspect the above mentioned EDBOs either on the date noted against each or on any other date in the year 1997. Therefore, by his above acts, the said Shri. S.B. Hazarika, violated the provisions of Rule 300 (1) of the P & T Man. Vol. VIII, Rule- 3 (1) (i) of the CCS (Conduct) Rules, 1964 and Rule-3 (1) (iii) of the CCS (Conduct) Rules, 1964.

3. I have gone through the case carefully. Briefly, Shri.S.B.Hazarika, was charged under Rule 14 of the CCS (CCA) Rules 1965 vide DPS, Manipur Imphal memo no. Diary/SDIPOs Ukhru/97, dtd. 19.2.98 with the following charges:-

- i) While working as SDI (P) Ukhru Sub-Divn from 29.1.96 to 31.1.98 he failed to submit inspection reports of 54 Post Offices in the year 1996 and 45 Post Offices in 1997 which were shown to have been inspected by him
- ii) For having shown as inspected but did not inspect 6 EDBOs in Ukhru Sub-Divn between 25.2.97 to 28.7.97.

4. Shri.Sunil Das, the then Supdt. of Post Offices, Agartala Divn, Tripura was appointed as the inquiry officer to inquire into the charges framed against Shri.S.B.Hazarika. After adducing both oral and documentary evidences the inquiry officer submitted his inquiry report vide his letter no. SP-1/TNQ, dtd. 27.9.2000.

5. As per the findings of the inquiry officer Article I of the charge is not proved and Article-II of the charge as partially proved to the strength of 3 EDBOs out of 6 alleged not to have been inspected.

6. A copy of the report of the inquiry officer was supplied to the charged official for making representation, if any. Shri.Hazarika submitted his representation which was sent by RL. NO.3096, dtd. 25.11.2000. While agreeing with the findings of the IO in respect of Article I, Shri.Hazarika disagreed with the findings of the IO in respect of Article-II of the charge on the following grounds:-

- i) The BOs alleged not to have been inspected was on the basis of written statements and oral evidence of the BPMs of those three BOs viz. Kameng Kakching, Pushing and Shamshak BOs.
- ii) The dates of the examination of those witnesses were fixed from 16.9.99 to 20.9.99 at Imphal when the CO was functioning as C.I in the O/o the DPS Kohima.
- iii) The enquiry was held ex parte and the state witnesses were allowed to be examined by the PC in the absence of the CO and he was denied the opportunity of cross examination of the state witnesses.

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iv) The IO held regular hearing ex parte in a hurry in the absence of the CO and did not record reasons for holding the enquiry ex parte.

v) The decision of the IO to hold the enquiry ex parte and to allow the examination of the state witnesses in the absence of the CO was unjust, unfair and unwarranted.

vi) Non examination of the state witnesses was objected to by the CO before the IO on 22.10.99 but the IO overruled the objection and did not record the plea and objection of the CO.

The CO, therefore, prayed to the Disciplinary Authority to exonerate him fully of all the charges rejecting the findings of the IO and in respect of 3 EDBOs found to be not inspected by the CO under the charge of Article II.

7. I have examined the chargesheet, deposition of state witnesses, written briefs of the PO and the CO, the inquiry proceedings, report of the inquiry officer and the representation of the CO against the inquiry report. While accepting the findings of the inquiry officer in respect of the article II of the charges, the disciplinary authority disagrees with the IO in respect of IO's findings on Article I of the charge for the following reasons:-

i) Although there are shortcomings on the part of the then Disciplinary Authority in not including certain important documents in the listed documents on the basis of which the articles of charges were proposed to be proved and the presenting officer in not producing all the witnesses and additional documents as asked by the CO and permitted by the IO during the hearings, sufficient documentary and oral evidences have been produced during the oral inquiry to establish the charge against the CO.

ii) The deposition of SW-4, Shri.O.Dwijamani Singh, the then Dealing Asstt. IR branch, O/o the DPS Manipur, Imphal was crucial in substantiating Article I of the charges SW-4 deposed that he received 25 IRs out of 70 for the year 1997 and none for the year 1996. SW-4 also deposed that the CO did not submit the IRs inspite of repeated reminders. The CO challenged that the deposition of SW-4 was not corroborated by documentary evidence and might have been made on the basis of some records and not from his memory as he was not expected to keep the figures of the IRs submitted / not submitted by the different inspecting authority of the division and non production of documents leads the deposition to be false and fabricated. The plea of the CO was accepted by the IO who concluded that non production of the record is really a deficiency towards sustaining the charge unless and otherwise corroborated by other documentary evidence.

The contention of the IO is not acceptable. SW-4 was a mere witness and he was supposed to answer what he knew to be the truth. He was not supposed to bring the documents along with him until and unless he was asked to do so. He had deposed before the inquiry as he was asked for and it was the duty of the CO to contest what SW-4 deposed during the inquiry.

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iii) The contention of the CO that SW-4 cannot be expected to keep in memory all the figures of IRs submitted / not submitted by inspecting officers and which has been accepted by the IO is also not convincing. SW-4 had been working in the IR branch for a considerable period and it was not an impossible task to remember the numbers of IRs not submitted by the CO in 1996 and 1997. It was not only one or two but the IRs of all the POs stated to have been inspected by the CO in 1996 were alleged not to have been submitted by the CO. 53 IRs of 1997 were alleged not to have been submitted by the CO. It was, therefore, not a difficult thing for the SW-4 to keep in mind the number of IRs submitted/ not submitted by the CO.

iv) Another point raised by the CO and accepted by the IO is non-production of additional documents like monthly tour TA advance file for the period from July 1997 to March 98. It was argued by the CO that if the additional documents were produced these would be unfavorable to the prosecution. By this documents the CO tried to prove that subsequent TA advance was not granted unless IRs were submitted. This inference was accepted by the IO. The prosecution should have produced the additional documents as asked by the CO and permitted by the IO. However, on perusal of the records it is seen that though the IO in para 3 of his order no. 4 dtd. 22.10.99 mentioned that he decided to call the file, he did not specifically ask the PO or the competent authority to produce the documents. Even if the documents as asked for were produced they are not likely to help the defence of the CO in the absence of any specific order which the CO should have produced if there was any. Therefore, in the absence of any specific order in support of the plea of the CO it was wrong to draw any inference due to non-production of certain additional documents.

v) The charge against the CO was that he did not submit some IRs of the POs which he claimed to have inspected in 1996 and 1997. He was given ample opportunities to deny the charge & establish his innocence. However, from the records of the inquiry proceedings it is seen that he did not attend the preliminary and regular hearings and took part in the oral inquiry only after evidence on behalf of the disciplinary authority was closed. For his defence the CO has raised issues like non-production of certain additional documents, non-production of original documents and lacuna in the deposition of state witnesses. But the CO has not produced any documentary or oral evidence to show that he had indeed submitted the IRs of the POs which were stated to have been inspected by him. Copies of the IRs or receipts of registered letters by which the IRs were submitted which are crucial documentary evidence were not produced by the CO to establish his innocence and disprove the charge.

In view of the above, article I of the charge against Shri.S.B.Hazarika is clearly established.

8. As far as Article-II of the charge is concerned the IO has concluded that the charge is partially proved to the extent that out of 6 EDBOs alleged not to have been inspected, non inspection of three BOs namely Kameng Kakching, Pushing and Shamshak BOs has been proved. Even though the inspection of the remaining three BOs has not been established the Disciplinary Authority inclines not to dispute with the findings of the IO and hold the Article-II of the charge against the CO as partially proved.

9. The points raised by the CO in his representation against the report of the Inquiry Officer have also been considered:-

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i) The oral evidence as well as the written statements of the three BPMs whose offices were alleged not to have been inspected are crucial and sufficient evidence to prove that the three BO were not inspected by the CO in the year 1997. The BPMs are the custodians of all the BO records and as such their oral depositions and written statements as to whether the BOs have been inspected or not cannot be dismissed lightly. The other BO staff like EDDAs and EDMCs may or may not be present at the BOs during inspections. But no inspection of BOs can be carried out in the absence of the BPMs who are responsible for safe custody of the BO records. Therefore, unless contrary is proved, their written statements and oral evidence have to be accepted.

ii) The CO was not debarred from attending the enquiry at any point of time. In fact he was directed to attend the hearing at Imphal on 21.10.99 vide DPS Kohima memo of even no. dtd.22.9.99. But the CO deliberately chose not to attend the enquiry. As such the CO cannot claim that he was not relieved of his duty as CI, in the O/o the DPS, Kohima by the controlling authority and as such could not attend the enquiry. Sufficient opportunity was given but the CO did not avail the opportunity to attend the Inquiry and cross examine state witnesses. Therefore, he was not denied but he did not avail the opportunity to cross - examine state witnesses.

iii) As the CO failed to attend the oral hearings fixed by the IO on several dates the enquiry was held ex parte upto the completion of the stage of presentation of prosecutions, documents and witnesses. As such non cross examination of State witnesses was due to non attendance of the hearings by the CO on the dates fixed for examination and cross examination of State witnesses.

iv) When the CO deliberately chose not to attend the inquiry on numerous dates fixed for preliminary and regular hearings by the IO and sufficient opportunities afforded to the CO, no specific reason is required to be recorded as to why the enquiry was held ex parte.

v) The decision of the IO to hold the enquiry ex parte and to allow the examination of State Witnesses was in order. When the CO chose not to attend the previous hearing there was no question of postponing the examination of witnesses due to the absence of the CO. If for any reason the CO could not attend the hearing on a particular date fixed by the IO he could have informed the IO and prayed for a postponement / adjournment. But there was no written communication to the IO from the CO's side.

10. In short sufficient opportunities were given to the CO to deny the charges and establish his innocence. But Shri.S.B.Hazarika just ignored the enquiry upto the stage of presentation of prosecution, documents and witnesses. Apart from pointing out deficiencies in the inquiry, he has not produced any relevant documentary or oral evidence to establish his innocence and disprove the charges. The charges against Shri.S.B.Hazarika are very serious. One of the main duties and functions of a Sub-Divisional Inspector of Post Offices, is the annual inspection of Post Offices. But Shri.Hazarika failed to carry out this main function of an IPO while working as SDI (P) Ukhrul Sub-Division between 29.1.96 to 31.1.98. Such kind of an irresponsible official is not fit to be retained in service. However, considering the facts and circumstances of the case, I feel that Shri.Hazarika should be given another opportunity to reform himself by retaining him in service and impose the following punishment on Shri. S.B. Hazarika :-

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ORDER

Therefore, I Shri. F.P.Solo, Director of Postal Services, Nagaland Kohima and the Disciplinary Authority hereby order that the pay of Shri. S.B. Hazarika, the then SDIPOs Ukhrul Sub-Dn how C.I. Divisional Office, Kohima (U/S) be reduced by 6 (six) stages from Rs 6650/- to Rs.5500/- in the time scale of Rs. 5500-175-9000/- for a period of three years w.e.f. 1-06-2001 with cumulative effect. It is further directed that Shri. S.B. Hazarika, C.I. Divl. Office, Kohima (U/S) will not earn increment of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing his future increments of pay.

sd-

(F.P.Solo)
Director of Postal Services
Nagaland : Kohima - 797001

Copy to:

1. The CPMG (INV) N.E.Circle, Shillong for information
2. The Postmaster Kohima H.O. for information and n/a.
3. The D.A(P) Kolkata (Through the Postmaster Kohima H.O.)
4. The Director Of Postal services, Manipur : Imphal for infomation
5. Shri. S.B.Hazarika, C.I. Divl. Office Kohima (u/s)
6. PF of the Official
7. CR of the Official
8. Office copy.

sd
(F.P.Solo)
Director of Postal Services
Nagaland : Kohima - 797001

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 59 of 2002.

Date of Order : This the 7th Day of August, 2003.

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman.

The Hon'ble Mr N.D.Dayal, Administrative Member.

Shri S.B.Hazarika,
Son of Late Khargeswar Hazarika,
C.I.(Postal), Divisional Office,
Kohima.

... Applicant

Applicant appeared in person.

- Versus -

1. Union of India,
represented by the Director General of Posts,
Dak Bhawan, New Delhi-1.
2. The Chief Postmaster General,
North Eastern Circle,
Shillong-793001.
3. The Director of Postal Services,
Manipur, Imphal-795001.
4. The Director of Postal Services,
Nagaland, Kohima-79700.

5. The postmaster,
Kohima Post Office,
Kohima, Nagaland.

... Respondents.

By Shri A.K.Choudhuri, Add. C.G.S.C.

ORDERCHOWDHURY J.(V.C)

This application under Section 19 of the Administrative Tribunals Act 1985 has arisen and is directed against the order imposing a penalty of reduction of pay by six stages vide order dated 8.6.2001 passed by the Director of Postal Services which was upheld by the Chief Postmaster General in appeal vide order dated 29.1.2002 in the following circumstances.

A disciplinary proceeding was initiated against the applicant by memo dated 19.2.98 for the alleged misconduct as cited in the communication. The full text of the article of charges are reproduced below :

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Article-I : Shri S.B.Hazarika, while working as SDIPOs Ukhru Sub-Dn, during the period from 29-01-96(A/N)to 31-01-98, he had shown to have inspected as many as 54 (fifty four) Post offices in the year 1996, but had not submitted a copy of the inspection remarks in respect of each of those 54 (fifty four) Post Offices, to the Supdt. of Post Offices, Manipur division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur-Dn. Imphal. Similarly the said Sri S.B.Hazarika had shown to have inspected as many as 70 (seventy) Post Offices during the period from 01-01-97 to 31-12-97, but had not submitted a copy of the inspection remarks in respect of 45 (forty five) Post Offices, to the Supdt. of Post Offices, manipur-Dn. Imphal or any other appropriate authority in place of Supdt. of Post Offices, Manipur-Dn. Imphal. By his above acts, the said Sri S.B.Hazarika violated the provision of Rule 300(2) of P&T Man. Vol.VIII read with DEpt. of Posts, New Delhi letter No.17-3/92-Inspn.Dated 02-07-1992 and Rule 3(1)(ii) of CCS (Conduct) Rules 1964.

Article : Shri S.B.Hazarika while working as SDIPOs Ukhru Sub-Dn., during the period from 29-01-96 to 31-01-98, he had shown to have inspected the following EDBPOs in Ukhru Sub-Dn. on the date noted against each.

| <u>Name of the EDBO</u> | <u>Date of Inspn. shown by Shri S.B.Hazarika</u> |
|-------------------------|--|
| 1. Chingjarai EDBO | 25-02-1997 |
| 2. Sirirakhang EDBO | 29-03-1997 |
| 3. Kamang Kakching EDBO | 19-05-1997 |
| 4. Shangshak EDBO | 10-06-1997 |
| 5. Nungshong EDBO | 15-07-1997 |
| 6. Pushing EDBO | 20-07-1997 |

But, in fact, the said Sri Hazarika did not at all inspect the above mentioned EDBOs either on the date noted against each or on any other date in the 1997. Therefore, by his above acts, the said Sri S.B.Hazarika, violated the provision of Rule 300(1) of the P&T Man. Vol.VIII, Rule 3(1)(i) of the CCS(Conduct) Rules 1964 and Rule 3(1)(iii) of the CCS (Conduct) Rules 1964."

The applicant submitted his written statement and the disciplinary authority appointed Enquiry Officer to enquire into the charges. The Enquiry Officer on completion of the enquiry submitted his report exonerating the applicant from the charge No.1, wherein he held that charge No.1 was not proved and Article-II of the charge was partially proved to the extent of three EDBOs out of six may not to have been inspected. A copy of the enquiry report was supplied to

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charged official for submitting his representation. The disciplinary authority disagreed with the findings as regard the charge No.I and found the applicant guilty of the charge No.I by assigning reasons therefor and accepted the findings of the enquiry officer in respect of Article No.II accordingly imposed the punishment of reduction of pay. The applicant preferred an appeal and the appellate authority on consideration of the same rejected the appeal. Hence this application assailing the legality and validity of the order as arbitrary and discriminatory.

2. The respondents contested the application and submitted its written statement denying and disputing the contention raised by the applicant. In the written statement the respondents asserted that applicant was given full opportunities to defend his case and after enquiry and on consideration of the report of the enquiry officer as well as evidence on record the disciplinary authority found the applicant guilty of the charge and imposed the punishment which was upheld by appellate authority. It was asserted that the respondents although acted lawfully and therefore question of interference under Section 19 of the Administrative Tribunals Act does not arise.

3. The applicant conducted the case in person before us. Referring to the pleadings the applicant contended that he was denied with the procedural safeguard that caused miscarriage of justice. The applicant contended that the enquiry officer fixed the date of enquiry from 15.9.99 to 20.9.99 for evidence vide notice dated 12/23.9.99 with a direction to respondent No.4 to relieve the applicant. The applicant could not ^{be} present himself before the enquiry for hearing at Imphal since he was not released by the respondent No.4 and conducted the enquiry ex-parte even

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without giving further opportunity to the applicant to cross examine the witness. The enquiry was held on 16.9.99, 17.9.99 and 18.9.99 in the absence of the delinquent officer. Shri Hazarika invited our attention to the records of the proceeding and contended that he was also denied reasonable opportunity to examine witness. He particularly mentioned the name of N.C.Halder but the department failed to produce the said witness, thereby causing grave prejudice to the case of the applicant. Mr A.K.Choudhuri, learned Addl.C.G.S.C referring to the records submitted that the applicant was given full opportunity in the enquiry and the applicant failed to avail of the opportunity. The applicant was aware of the hearing at Imphal but without any just cause avoided to appear before the enquiry authority. Mr Choudhuri also stated that due notice was sent to Sri Halder, the witness for the applicant but he did not appear. It was for the applicant to cause production of his witness and the department was eager to extend all possible help.

4. We have perused the records and on consideration of materials on record it did not appear to us that there was any lapses on the part of the department in providing the procedural safeguard to the applicant. The applicant was made aware of the date of hearing and it was for him to appear in the enquiry proceeding and defend his case^{along with his witness}. The contention of the applicant on that count therefore fails. Shri Hazarika further submitted that the disciplinary authority as well as the appellate authority faltered in the decision making process and acted arbitrarily in imposing the punishment. The applicant next contended that the respondents authority examined four departmental witnesses at Imphal in the absence of the applicant. For the sake of fairness the

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Enquiry Officer was duty bound to provide an opportunity to contended Sri Hazarika. cross examine the witnesses by recalling them. The appellate authority considered the appeal of the applicant but did not relying find any illegality in it upon the testimony of these witnesses. Admittedly, the applicant was made aware of the enquiry it was his duty to be present there or otherwise intimate the enquiry officer for postponement of the proceeding but he did not ask for any adjournment. The Enquiry Officer recorded the testimony of the witnesses also those who were present. The applicant even thereafter/did not make any request for recalling of those witnesses subsequently when he attended the enquiry. Therefore we do not find any illegality on that count also. Shri Hazarika strenuously urged that the disciplinary authority fell into obvious error in rejecting the finding of the enquiry officer as regards to the charge No.I. Shri Hazarika contended that the disciplinary authority under the rules was free to disagree with the findings of the enquiry authority on any article of charge and record his finding on such charge if the evidence on record is sufficient for

the purpose. Emphasising on the statutory provision mentioned in 15(2) Shri Hazarika contended that the disciplinary authority while disagreeing must satisfy as to the materials in support of the conclusion on the basis from the materials on record. In other words Shri Hazarika contended that the finding holding the applicant guilty in charge No.1/contrary to the finding of the Enquiry Officer is armed and perse perverse. The disciplinary authority is with the power to differ with the finding of the enquiry authority in terms of sub-rule 2 of Rule 15 of the CCS(CCA) Rules. That power is not absolute. The disciplinary authority can act as such only on the basis of the materials

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on record and reach at his own findings if the evidence on record is sufficient for the purpose. The finding and recommendation of the Enquiry Officer are not ip so facto binding on the disciplinary authority. The disciplinary authority is required to consider the findings of the enquiry authority and is empowered with the discretion and freedom to depart from the findings. The discretion however, is not absolute and unfettered. The disciplinary authority may disagree and record his own finding if the evidence on record is sufficient to reach such finding or conclusion. The Enquiry Officer on assessment of the materials on record found that the charge containing Article No.1 was not established. The enquiry authority to that extent evaluated to the deposition of SW-4 who was crucial in establishing the Article-I of the charge. The enquiry authority did not act only on the mere ipse dixit of the witnesses to the effect that the charged officials did not submit the inspection report in the year 1996-97. In the absence of any documentary evidence in support of the statement the enquiry officer was not inclined to accept the same. The Inquiry Officer while reaching the said conclusion he also referred to the fact that the documents were requisitioned but not produced to support the same. The Enquiry Officer on the basis of requisition of the charged official requisitioned the documents pertaining to monthly tour T.A. advance made in Divisional office, Imphal. The enquiry authority held adverse inference for non production of the records. The disciplinary authority also agreed with the department ought to have produced the additional documents and also found that by order dated 22.10.99 called for the file but found fault with the enquiry authority that it did not specifically asked the P.O. to produce the documents. The disciplinary authority acted upon the mere word of the SW-4 without any supporting document. The disciplinary authority while holding

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the charge No.1 proved based on the oral statement of SW-4 without any support of documentary evidence and found fault with the order of enquiring authority on the score that in the absence of any specific direction to the P.O. to produce the documents non production of the documents was not fatal. In this case the enquiry officer allowed the prayer of the charged official for additional documents and made requisition for the same and an order was made by the Enquiry Officer. It was incumbent upon on the part of the respondents authority to produce the same on whose possession documents are/were kept. The aforesaid act of the enquiry officer was a direction under sub-rule 12 of Rule 14 and therefore there was not justification on the part of the authority in not producing the same at the time of enquiry for correct appraisal of the fact. Failure to produce the documents/evidence called for adverse inference. The statement of the SW-4 was based on documents. The documents were not claimed to be a privileged documents or related to State security. The respondents did not assign any reason for non production of the said documents. In the circumstances adverse inference drawn by the Enquiry Officer against the department for non production of documents cannot be said to be perverse, unreasonable or unjustified. The other ground for rejection of the finding of the enquiry officer in respect of charge No.1 was that the enquiry was held whereby the delinquent officer was given opportunity to prove his innocence. In other words according to the disciplinary authority it was the burden of the charged official to disprove the allegations and prove his innocence. The disciplinary authority in coming to the said conclusion fell into obvious error in overlooking the scheme of the statutory

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rules. As per scheme of the rules the burden rests on the department to prove and establish the charge of misconduct on preponderance of probability. It is not for the delinquent officer to disprove the allegation. The disciplinary authority in its decision making process for rejecting the findings of the Enquiry Officer on this count fell into error by taking into consideration irrelevant and extraneous considerations overlooking relevant considerations. The finding of disciplinary authority in the facts and circumstances of the case as regard the charge No.1 is perverse and therefore unsustainable in law. The appellate authority also fell into same error in upholding the finding and the disciplinary authority in respect of charge No.1. The finding of disciplinary authority dated 8.6.2001 upheld by the appellate authority as per order dated 29.1.2002 in respect of article No.1 of the charge is therefore unsustainable in law wherein both the authorities held that article of charge was established in respect of charge No.1 is therefore liable to be quashed and accordingly quashed. On consideration of the materials on record the findings of the Enquiry Officer, disciplinary authority and the appellate authority, we do not find any illegality as regards their finding in respect of article No.2. The Enquiry Officer rightly considered the evidence on record and reached his own conclusion. The article II was partially proved. There was material to show that out of six offices alleged to be not inspected by the applicant, there were evidence to arrive conclusion that atleast three offices, namely, Kamang Kakching, Shangshak, Nungshong and Pushing EDBOs were rightly found to be not inspected. The disciplinary authority rightly addressed its mind to the relevant facts and on consideration

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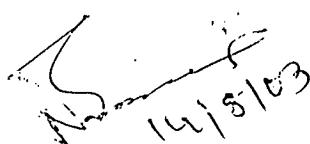
of the facts situation aggrieved with the finding of the enquiring officer and held that article II of the charge against the charged official was partially proved. No illegality is discernible in holding the applicant guilty in charge No.II.

5. On consideration of all aspects of the matter we partially allow this application in view of our conclusion that article NO.I was not proved and applicant was found to be guilty in respect of article II we are of the opinion that matter should now be sent back to the disciplinary authority for appropriate order in terms of sub-rule 4 of Rule 15 for imposition of appropriate penalty as per law. Consequently the order of disciplinary authority dated 8.6.2001 in respect of its finding on charge No.1 is set aside and respondents are directed to impose appropriate penalty as per law in the light of the findings in respect of charge No.2 as per law keeping in mind the observations made by us. The appellate order is also accordingly set aside to the extent indicated. The disciplinary authority is now directed to pass appropriate order as per law on the basis of its finding in respect of charge No.2.

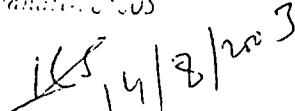
The application is allowed to the extent indicated. There shall, however, be no order as to costs.

Certified to be true Copy

Shri B. B. Battacharya

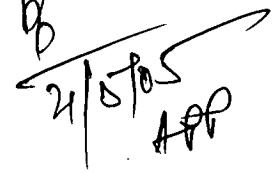

11/5/03

Sd/ MEMBER (A)
C.A.T. GUWAHATI BRANCH
Guwahati, Assam


11/5/03

Sd/ VICE CHAIRMAN
Sd/ MEMBER (A)


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APP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Contempt Petition No.15 of 2004
(In O.A.No.59/2002)

Date of decision: This the 20th day of July 2004

The Hon'ble Shri K.V. Sachidanandan, Judicial Member

The Hon'ble Shri K.V. Prahladan, Administrative Member

Shri S.B. Hazarika

C.I. Divisional Office (U/S)
Kohima, Nagaland.

The petitioner appears in personPetitioner

- versus -

1. The Union of India, represented by
The Secretary,
Department of Posts,
Ministry of Communication,
New Delhi.

2. Shri Rakesh Kumar
Director of Postal Services
Nagaland, Kohima.

3. Shri A. Ghosh Dastedar
Chief Postmaster General
N.E. Circle, Shillong.

.....Respondents
By Advocate Shri B.C. Pathak, Addl. C.G.S.C.

O R D E R (ORAL)

K.V. SACHIDANANDAN, JUDICIAL MEMBER

The Contempt Petition has been filed by the applicant for non-implementation of the court order dated 1.8.2003, but when the matter came up for hearing, learned counsel for the respondents and the applicant in person submitted that the order of the Tribunal has been complied with. The grievance of the applicant is that there was delay in compliance of the order which has put him to great difficulties and hardship for which he has to be compensated. The learned counsel for the respondents filed the written statement and also argued that the delay has been caused since there has been a change in the

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Disciplinary Authority, the earlier authority having been transferred and a new incumbent was posted who had to study the entire matter afresh and then to pass the final order. That apart, the most important aspect pointed out is that the Disciplinary Authority was also busy with the intervening added duties of Postal Network and Mail arrangement during the Lok Sabha Election in addition to his compulsory duties of inspection tours outside the headquarter. Therefore, the delay has been caused.

2. In the affidavit the respondent 2 himself filed the affidavit narrating the entire facts and swore that there was no wilful intentions in disobeying the order and that he had the highest regard for the judicial forum and the judgment/order passed by this Tribunal and he also tendered his apology.

3. Accepting the reply affidavit, we are convinced that the delay has been genuinely caused and therefore nothing stands. Since the order of the Tribunal has been fully implemented, we are of the opinion that the Contempt Petition is to be closed. Accordingly the Contempt Petition is closed. Notice, if any, discharged.

No order as to costs.



TRUE COPY

Sd- Member (J)

Sd- Member (A)

23/7/04

Section Officer (J)

C.A.T. GUWAHATI BANCH

Guwahati- 80005

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APPEAL

APPEAL

To

The Chief Postmaster General
N. E. Circle, Shillong-79300.

SUKSHANTI G R S (791001)
Int SP EB51511983 IN
PA: PURA
To CPMG
SHILLONG, PIN 793001
From: S B HAZARIKA, IMPHAL
Wt: 215grams PRE: 40.00
Sent 0.00, 22/06/2004, 11:58:03
HAVE A GOOD DAY



Sub:- Appeal U/R 23(ii) of the CCS (CCA) Rules, 1965.

Orders against which appeal has been preferred :-

Order No. Rule-14/S.B. Hazarika dated,

— Kohima 24.5.2004 passed by the Director
of Postal Services, Nagaland, Kohima.

Nature of the orders passed :-

Imposition of penalty of reduction of Pay
by 3 stages from 6550/- to 6025/- in the
time-scale of pay of Rs. 5500/- - 175 - 9000/-
for a period of 3 years w.e.f. 1.6.04 with
cumulative effect with further direction
not to earn increments of pay during the
period of reduction after the expiry of
which it will have the effect of postponing
the future increments of pay.

Sir,

Most humbly and respectfully, the appellant
begs to submit the following facts on the above
subject for favour of your kind perusal & sympathetic
orders please.

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FACTS OF THE CASE

1.1 That, while the appellant was functioning
as SDIPOS, Ukhrul, Manipur during the period from

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29.01.96 to 13.5.1998 he was served with a charge-sheet u/R 14 of the CCS (CCA) Rules, 1965 by the DPS, Manipur, Imphal. The appellant was thereafter transferred and posted as C.I., Nagaland, Kohima and he was functioning there as such from 2.2.99. The DPS, Nagaland, Kohima being the succeeding Disciplinary Authority disposed of the case on receipt of the Inquiry Report submitted by the Inquiry Officer on completion of the inquiry. The Inquiry Officer in his report dated 27.9.2000 reported that the charge under Article-I was not proved but the charge under Article II was partially proved as 3 B.O.S. out of 6 B.O.s were not proved as not-inspected by the appellant. But the Disciplinary Authority was brooding over the Inquiry Report for a period of about 9 months after which he disagreed with the findings of Inquiry Officer in respect of charge under Article-I and recorded it as proved alongwith the charge under Article-II and passed orders on 8.6.01 to the effect that the pay of the appellant be reduced by 6 (six) stages from the stage of Rs. 6,550/- to the stage of Rs. 5,500/- for a period of 3 years with cumulative effect with further directions that the appellant shall not earn increments of pay during the period of reduction after expiry of which it will have the effect of postponing his future increments of pay.

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1.2 That, the appellant preferred an appeal against the order of penalty to the Chief RM P.M.G. Shillong; but the appeal was rejected.

1.3 That, the appellant, not being satisfied with the appellate orders approached the Hon'ble Central Administrative Tribunal, Gwahati Bench which disagreed with the findings of Disciplinary Authority who disagreed with the findings of Inquiry Officer who found the charge under Article-I as not proved and set aside penalty orders of the Disciplinary authority and also of the appellate authority and directed the Disciplinary Authority to issue "appropriate orders as per law" vide their orders dated 7.8.03 in O.A. No. 59 of 2002.

1.4 That, the Disciplinary Authority paid no heed to the orders of the Hon'ble Tribunal till it was interfered into by the Circle Officer on a representation submitted by the appellant for non-implementation of the Hon'ble CAT's order even after the expiry of time-limit.

1.5 That, the Disciplinary Authority, being overpressed by Circle Office, ultimately complied with the Hon'ble CAT's orders and passed orders on 24.05.04 to the effect that the pay of the appellant be reduced by 3 stages from Rs.6550/- to Rs.6025/- for a period of 3 years w.e.f. 01.6.04 with cumulative

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effect with further directions that the appellant shall not earn increments of pay during the period of reduction after expiry of which it will have the effect of postponing his future increments of pay.

1.6 That, the orders passed by the Disciplinary Authority afresh is not an "appropriate order as per law" as per directions of the Hon'ble CAT, Guwahati as it offends Article-14 of the Constitution of India and as such this appeal has been pushed for setting aside the orders of the Disciplinary Authority which is arbitrary, cruel and issued under conjecture and surmise.

2. GROUND OF APPEAL

2.1 It involves discrimination and denies equal protection of law :- The Hon'ble CAT, Guwahati directed that the fresh order should be "appropriate" and it should be "as per Law". The concept of the words "appropriate" and "as per law" used by the Hon'ble Tribunal in their orders were not properly conceived by the Disciplinary Authority at what they aimed. The word 'appropriate' was used to imply proper, and commensurate. The word commensurate as per Oxford English Dictionary means proportionate.

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In a disciplinary proceeding the term commensurate implies proportionate to misconduct. The words "as per law" were used to mean it should have legal protection against bias or discrimination. In other

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words, Article-14 of the Constitution of India should not be offended.

The charge under Article-II of the charge-sheet says that the appellant did not inspect the 6 (six) offices mentioned under it though those offices were shown to be inspected in the fortnightly diary. The Inquiry Officer did not find that all these six offices were not inspected by the appellant. The I.O. reported that 3 offices out of 6 offices were not proved as not-inspected by the appellant and hence the charge was found partially proved to the extent of 3 offices only. It means that 50% of the charge was proved and the remaining 50% of the charge was not proved. Now Article-14 of the Constitution of India says that there should not be discrimination in matters of equal protection. Hence, if the prosecution can say that when 50% of the charge has been proved, the charge can be held as proved, the defence side also has the equal right to say that when 50% of the charge has not been proved the charge can be held as not proved. This immunity of equal protection guaranteed by the Constitution of India can never be taken away or damaged by any authority on the earth. Hence, the Hon'ble Tribunal Ruled that the order of penalty should be appropriate i.e. commensurate i.e. proportionate i.e. proper which will be as per law i.e. as per Article-14 of

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the Constitution of India. The fresh order of penalty of the Disciplinary Authority dated 24.5.04 is not appropriate and not as per law as dictated by the Hon'ble CAT; Guwahati and so it deserves to be struck down as violative of law.

2.2 A great error was lost sight of in Article-II during Inquiry :- The charge-sheet was served, inquiry was held, inquiry report was submitted, inquiry report was supplied for representation, final order was passed, appeal was preferred, CAT was moved, order was passed but a great error in the Article-II of the charge-sheet was lost sight of everybody who came across the records of the inquiry. But in as much as it is not out of the records and is in the evidence this needs be brought to surface for the end of justice otherwise it will be a comedy of errors which gives much ado about nothing. For proper realisation of mistake in Article-II it is necessary to discuss the charge under Article-I & therefore, charge under Article-I, before discussion of Article-II, has been discussed first as follows :

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In Article-I it was charged that the appellant was allotted 71 offices for inspections for the year 1997 out of which 70 offices were inspected.

Out of these 70 offices IRs were not received in respect of 45 offices. In respect of remaining 25 offices IRs were received as per deposition of PW-4 Sri Dwisamani Singh, the office Asstt. of the

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DPS, Manipur. Thus it clearly and arithmatically shows that the disposal of inspection of 70 (45+25) offices for the year 1997 is complete and no office is left to be shown as not inspected.

When charge has been framed for non-submission of 45 Inspection Reports under Article-I, it is accepted that these offices were inspected for the year 1997 but Inspection Reports in respect of those 45 offices were not received. There is no charge for non-inspection of remaining (71-70) = 1 office, as the office was perhaps inspected by another Inspecting Officer.

But in charge under Article-II as many as 6 (six) offices have been shown as not inspected and those offices are for the same year of 1997. The names of 4 offices out of 6 offices under Article-II appear in the list of 45 offices (Annexure- B to Article-I named as list of offices in respect of which IRs have not been submitted) and regarding the remaining 2 offices it is presumed that IRs were received as these 2 (two) offices do not appear in the list of 45 IR-not-submitted offices and included to 25 offices in respect of which IRs were received though the list of these 25 offices were not mentioned anywhere. It is, therefore, clear that 6 (six) offices shown as not inspected for the year, 1997 consisted of 4 (four) inspected but IR-not-submitted offices

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and 2 (two) inspected and IR submitted offices and there is actually 2 offices left for showing as not inspected for the charge of Article-II. When charges were framed for non-submission of IRs in respect of 4 offices in one Article the same offices cannot be used for charging as not inspected in another charge. Again when IRs in respect of 2(two) offices deems to have been received among the IRs of 25 offices it is strange that those offices has been shown to charge as not-inspected. The charge under Article-II is, therefore, erroneous, unlogical and unmaintainable.

The error could not be pointed out during inquiry as it did not come to notice. Naturally, when a Govt. servant is served with a charge-sheet he loses 50% of his power of reasoning and thinking and when he faces the inquiry and defends himself personally i.e. without Defence Asstt. he loses another 25% of the remaining 50% of his power of reasoning and thinking. It is, therefore, not feasible, not practicable and not expectable on the part of the delinquent to apply his mind fully to the facts and figures as well as the merits of the case with the remaining 25% of his power of reasoning and thinking. But it was the duty of the I.O. to apply his mind to the facts and figures of the case and to find out the truth. But the I.O.

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also could not detect the lacuna in the charge No. II and submitted his report straightway inadvertently. This was actually a serious mistake in the charge which could turn the table had it been detected before completion of inquiry and submission of Inquiry Report. Hence, finding on Article-II as proved is erroneous and penalty based only on such finding is also erroneous.

2.3 Severity of the penalty :- Even if it is held, say for the sake of argument, that the Article of Charge-II is proved to the extent indicated, the penalty imposed is a cruel one. There is hardly any distinction between the first order of penalty dtd. 8.6.01 and the fresh order of penalty dtd. 24.5.04. The first order of penalty was for reduction of pay by 6 (six) stages and the fresh one is for reduction of pay by 3 (three) stages holding the rests good. The first penalty was imposed as both the charges were held proved. As the fresh penalty was imposed on the basis of findings of one Charge hence the 6 (six) stages have been halved to 3 stages but effect of the penalty remains unchanged though the second charge was half established.

The Article of Charge-II and its imputations of misconduct or misbehaviour show that the accusations levelled against the appellant

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are neither embezzlement of Govt. money nor moral turpitudes nor insubordination but only non-inspection of some Branch offices which are completely internal to office administration and not involved in interruption of services to public. While the non-conveyance of mails to the post office, non-availability of sufficient postal stamps and stationaries, delay in delivery of postal mails and unauthorised absence and late attendances in office, which directly concerns the public interest, has not been viewed with concern by the departmental authorities for streamlining the postal services, it has not been understood what efficiency the department has intended to gain by taking cognizance of non-inspection of some non-functioning B.O.s the opening and closing balances of which remain the same for years together without any transactions, and thereby reducing the pay of an Inspector of Post offices by 3 stages with cumulative effect for 3 years with further directions for postponing the future increments of pay. The penalty imposed can never be termed as objective and will always be looked down upon as a subjective one which transpires the lack of reasonability of the Disciplinary Authority only as hardly a reasonable man could have arrived at such a decision. The order of the penalty, therefore, needs be reduced to the barest minimum one unless it deserves to set aside.

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2.4 Vindictive attitude worked behind the cruelty of the order :- It is vindictive attitude of the Disciplinary Authority which worked behind the cruelty of the order. The Disciplinary Authority could not and did not easily accept the observation of the Hon'ble CAT, Guwahati which set aside the own findings of the disciplinary authority which was perverse and upheld the findings of the Inquiry Officer in respect of Charge under Article-I. This resulted in the annulment of the punishment order and so the disciplinary authority did not pay heed to the directions of the Hon'ble CAT to issue afresh appropriate orders as per law even after expiry of time-limit for implementation. He was hit sharply when it was interfered into by the Circle Office on a representation submitted by the appellant alleging non-compliance. He frowned at the filing of a Contempt Petition by the appellant on 13.5.04 vide C.P. No. 15 of 2004 in the CAT, Guwahati Bench. The refractory DPs, Nagaland, thus being repressed, rose in repulse for revenge and resorted to reactionary rage and passed the orders on 24.5.04 which is but a reflationary and refitting one of the previous order. It i.e. the fresh order was not passed by the Disciplinary Authority with a fresh and

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open mind but with a mental block which prompted and tempted the order. The order is, therefore, perverse, arbitrary and a product of vindictiveness.

3. PRAYER

3.1 The appellant humbly prays that the appeal may kindly be considered in the light of the facts and circumstances of the case as mentioned above and set aside the orders of the Disciplinary Authority dated 24.5.04 as it is not "appropriate" and not "as per law" according to which orders should have been issued as directed and dictated by the Hon'ble CAT, Guwahati Bench.

3.2 The appellant be given an opportunity of personal hearing before the disposal of the appeal as the appeal is preferred against a major penalty in terms of provisions of G. I., Dept. of Per. & Trg. O.M. No. 11012/20/85-Estt. (A) dated the 28th October, 1985.

3.3 The appeal may kindly be decided as early as possible preferably within 3 months as the appellant had already suffered from the penalty for about 3 years from 10-8-01 and again he is to suffer afresh from 1.6.04 for another 3 years with cumulative effect hampering promotional aspects to the appellant who is the seniormost Inspector in the N. E. Circle.

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4. INTERIM ORDERS PRAYED FOR

4.1 The appellant further prays that pending the disposal of the appeal, the operation of the orders of penalty passed by the DPs, Nagaland, Kohima, the Disciplinary Authority, may kindly be kept in abeyance under the inherent powers of the appellate authority.

5. ANNEXURES

5.1 Annexure: A-1 :- Charge-Sheet dated 19.2.98, Pge.14-22

5.2 Annexure: A-2 :- Deposition of S.W-4 (Dewijamani Singh, P.A., IR Branch, Divl. Officer, Imphal) dated 17.9.99, 23

5.3 Annexure: A-3 :- Previous punishment order dated 8-6-01, 24-29

5.4 Annexure: A-4 :- CAT's order dated 7th August, 2003, 30-39

5.5 Annexure: A-5 :- Revised punishment order dated 24.5.04, 39-41

Thanking you,

Yours faithfully,

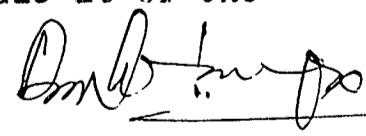
Dated, Imphal
22/6/04


(S. B. HAZARIKA)
C.I., Nagaland, Kohima(u/s)
C/o. U. Basumatary,
ASPOs (H.Q.), Imphal
795001.

Enclosures :-

Annexures: A-1 to A-5.

C.C. to:- The Director of Postal Services, Nagaland, Kohima-797001 for information and action under sub-rule (3) of Rule 26 of the CCS (CCA) Rules, 1965.


(S. B. HAZARIKA)
C.I., Nagaland, Kohima(u/s)
797001.

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03-MAY-2005 12:28

DPS-MANIPUR

3852443844

P. 01

Recently, there has been a controversy about the disciplinary powers of Divisional Director Postal Services in different Divisions, in the Circle. In this connection I like to furnish the copy of P&T Board's letter No. 12/7/32.Vig.III dated 17-7-84 as follows :-

NOTIFICATION

In exercise of powers conferred by Sub rule (2) of Rule 9, Clause (b) of Sub Rule (2) of Rule 12 of the Central Civil Service (Classification, Control & Appeal) Rules, 1965, the President hereby orders that the powers of Appointment, Disciplines and appeal which have been delegated to the Sr. Supdt./Supdt of Pos, in the notification of the Govt. of India in the Ministry of Communications No. SRO 620 dated, the 28th February 1957, as amended from time to time, will be exercised by the Director of Postal Services in the N.E Circle for the states of Nagaland, Manipur and Tripura and Union Territories of Arunachal Pradesh and Mizoram, as the earlier posts of the Sr. Supdt/Supdt of Pos in these Divisions have been upgraded

Sd/ K.K Arora
Asstt. Director General (Vig. B)

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AKR

Extract from Schedule of Administrative Powers of Postal Office.

भाग-II—केन्द्रीय सचिवालय सेवा, द्वितीय श्रेणी

दण्ड देने के लिए समर्थ प्राधिकारी तथा दण्ड जो वह दे सकता है (नियम 13 में दी मर्दों के संदर्भ में)

| सेवा का विवरण | नियुक्ति प्राधिकारी | प्राधिकारी | दण्ड |
|--|---------------------|---|------|
| 1 | 2 | 3 | 4 |
| ग्रुप 'क' स्तर के अनुभाग प्राधिकारियों को छोड़कर केन्द्रीय सचिवालय सेवा का अनुभाग प्राधिकारी ग्रेड | राष्ट्रपति | राष्ट्रपति उस कर्मचारी के संबंध में जो कि निम्नलिखित स्थानों में सेवारत है :— (क) उस मंत्रालय या विभाग को छोड़कर जिसका उल्लेख नीचे दिया है, सरकारी मंत्रालय या विभाग जो सेवा में भाग ले रहा है :— (i) सचिव संवर्ग प्राधिकारी (ख) मंत्रालय या विभाग जो सेवा में भाग नहीं ले रहा है मंत्रालय या विभाग में मन्त्रिव (i) | सभी |

Part II—Central Civil Services, Class II

Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in rule 11).

| Description of service | Appointing Authority | Authority | Penalties |
|--|----------------------|---|------------|
| 1 | 2 | 3 | 4 |
| Section Officers Grade of the Central Secretariat Services excluding Section Officers with Group 'A' status. | President | President In respect of a member of the Service serving in :— (a) a Ministry or Department of the Government participating in the service, other than a Ministry or Department hereinafter specified Secretary, Cadre Authority (b) a Ministry or Department of the Government not participating in the Service,— Secretary, in the Ministry or Department | All (i) |

ATTESTED

2/1/2015
APL

Extracts from the Schedule of Administrative Powers of Postal officers.

भाग—VI सामान्य कानूनीय सेवा, ग्रुप 'ग'

| पद का विवरण | नियुक्ति प्राधिकारी | दण्ड देने के लिए समर्थ प्राधिकारी तथा दण्ड जो वह दे सकता है (नियम 13 में दी गई मदों के सन्दर्भ में) | प्राधिकारी | दण्ड | अपीलीय प्राधिकारी |
|---|---------------------|--|----------------|-------------------|----------------------|
| 1 | 2 | 3 | 4 | 5 | |
| डाक महानिदेशक का कार्यालय : | | | | | |
| सभी पद | सचिव डाक बोर्ड | सचिव डाक बोर्ड | सभी | सदस्य (प्रशासन) | 217 |
| | | सहायक महानिदेशक (प्रशासन) गैर सचिवालीय पदों के सम्बन्ध में जिनका अधिकतम वेतन 560 रु से अधिक नहीं है)। | (i) से (iv) तक | सचिव डाक बोर्ड | |
| सर्कल का कार्यालय तथा पुनः प्रेषण केन्द्र : | | | | | |
| कार्यालय अध्यक्ष | सर्कल अध्यक्ष | सर्कल अध्यक्ष | सभी | सदस्य (प्रशासन) | |
| | | निदेशक, डाक सेवा, | (i) से (iv) तक | डाक बोर्ड। | |

Part VI—General Central Services, Group 'C'

| Description of Post | Appointing Authority | Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in rule 1) | Appellate authority | |
|---|--------------------------------|---|---------------------|------------------------------|
| | | Authority | Penalties | |
| 1 | 2 | 3 | 4 | 5 |
| Office of the Director-General Posts | | | | |
| All Posts | Secretary, Postal. | Secretary Postal Board. | All | Member (P) Postal Board. |
| | | Assistant-Director-General Administration) (in respect of non-Secretariat Posts maximum of which does not exceed Rs. 560-) | (i) to (iv) | Secretary, Postal Board. |
| Circle Office and Returned Letter Office. | | | | |
| Office Superintendent | Head of Circle. Addl. P.M.G | Head of Circle/ Addl. P.M.G. | All | Member (P) (Postal Board) |
| | | Director of Postal Services. | (i) to (iv) | Head of Circle. |

ATTESTED

21/5/05
ASB

99

Extracts from the Schedule of Administrative Posts of Postal Officers.

| 1 | 2 | 3 | 4 | 5 |
|--|---|---|---|---|
| कार्यालय वरिष्ठ वास्तुविद | | | | |
| सिविल इंजीनियरी पिंग तथा | | | | |
| उसके अधीन अन्य कार्यालय : | | | | |
| लौह-मुद्रक; निम्न थ्रेणी कर्निष्ठ वास्तुविद; | | | | |
| क्लर्क शहायक वास्तुविद | | | | |
| अन्य सभी पद वरिष्ठ वास्तुविद | | | | |
| डाक तथा रेल डाक सेवा | | | | |
| के मण्डल तथा उपमण्डल | | | | |
| कार्यालय : | | | | |
| डाकघर नियंत्रक; रेल निदेशक डाक सेवा; | | | | |
| डाक नियंत्रक; उच्च तथा निम्न प्रवर थ्रेणी | | | | |
| के कर्मनायी | | | | |
| वरिष्ठ अधीक्षक | | | (i) से (iv) तक निदेशक; डाक-सेवा | |
| अधीक्षक | | | (i) से (iv) तक निदेशक; डाक-सेवा उप-निदेशक | |

228

229

| 1 | 2 | 3 | 4 | 5 |
|---|---|-------------------------------|-------------|--|
| <i>Office of the Senior Architect, Civil Engineering wing and other offices under his jurisdiction</i> | | | | |
| Ferro Printer Lower Division clerk | Junior Architect Assistant Architect | Junior Architect Architect | All | Senior Architect. |
| All others Posts | Senior Architect | Senior Architect | All | Member Postal Board. |
| <i>Postal and Railway Mail Service Divisional and Sub-divisional Offices.</i> | | | | |
| Inspector of Post Offices; Inspector of Railway Mail Service; Ministerial staff in Higher and Lower Selection Grades. | Director of Postal Services; | Director of Postal Services; | All | Postmaster-General; Member (P) Postal Board. |
| | | Senior Superintendent. | (i) to (iv) | Director of Postal Services. |
| | | Superintendent | (i) to (iv) | Director of Postal Services. |

ATTESTED

21/5/05 APP

No. 12/6/89-Vig. III
 Government of India
 Ministry of Communications
 (Department of Posts)

Dak Bhawan,
 Sansad Marg,
 New Delhi-110001
 Dated 27.3.1990.

1. All Chief Postmasters General
2. All Postmasters General
3. Controller Foreign Mails Bombay
4. All Principals, postal training Centres
5. Director Postal Staff College of India, Delhi.

Subject:- Publication of revised schedule of appointing/discriminatory/appellate authorities in respect of Group 'B', 'C' and 'D' Employees of the Department of Posts in supersession of the earlier schedule circulated by the Department vide letter dated 12.10.1989.

Sir,

I am directed to forward herewith a copy of the revised schedule of appointing/discriminatory/appellate authorities in respect of Group 'B', 'C' and 'D' Employees of the Department of Posts which is being issued in supersession of the earlier schedule circulated vide letter No. 12/8/87-Vig. III dated 12.10.89. This revised schedule will come into effect from the date it is published in the Gazette of India. It is, therefore, requested that a close watch may be kept on the gazette so that its date of publication comes to the notice of concerned authorities immediately after its publication. This is for your information and necessary action, please.

Yours faithfully,

Arjun Kumar
 (Arjun Kumar)
 Director (Vig. II)
 Telephone 3032814.

Copy forwarded to:-

1. Librarian, Lok Sabha/Rajya Sabha (5 copies each) for information of Members of Parliament.
2. Director (Vig. II), Department of Posts.
3. All Desk Officers (Vig. III), Vig. II/D.O. (S.B)/S.C (Vig. I) and S.O. (Admn.), Department of Posts.

ATTENDED

21/3/89
APP

Attended

(Arjun Kumar)
 Director (Vig. II)
 Telephone 3032814.

Ministry of Communications
(Department of Posts)

New Delhi, the 27 ^{Aug.} 1990.

ATTESTED

S.O. — In exercise of the powers conferred by sub-rule (2) of rule 9, clause (b) of sub-rule (2) of rule 12 and sub-rule (1) of rule 24 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 and in supersession of the notification of Government of India in the Ministry of Communications (Department of Posts) No. S.O. 1587, dated the 7th June, 1989, published in Gazette of India, Part II, Section 3, Sub-section (ii), dated the 8th July, 1989, the President hereby orders that, —

1. in respect of the posts in General Central Services Group 'B' specified in column 1 of Part I of the Schedule to this Order, the authority specified in column 2, shall be the appointing authority and the authority specified in column 3 shall be the disciplinary authority in regard to the penalties specified in column 4;
2. in respect of the posts in General Central Services Group 'C' and Group 'D' specified in column 1 of Part II of the said Schedule, the authority specified in column 2 shall be the appointing authority and the authorities specified in columns 3 and 5 shall be the disciplinary authority and appellate authority respectively in regard to the penalties specified in column 4.

Annexure A

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S C H E D U L E

PART I - GENERAL CENTRAL SERVICES, GROUP 'B

1 2 3 4

DEPARTMENT OF POSTS

All Posts Director General, Director General, All
(Posts) (Posts)
Member (Personnel), Postal Services Board/ (i) to (iv)
Head of Circle

ATTESTED

Page No 9

Annexure A-10

PART II - GENERAL CENTRAL SERVICES, GROUP 'C' AND GROUP 'D'

| Description of Posts | Appointing Authority | Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in rule ii) | Authority | Appellate Authority |
|---|---|---|-------------|---|
| 1 | 2 | 3 | 4 | 5 |
| <u>Office of the Director General (posts)</u> | | | | |
| 1. All Posts, Group 'C' | Secretary, Postal Services Board | Secretary, Postal Services Board | All | Member (Personnel), Postal Services Board |
| | | Assistant Director General (Administration) (in respect of non-secretariat posts maximum pay of which does not exceed Rs. 2040/-) | (i) to (iv) | Secretary, Postal Services Board |
| 2. All Posts, Group 'D' | Assistant Director General (Administration) | Assistant Director General (Administration) | All | Secretary, Postal Services Board |

21/5/05
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Annexure A
O.P.D

Page No. 9/1

PART II - GENERAL CENTRAL SERVICES, GROUP 'C' AND GROUP 'D'

| Description of Posts | Appointing Authority | Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in rule ii) | Appellate Authority | |
|---|---|---|---------------------|---|
| | | | Authority | Penalties |
| 1 | 2 | 3 | 4 | 5 |
| <u>Office of the Director General (Posts)</u> | | | | |
| 1. All Posts, Group 'C' | Secretary, Postal Services Board | Secretary, Postal Services Board | All | Member (Personnel), Postal Services Board |
| | | Assistant Director General (Administration) (in respect of non-secretariat posts maximum pay of which does not exceed Rs. 2040/-) | (1) to (iv) | Secretary, Postal Services Board |
| 2. All Posts, Group 'C' | Assistant Director General (Administration) | Assistant Director General (Administration) | All | Secretary, Postal Services Board |

ATTESTED

21/08/2008
ADD

Annexure A

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ICLE AND REGIONAL OFFICES INCLUDING POSTAL ACCOUNTS, RETURNED LETTER OFFICE, DISPENSARIES, TRAINING PRESS AND POSTAL STAFF COLLEGE OF INDIA.

| 1 | 2 | 3 | 4 | 5 |
|--|----------------|----------------|-----|--|
| Office Superintendent, Junior Accounts Officer (Group 'C') | Head of Circle | Head of Circle | All | Number (Personnel), Postal Services Board |

Director Postal Services/Director Accounts (Postal)/ Deputy Director Accounts (Postal)/ Joint Director, Postal Staff College of India (i) to (iv) Head of Circle

| | | | | |
|--|--|--|-----|---------------------------------------|
| 2. Staff in higher selection grade, Assistant Superintendent Post Offices/ Assistant Superintendent Railway Mail Services/Inspector of Post Offices/ Inspector of Railway | Postmaster General/Director/ Joint Director, Postal Staff College of India/ Director Accounts (Postal)/Deputy Director Accounts (Postal) | Postmaster General/ Director/Joint Director, Postal Staff College/ India/Director Accounts (Postal)/Deputy Director Accounts (Postal). | All | Head of Circle/ Postmaster General |
|--|--|--|-----|---------------------------------------|

Assistant Postmaster (i) to (iv) | Postmaster General/
 General/Deputy Director | Director/Director of
 Accounts
 Loc./Assistant Director/ |
 Manager - Practicing Press/
 Accounts etc.

✓ 1

| 1 | 2 | 3 | 4 | 5 |
|-----------------------------------|--|---|--|---|
| 3. All other posts (Group 'C') | Director Accounts (Postal)/ Deputy Director Accounts (Postal)/Assistant Post- master General/Deputy Director of Postal Services/ Assistant Director of Postal Services/Manager Printing Press | Director Accounts (Postal)/Deputy Director Accounts (Postal)/Assistant Postmaster General/ Deputy Director of Postal Services/ Assistant Director of Postal Services/ Manager Printing Press | All | Chief Postmaster General/Postmaster General/Director of Postal Services |
| | | (i) to (iv) | Deputy Director of Postal Services/ Assistant Director General/Director of Postal Services/ (Postal)/Deputy Director of Accounts (Postal)/Manager (Print- ing Press) | |
| 4. All posts (Group 'D') | Assistant Postmaster General/Assistant Director of Postal Services/Manager (Printing Press)/Accounts Officer/Medical Officer Incharge | Assistant Postmaster General/Assistant Director of Postal Services/Manager (Printing Press)/ Accounts Officer/ Medical Officer Incharge Office Superintendent/ Manager Returned Letter Office/Deputy Manager (Printing Press) | All | Postmaster General/ Director of Postal Services/Director Accounts (Postal)/ Deputy Director Account (Postal) |

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21/5/95
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Annexure A

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(5)

SAVINGS BANK CONTROL ORGANISATION IN HEAD POST OFFICES

2643

5.

1. All posts in Selection/ Clerical Grades (Group 'C')

2. Director of Postal Services/Director (G.P.O.)

3. Director of Postal Services/Director (G.P.O.)

4. All

5. Chief Postmaster General
Postmaster General

Head of Division/Chief Postmaster/Senior Postmaster directly under Director Postal Services/

(i) to (iv) Director of Postal Services/Director (G.P.O.)

Annexure A

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AOP

FOREIGN POST OFFICES

| 1. | 2. | 3. | 4. | 5. |
|--|---|--|-------------|--|
| 1. Ministerial Staff in Selection Grade/French Mails/Translator/Assistant Posts/ Superintendent of Post Offices/Inspectors of Post Offices (Group 'C') | Controller Foreign Mails/Director Foreign Posts | Controller Foreign Mails/ Director Foreign Posts | All | Member (Operations) Postal Services Board/ Head of Circle. |
| 2. Ministerial staff in Clerical Grade (Group 'C') and All Posts (Group 'D') | Director (Foreign Posts)/Assistant Controller (Foreign Mails)/Superintendent (Foreign Mails)/Assistant Director (Foreign Posts) | Assistant Controller (Foreign Mails)/Assistant Director (Foreign Posts)/Superintendent (Foreign Mails) | (i) to (iv) | Controller (Foreign Mails)/Director Foreign Posts. |

OFFICE OF THE DIRECTOR OF POSTAL LIFE INSURANCE

| 1. | 2. | 3. | 4. | 5. |
|---|---|---|-----------------|--|
| 1. Ministerial Staff in Selection Grade (Group 'C') | Director (Postal Life Insurance) | Director (Postal Life Insurance) | All | Deputy Director General (PLI), Postal Life Insurance, Postal Services Board. |
| 2. All other Posts (Group 'C') | Deputy Director (Postal Life Insurance) | Deputy Director (Postal Life Insurance) | (i) to (iv) All | Director (Postal Life Insurance). Director (Postal Life Insurance). |

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-7-

OFFICE OF SUPERINTENDENT POSTAL SERVICES AND POSTAL WORKSHOPS FOR MAIL DEPOTS.

| Junior Accounts Officers (Group 'C') | Head of Circle | Head of Circle | All | Member (Finance)/Member (personnel), Postal Ser- vice Board. |
|---|---|--|-------------|--|
| | | | | Head of Circle. |
| 2. Posts in Higher and Lower Selection Grade, Assis- tant Superintendent of Post Offices, Assistant Superintendent Of Railway Mails, Inspectors of Post Offices, Inspectors of Railway Mails (Group 'C') | Postmaster General/ Director of Postal Services | Director of Postal (i) to (iv) Services | All | Head of Circle/Member (personnel), Postal Service Board. |
| 3. All other Posts (Group 'C') | Superintendent | Superintendent | (i) to (iv) | Postmaster General/Direc- tor of Postal Services. |
| 4. All posts (Group 'D') | Superintendent | Superintendent | All | Postmaster General/Direc- tor of Postal Services. |
| | | | | Assistant Postmaster General. |

OFFICE OF MANAGER, POSTAL MAIL MOTOR SERVICES AND REGIONAL WORKSHOPS FOR POSTAL VEHICLES.

| | | | | |
|---|--|---|-----|--|
| 1. Staff on deputation in Mail Motor Service, Regional Workshops (Group 'C') | Appropriate Appoint- ing Authority in parent office | Appropriate disci- plinary Authority in parent office | All | Appropriate Appellate Authority in parent off |
| 2. Staff in Selection Grade Inspector, Mail Motor Service and Garage Fore- man (Group 'C') | Chief Postmaster & General/Post master General/Director of Postal Services. | Chief Postmaster General/Post master General/Director of Postal Services | All | Chief Postmaster Gen- eral/Postmaster General/Direc- tor of Postal Services. |

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24/5/80
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Annexure A

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| | | | | |
|--|--|--|-----------------------------------|---|
| 1. | 2. | 3. | 4. | 5. |
| 3. Drivers/Despatch riders and all other Posts (Group 'C') | Senior Manager/ Manager | Senior Manager/ Manager | All Deputy Manager (i) to (iv) | Director of Postal Services Senior Manager/Manager |
| 4. All Posts (Group 'C') | Senior Manager/ Manager/Deputy Manager | Senior Manager/ Manager/Deputy Manager | All | Director Postal Services/ Senior Manager/Manager. |

POSTAL TRAINING CENTRE

| | | | | |
|--|---|------------------------|-------------|--|
| 1. | 2. | 3. | 4. | 5. |
| 1. Ministerial Staff in Higher Selection Grade, Instructor in the cadre of Assistant Superintendent of Post offices/Assistant Superinten- dent of Railway Mail Services/ Inspector of Post Offices/ Inspector of Railway Mail Services and Artist/Designer (Group 'C') | Principal | Principal | All | Member (Personnel) Postal Services Board. |
| 2. All other Posts (Group 'C') | Vice Principal | Vice Principal | (i) to (iv) | Principal |
| 3. All Posts (Group 'C') | Administrative Officer | Vice Principal | All | Principal. |
| 4. Departmental Officials deputed for training (Group 'C' & 'D') | Appropriate Appointing Authority in Parent Cadre | Administrative Officer | (i) to (iv) | Vice Principal |
| | | Vice Principal | All | Vice Principal |
| | | Vice Principal | (i) to (iv) | Principal |

Annexure A-10

Page No.

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19-15/

POSTAL AND RAILWAY MAIL SERVICE DIVISIONAL OFFICES AND SUB-DIVISIONAL OFFICES

| 1 | 2 | 3 | 4 | 5 |
|--|---|---|-----------------|---|
| 1. Assistant Superintendent of Post Offices/Assistant Superintendent Railway Mail Services/Inspector of Post Offices/Inspector of Railway Mail Services/Ministerial Staff in Higher Selection Grade, Junior Engineer(Civil) & Junior Engineer(Electrical) (Group C). | Postmaster General/ Director of Postal Services | Postmaster General/ Director of Postal Services | All (i) to (iv) | Head of Circles Director Postal Services |
| 2. All other posts (Group C) | Head of Division | Head of Division | All | Postmaster General/ Director of Postal Services |
| 3. All posts (Group D) | Head of Division/ Sub Division | Head of Division | All | Postmaster General/ Director of Postal Services |
| | | Head of Sub-Division | (i) to (iv) | Head of Division |

RAILWAY MAIL SERVICE OFFICES

| 1 | 2 | 3 | 4 | 5 |
|--|---|--|-----------------|---|
| 1. Ministerial Staff in Higher Selection Grade/Assistant Superintendent Railway Mail Services/ Inspector Railway Mail Services (Group C) | Director of Postal Services | Director of Postal Services | All | Chief Postmaster General/Postmaster General |
| 2. Ministerial Staff in Lower Selection Grade (Group C) | Director of Postal Services/ Head of Division | Director of Postal Services/Head of Division | All | Chief Postmaster General/Postmaster General/Director of Postal Services |
| 3. Head Mailguards/Mailguards (Group C) | Head of Division | Head of Division Superintendent(Sorting)/Assistant Superintendent Railway Mail/Inspector Railway Mail of the Office/ | All (i) to (iv) | Postmaster General/ Director of Postal Services |
| | | | | Head of Division |

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Director Postal Services

All other posts Head of Division
(Group C)

5. All posts
(Group D)

Head Record Officer (in his own office, in offices at the same station and in sections of the same Division attached to it); Selection Grade Record Officer or Sub-Record Officer (in his own office and in offices at the same station attached to it and in sections of the same Division attached to it), Lower Selection Grade Platform Inspector, if Record Office is not situated on the platform; Inspector of Railway Mails/Assistant Superintendent of Railway Mails (in other offices and sections under his jurisdiction) Superintendent (Sorting) in respect of all staff under his control

Head Record Officer (i) to (iv) in his own office and in offices at the same station and in sections of the same Division of the same Division attached to it); Selection Grade Record Officer or Sub-Record Officer (in his own office and in offices at the same station attached to it and in sections of the same Division attached to it), Lower Selection Grade Platform Inspector, if Record Office is not situated on the platform; Inspector of Railway Mails/Assistant Superintendent of Railway Mails (in other offices and sections under his jurisdiction)

Postmaster General/
Director of Postal
Services

Senior Superintendent
of Railway Mails

Senior Superintendent
of Railway Mails/
Superintendent of
Railway Mails

ATTESTED

POST OFFICES

1. Postmaster/Ministerial Staff in Higher Education

Director of Postal Services, Director of Postal Services/Direct. P.O.) All

Chief Postmaster
General/Postmaster
General

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Annexure A

DEPARTMENT OF POSTS
OFFICE OF THE POSTMASTER GENERAL, N.E. REGION, SHILLONG.

NO.STAFF/109-8/2000,

Dated at Shillong, the 20.11.2000.

This is regarding appeal of Shri S.B. Hazarika, IPO (Complaint), Kohima dated 28.3.2000 against the order of DPS, Kohima placing him under suspension w.e.f. 8.11.99 under DPS, Kohima's memo No.F3/vii-01/99-2000 dated 11.11.99.

The case in brief is as follows. Shri S.B. Hazarika, while functioning as Complaint Inspector, Divl. Office, Kohima during the period from 03.02.99 to 7.11.99, allegedly have taken a sum of Rs.65,400/- from the treasury of Kohima H.O. on 29.7.99, a sum of Rs. 7000/- from Wokha S.O. on 29.7.99 through the SPM, Wokha and Rs.3000/- on 22.9.99 from Dayang S.O. through the SPM by using the influence of his official capacity unauthorisedly for his personal use without the knowledge of the competent authority.

DPS, Kohima detected the unauthorised taking of Rs.65,400/- by Shri Hazarika from the treasury of Kohima H.O. during verification of Cash and Stamp of the H.O. on 30.9.99. It was further found that he deposited a sum of Rs.10,400/- on 30.9.2000 against that amount. The case therefore was reported to Police and the Police registered a case under Kohima North P/S case No.198/99 U/S 420 IPC. Shri Hazarika was arrested by the police on 8.11.99 and detained him in police custody upto 2.12.99 and released him on bail on 03.12.99. Since Shri Hazarika was detained in police custody for more than 48 hrs., DPS, Kohima placed him under suspension w.e.f. the date of arrest. Shri Hazarika is continuing to be under suspension since then.

Shri S.B. Hazarika has appealed for (1) enhancement of his subsistence allowance by 50% of the initial grant after expiry of 3 months. And (2) He should be reinstated in service.

Shri Hazarika put forward the following points in support of his appeals.

- i. For increase of subsistence allowances w.e.f. the date following the date of completion of first 3 months of his suspension amount not exceeding 50% as provided in FR-53(I)(ii)(a).
- ii. DPS, Nagaland has wilfully deviated from the above mentioned provision and imported the terms "facts and circumstances of the case" which has nothing to do to deny the increase of allowances.
- iii. DPS, Nagaland did not speak regarding the facts and circumstances for which he did not find justification for altering the subsistence allowances.

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21/11/2000
AGP

iv. That the suspension is being prolonged for pendency of court case for which the appellant is not responsible.

v. The merit of the case against the appellant does not justify the continuation of his suspension beyond 3 months.

vi. That his case neither justify prosecution nor suspension.

vii. That his was not a case of bribery, corruption or other criminal misconduct involving loss of substantial funds like Bofors scandal or justifying prosecution. It was involving less serious offence or malpractice of a departmental nature for which only departmental action is to be taken and the question of prosecution does not arise as per instruction of DG(P) vide letter No.6/67/64-Disc dtd. 13.7.67 and 15/70-vig-iii dtd. 16.1.89.

viii. That the loss was not caused by the appellant but by the DPS, Nagaland by charging the amount as UCP instead of giving any time to the appellant to refund the amount. He actually started refunding the amount by adjusting Rs.10,400/- on the day of verification of cash by DPS on being asked by the DPS. He further stated that had the DPS given him two more months time and had the appellant not been apprehended by the police the amount would have been refunded within a reasonable time.

ix. That the action of the DPS, Nagaland in reporting the case to Police was unjust, unfair and unwarranted.

x. That the appellant admitted the charges brought against him and requested DPS, Nagaland for his reinstatement and recover the amount from his pay.

xi. That the review order did not say that continuation of suspension was absolutely necessary even after release from detention from the investigation point of view.

xii. That the reporting of the case to police was a wrongful one and therefore his detention by police was also wrongful. Therefore, continuation of his suspension beyond three months even after release from detention is unjustified and against the instructions contained in GI Min of Per. & Trg. OM No./11012/16/85-EST(A) dtd. 10.1.86.

I have gone through the appeal and concerned records thoroughly and considered the arguments advanced by the appellant in his support and found that :-

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1. The Disciplinary Authority duly reviewed the suspension and subsistence allowances and did not find any justification to revoke and increase it. The undersigned therefore does not find any reason to intercede in the decision taken by the Disciplinary Authority i.e. DPS, Kohima.

2. Regarding the question of his reinstatement, I find that the reason for which he was suspended is still continuing and inquiry into the matter has not been completed yet. And at this stage the matter of revocation of his suspension cannot be considered on administrative reasons.

In view of the facts and circumstances mentioned above, I find no sufficient reason to alter the decision of the Disciplinary Authority. The appeal of Shri S.B. Hazarika, therefore, is rejected.

Zasanga
(ZASANGA)

Postmaster General,
N.E. Region, Shillong-793 001.

Shri S.B. Hazarika
Complaint Inspector (U/S)
C/O DPS, Nagaland Division,
Kohima.

Copy to:-

1-2. The Director Postal Services, Nagaland Division, Kohima.
3. Office.

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DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E. CIRCLE
SHILLONG-793 001.

MEMO NO. STAFF/109-14/2001,

Dated at Shillong, the 29.1.2002.

ORDER

This is a decision on the appeal dated 12.9.2001 of Shri S.B. Hazarika, at present working as Complaint Inspector (Postal), Divisional Office, Kohima, against the order of DPS, Kohima issued in Memo No. Rule-14/S.B. Hazarika dated 8.6.2001 vide which the punishment of reduction of pay of the official by 6(six) stages for a period of 3(three) years with cummulative effect was imposed on the official.

2. The chronology of events in this case in brief is as follows:-

- (i) Charge-sheet under Rule 14 of CCS (CCA) Rules, 1965 issued to the official on 19.2.98.
- (ii) Inquiry completed and I.O. submitted his report on 27.9.2000.
- (iii) The Disciplinary Authority issued the punishment referred to above on 8.6.2001.

Normally an official to whom a punishment is awarded, is supposed to make the appeal to the prescribed Appellate Authority. However, in this case, it is seen that the charged official approached the Hon'ble Central Administrative Tribunal (CAT), Guwahati Bench, Guwahati vide O.A. NO.347 of 2001. The Hon'ble CAT, Guwahati was not inclined to go into the merits of the case at that stage and directed the appellant – Shri S.B. Hazarika to prefer a statutory appeal before the competent authority within three weeks vide their order dated 31.8.2001 in OA NO.347/2001. Further, the Hon'ble CAT, Guwahati directed the Appellate Authority to conclude the appeal preferably within two months from the date of receipt of the appeal if preferred by the appellant. Pursuant to this decision of the Hon'ble CAT, Guwahati, the official Shri S.B. Hazarika submitted his appeal directly to the Appellate Authority and copy endorsed to the Disciplinary Authority. The case alongwith the comments of the Disciplinary Authority was received in Circle Office, Shillong on 28.9.2001. The appellant had quoted some case Laws in his appeal and correspondence was entered with the appellant for supplying copies of records relied by him in his appeal. After protracted correspondence, no satisfactory reply was received.

The text of the Articles of charges against the official is reproduced below :-

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ARTICLE-I

"Shri S.B. Hazarika while working as SDIPOs, Ukhrul Sub-Division during the period from 29.01.96 (A/N) to 31.01.98 he had shown to have inspected as many as 54 post offices in the year 1996 but had not submitted a copy of the inspection remarks in respect of each of these 54 post offices to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of the Supdt. of Post Offices, Manipur Division, Imphal. Similarly, the said Shri S.B. Hazarika had shown to have inspected as many as 70 post offices during the period from 01.01.97 to 31.12.97 but had not submitted a copy of the inspection remarks in respect of 45 post offices to the Supdt. of Post Offices, Manipur Division, Imphal or any other appropriate authority in place of Supdt. of Post Offices, Manipur Division, Imphal. By his above acts, the said Shri S.B. Hazarika violated the provision of Rule 300 (2) of P&T Man. Vol.III read with Department of Posts, New Delhi letter No.17-3/92-Inspn. dated 2.7.92 and Rule 3 (1) (ii) of CCS (Conduct) Rules, 1964."

ARTICLE-II

"Shri S.B. Hazarika while working as SDIPOs, Ukhrul Sub-Division during the period from 29.1.96 to 31.1.98 he had shown to have inspected the following EDBOs in Ukhrul Sub-Division on the date noted against each.

| | <u>Name of the EDBO</u> | <u>Date of inspection shown</u> |
|----|-------------------------|---------------------------------|
| 1. | Chingjarai EDBO | 25.2.1997 |
| 2. | Sirarkhang EDBO | 29.3.1997 |
| 3. | Kamang Kakching EDBO | 19.5.1997 |
| 4. | Shanshak EDBO | 10.6.1997 |
| 5. | Nungshong EDBO | 15.7.1997 |
| 6. | Pushing EDBO | 20.7.1997 |

But, in fact, the said Shri Hazarika did not at all inspect the above mentioned EDBOs either on the date noted against each or on any other date in the year, 1997. Therefore, by his above acts, the said Shri S.B. Hazarika, violated the provisions of Rule 300 (I) of the P&T Manual Vol. VIII, Rule 3 (I)(i) of the CCS (Conduct) Rules, 1964 and Rule 3 (I)(iii) of the CCS (Conduct) Rules, 1964."

3. The main points put forward by the appellant in his appeal are as follows :-

- That I.O. held the enquiry on 15.9.99, 16.9.99, 17.9.99, 18.9.99 ex-parte. Thus, he did not get the scope to defend his case.
- That he could not attend the enquiry on above dates as he was not relieved by the controlling authority i.e. DPS, Kohima although the copy of notice, dated 12/23.8.99 was endorsed to DPS, Kohima also by the I.O.

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iii) That the additional documents demanded by him which were accepted by the I.O. and called for production during the inquiry on 10.5.2000 were not produced and examined.

iv) The defence witness, Shri N.C. Haldar, Dy. SP, Imphal although was summoned to attend the enquiry declined to become a defence witness, and no action was taken to compel him to depose before the I.O.

v) That the prosecution witnesses – (1) Shri L. Ito Singh (SW-1), (2) Shri S. Yarngai (SW-2), (3) V.S. Vareso (SW-3), (4) Shri O. Dwijamani Singh (SW-4) were examined in absence of the appellant without ordering for cross examination. So these witnesses cannot be treated as valid.

vi) Shri O. Dwijamani Singh (SW-4), dealing assistant of the Divisional Office, Imphal, deposed that the appellant did not submit the IRs as listed in the charge-sheet i.e. 54 (fifty four) IRs of 1996 and 45 (forty five) IRs of 1997. This deposition made from his memory without support of any documents. The appellant argues that nobody can remember such information correctly without any support of evidence.

vii) a) That the I.O. in his inquiry report held that charge under Article-I was not proved.
b) That the I.O. in his inquiry report also held that the charges under Article-II was partially proved, because out of six offices, alleged to be not inspected by the appellant only three offices were found not inspected. But these findings also should not be treated as correct because the appellant was not given reasonable opportunity to cross-examine the state witness.

viii) That the punishment order with retrospective effect with effect from 1.6.01 while the order was issued on 8.6.01 which is not admissible as per rule.

The appellant, therefore, prayed that the punishment order should be set aside.

4. I have gone through the appeal thoroughly with reference to relevant records. It is seen that -

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(i) The appellant evaded attending the inquiry not only from 15.9.99 to 18.9.99 but on earlier dates also (i.e. 25.8.98, 22.9.98 and 27.1.99) he did not attend the enquiry. As regards his non-relief, he alleged that DPS, Kohima did not issue any release order. The appellant was working in the office of DPS itself. He was summoned to attend the enquiry. It was incumbent on him to seek release order for attending the enquiry but he did not do so. As such, it cannot be said that he was denied chance to attend the enquiry. Moreover, he did not send any information also to the I.O., intimating the reasons for his inability to attend the enquiry. Therefore, the I.O. was justified in holding the enquiry ex-parte. The claim of the appellant stating that he did not get reasonable opportunity to defend his case, therefore, does not stand.

(ii) It is found to be a fact that the additional document i.e. the tour T.A. advance file of Divisional Office was neither furnished nor any reason for non-production was intimated to the I.O. But, in my opinion, T.A. advance file has no direct relevance to submission of IRs. Because, T.A. advances are generally sanctioned if the tour programme is approved and adjustment of previous T.A. advances are generally watched over.

(iii) Regarding non-attendance of the defence witness, Shri N.C. Haldar, it is found that the official expressed unwillingness in writing to be a defence witness and he did not attend the hearing on 10.5.2000. As recorded in the order sheet dated 10.5.2000, his further summoning was also not insisted upon by the appellant.

(iv) The state witnesses were examined during the hearing from 15.9.99 to 18.9.99 while the enquiry was held ex-parte. The appellant was himself responsible for not attending the enquiry. Hence, it cannot be said that he was not given opportunity to defend his case. Further, he did not request for recalling those witnesses for cross-examination when he attended the enquiry on subsequent dates. Hence, there is no ground to treat those witnesses as invalid.

(v) The SW-4 deposed regarding non-submission of IR from his personal knowledge. Even if he might not have recollected the numbers correctly, the fact of non-receipt of some IRs from the appellant was established. The appellant also did not furnish any proof of submission of any of the IRs from his side to disprove the statement of SW-4 and the substantive charge against him.

(vi) It is correct that the Inquiry Authority held that the charge under Article-I was not proved. But the Disciplinary Authority disagreed with this finding of the I.O. and recorded his own findings with reason for disagreement. This is permitted under Rule15 of CCS (CCA) Rules, 1965. Therefore, DPS; Kohima – the Disciplinary Authority was well within his power to disagree with the findings of the I.O. in respect of charges under Article-I.

(vii) Regarding the effect of the punishment retrospectively, the controlling authority intimated that it was an inadvertent mistake. It would be effective either from the date of issue of order or prospectively.

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5. On a careful consideration of the whole case I find that the charges against the official are quite grave. Inspection of offices under his control is the primary and important duty of a Sub-Divisional Inspector. Equally important is his duty to promptly submit all the Inspection Reports to his superiors. In the entire enquiry, the charged official has not brought any evidence to prove that he had fully discharged his duties of preparation and submission of Inspection Reports listed in the charges. He is trying to rely only on one premise that if he had not submitted his IRs he would not have been given further TA advance. I am surprised that a responsible officer of the rank of a Sub-Divisional Inspector should take recourse to such flimsy excuse in support of his case. Had he really submitted the Inspection Reports, there is no reason why they would not be available in the Divisional Office. Similarly, office copies and the forwarding letters relating thereto would be available in the SDI's office also. The Disciplinary Authority in its decision, especially para-7, sub-para-5 has dealt with this aspect in detail.

6. In my view the charged official deserves a much harsher punishment of removal from service. However, I take an overall rather liberal view of the case and treat the punishment already given to the official as adequate with a view to giving him a chance to improve as he has got so many years of service left. The appeal of the official is, therefore, hereby rejected.


(VIJAY CHITALE)
Chief Postmaster General,
N.E. Circle, Shillong-793 001.

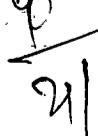
Copy to:-

1. The Director Postal Services, Nagaland Division, Kohima-797 001.

2. Shri S.B. Hazarika, Complaint Inspector (Postal) through the Director Postal Services, Nagaland Division, Kohima.


(VIJAY CHITALE)


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RECD A/D
DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES
NAGALAND, KOHIMA- 797 001.

Received on 18/11/03

Boze
18/11/03

No. B- 580/Loose/II

Dated, Kohima the 21.1.2003

To,

Shri S.B. Hazarika,
Ex. Complaint Inspector,
Divl. Office, Kohima
u/s now at Sajiva Central Jail,
Imphal, Manipur : 795001.

Sub:- Forwarding of appellate order.

Please find enclosed herewith a copy of COs letter no. Staff/109/Misc/8/99 dtd 10.12.02
regarding your appeal Dtd. 17-4-99 against DPS, Manipur memo No. E-6/LTC Adv/98-99
Dtd. 18-12-98 for favour of your information.

Enclosed: a/a.


(D. Chakraborty)
Supdt. of Post offices(IQ)
For Director Postal Services
Nagaland, Kohima-797001.

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APP

Department of Posts
Office of the Chief Postmaster General, N.E. Circle, Shillong 793001

10 December, 2002

No. Staff/109/Misc/8/99



Read the following:

1. i) Charge Sheet against Shri S.B. Hazarika via memo no. E-6/LTC Adv/98-99 dated 24.8.98.
ii) Representation of the official dated 24.8.98 against the charge sheet.
iii) Punishment order no. E-6/LTC Adv/98-99 dated 18.12.98.
2. This is an appeal submitted by Shri S.B. Hazarika, ex-CI, Manipur Division and present under suspension while working as CI Nagaland Division.
3. Shri S.B. Hazarika was charge sheeted under Rule 16 of CCS(CCA) Rules 1965 in DPS Manipur Division memo no. E-6/LTC Adv/98-99 dated 24.8.98 for alleged irregularity in the use of LTC facility. After following the due process of law he was awarded the punishment of stoppage of increment for 2 years without cumulative effect vide DPS memo no. E-6/LTC Adv/98-99 dated 18.12.98. Shri S.B. Hazarika has filed his appeal dated 17.4.99 against this punishment.
4. Shri S.B. Hazarika, the appellant, has stated in his appeal that the delay in submission of the appeal might be condoned, that the punishment was ordered by DPS Manipur without showing due consideration of his submissions but taking into consideration extraneous matters, that the appellant had taken LTC advance, but could not carry out the LTC journey and ultimately the advance was recovered in full along with penal interest, that no penalty is contemplated in Rule 15 of CCS LTC Rules 1998 for not carrying out LTC journey when the advance has been recovered with penal interest, that specific violation of rules has not been quoted in the charge sheet and that invoking "Rule 3 of CCS(CCA) Rules" was not in order if the omission was not considered as a misconduct warranting disciplinary action, that the disciplinary authority's action of punishment was with malice and caprice, that the order of punishment was flawed, that at present he was under suspension which implied that the disciplinary action contemplated would result in dismissal, removal and compulsory retirement of the appellant and hence imposition of this punishment order was not correct, that conversely if the present penalty held good during the currency of suspension in connection with another case, the justification of suspension in another case does not hold good and also if suspension in another case is justified, stoppage of increment imposed in the present case is unjustified.
5. Having said the above the appellant contended that the present punishment order is arbitrary and unjustified and hence deserved to be set aside. The appellant pleaded that considering the pros and cons of the case the appeal may be accepted by setting aside the above punishment order.

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Annexure A ~~s.t.3~~

6. I have carefully considered all the submissions made in the appeal of Shri S.B. Lazarika, ex-CI, Manipur Division and also all the facts of the case with respect to all relevant records. The appellant submits that the punishment order was received by him on 23.3.99 and he has submitted the appeal on 17.4.99 and hence the appeal is taken up for consultation, condoning the delay in submission as submitted by the appellant.

7. The gist of the case is that the appellant had applied for and taken advance of Rs.10000/- on 10.12.96 for availing of LTC facility for himself and his family. He had not carried out the LTC journey nor had he refunded the amount of advance as per rules. The LTC advance along with penal interest was recovered from the pay of the appellant in installments. The contention of the appellant that the irregularity committed by him in taking LTC advance and not carrying out the journey and not crediting the unutilised LTC advance in Govt. accounts, is not punishable under CCS LTC Rules or CCS (CCA) Rules 1965, is not tenable since the act of omission committed by the appellant in knowingly taking the LTC advance which had not been utilized for the stated purpose nor refunding the LTC advance definitely amounts to a misconduct which is covered under Rule 3 of CCS Conduct Rules 1964. I have given due consideration to the contention of the appellant that extraneous matters have been taken into consideration by the Disciplinary Authority while deciding the disciplinary case. A clear reading of the punishment order show that though some misdeeds of the appellant committed in the past were mentioned in the punishment order, the Disciplinary Authority had expressly stated that all these factors were not weighing with him in deciding the disciplinary action. I do not consider there is merit in this contention of the appellant. The version of the appellant that issue of a punishment order while he is under suspension (which implied that he is being proceeded against for major penalty proceedings) is not correct, is also not tenable since the present punishment order under consideration is quite distinct in nature from the other case for which he has been placed under suspension. Each disciplinary case is to be seen as a separate entity and should be dealt with accordingly under CCS(CCA) Rules, 1965. The appellant also mentioned that the awarding of the punishment order (operative portion) which is as follows "be punished with stoppage of increment for 2 years when the next increment falls due without cumulative effect" is incorrect and not covered by CCS Rules is also examined by me thoroughly. The import of the punishment awarded to the appellant is that the next increment will be stopped for 2 years without cumulative effect as a plain reading of the punishment order shows. This being the case there is no merit of the argument of the appellant.

8. I have given careful and thorough consideration of all the aspects of the case and I find that all due procedures have been followed in the present case and the disciplinary authority has also taken a dispassionate view. I do not find any merit in any of the arguments presented by the appellant and I find that the punishment awarded to the

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Appellant is also commensurate, if not lenient, with the gravity of the offence. I do not find any grounds whatsoever to intercede in this case on behalf of the appellant, accordingly I reject the appeal.

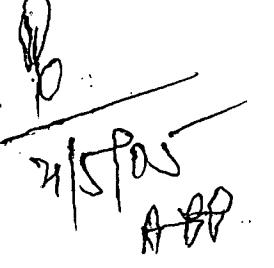

(T. Panneer Selvam)
Postmaster General
North East Region
Shillong 793001
&
Appellate Authority

Copy to:

✓ 1. Shri S.B. Hazarika, ex-CI Nagaland Division, now under suspension (through DPS Nagaland under receipt.)
2. Director of Postal Services, Manipur Division, Imphal 795001.
3. Director of Postal Services, Nagaland Division, Kohima 797001
(Acknowledgement received from the appellant should be sent to Circle Office immediately).
4. PM, Kohima HO.
5. Appeal File -- Stafl/109/Misc/8/99
6. PF of the official
7. Spare


(T. Panneer Selvam)
Postmaster General
North East Region
Shillong 793001
&
Appellate Authority

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4/5/99
A.B.B.

To

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

Sab:- Prayer for permission to plead O.A. No.
of 2005 in person.

Sir,

Would you be kind enough to permit
me to plead the above case in person as
it has not been practicable to engage any
legal practitioner at present.

Thanking you.

Yours faithfully,

B. B. HAZARIKA

(S. B. HAZARIKA)

Opposed.

Place - Gwalior
Date - 01/7/2005

To

The Sr. C. L. S. C.,
Central Administrative Tribunal,
Guwahati Bench : Guwahati - 5.

Sub- Service of Copy of O.R. No. of 2005.

Sir,

Kindly acknowledge in behalf of a
Copy of O.R. No. of 2005 on the Space below
provided for the purpose.

Thanks,

M. M. DAS
Advocate
(P.L.)

Place - G.F./Guwahati
Date. - 01.7.2005

Yours faithfully,
B. B. DAS
(S. R. MARAKA)
Applicant.