

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 183/05
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BS
24/11/17
SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 183 / 2005

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicant(S): S. B. Hazarika

Respondant(S): U.O. 1 2005

Advocate for the Applicant(S): In person

Advocate for the Respondant(S): C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide IPC/BD No. <u>FG 560754</u> Dated <u>1.7.05</u></p> <p><i>[Signature]</i> Dy. Registrar</p> <p><i>Steps taken.</i> <i>NS</i> <i>01.7.05</i></p> <p><i>mb</i></p> <p><i>Recd Copy.</i> <i>Bomb</i> <i>5/7/05</i> <i>Applicant</i></p> <p><i>M. U. Ahmed</i> <i>5/7/05</i></p> <p><i>5.7.05</i> <i>Copy of the order</i> <i>handed over to the applicant</i> <i>as well as to the Addl. CGSC.</i> <i>for the Respondant</i> <i>MB</i></p>	<p>4.7.2005</p>	<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 in terms of the order passed in separ- ate sheets at the admission stage itself.</p> <p><i>[Signature]</i> Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R/A. No. 183/2005

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.

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 183/2005

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., Divisional Office, Kohima
At Anandapara
P.O. - Sabroom
Tripura (South)
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 - 799 001.
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.)**

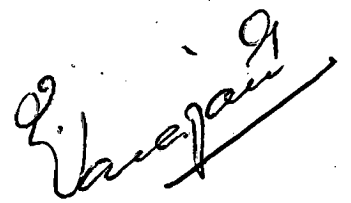
The applicant is an Ex- Complaint Inspector, in the office of the Director, Postal Services, Nagaland, Kohima. He was dismissed from service as per order dated 01.11.2004 passed by the 2nd respondent. Being aggrieved by the said order, the applicant filed an appeal dated 01.01.2005 (Annexure - A-28) before the 3rd respondent. The grievance of the applicant at present is that the said appeal has not so far disposed of and that the applicant is still without employment.

2. The applicant appeared in person and submitted that having regard to the fact that he is out of service pursuant to the impugned order dated 01.11.2004 the 3rd respondent must be directed to pass orders in the appeal dated 01.01.2005 (Annexure - A-28) without any further delay.

3. I have also heard Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents. Having heard the parties, I am of the view that this application can be disposed of at the admission stage itself. If the 3rd respondent has received the appeal memorandum dated 01.01.2005 (Annexure - A-28) submitted by the applicant, certainly the said respondent has to take a decision on the said appeal without further delay having regard to the fact that the applicant is out of employment. In the circumstances, there will be a direction to the 3rd respondent to dispose of the appeal dated 01.01.2005 (Annexure - A-28) submitted by the applicant against the dismissal order dated 01.11.2004 issued by the 2nd respondent within a period of four months from the date of receipt of this order. Needless to say that the order must be a speaking order.

[Signature]

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/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWHATI BENCH : GUWHATI - 5

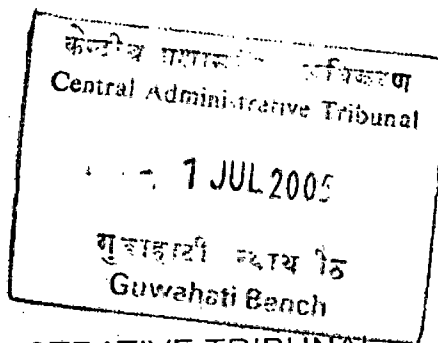
*APPLICATION UNDER SECTION 19 OF
THE CENTRAL ADMINISTRATIVE TRIBUNAL ACT. 1985*

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

COMPILATION NO - 1

APPLICATION AND THE IMPUGNED ORDER
(WITH INDEX)

Rev JG
M. M. Ahmad
Addl. C. Secy
1/7/82



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

O.A. NO. 183 OF 2005

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT, 1985

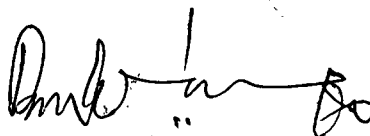
Title : S.B. Hazarika Vs. Union of India & Others

INDEX (Of Compilation No.1)

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1.		Application	1 - 12
2.		Copy of Impugned order dtd.1.11.04 (19 pages)	13 - 31
3.		Left over	32 - 45

N.B. Annexures of Documents are furnished in Compilation No. 2.

Date :- 01.7.2005


Signature of the Applicant

FOR USE IN TRIBUNAL'S OFFICE

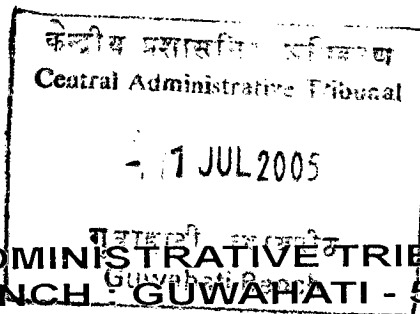
Date of filing :-

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Date of Receipt by post :-

Registration No. :-

Signature ,
For Dy. Registrar.



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O.A NO. -----183-----of 2005

In the matter of -----
An application U/S 19 of the Administrative Tribunal Act, 1985 ;
AND

In the matter of -----
S.B. Hazarika
Ex. C.I. , Divisional Office, Kohima
At Anandapara
P.O - Sabroom
Tripura (South)
Pin -- 799145 **Applicant**

Vs.

1. The Union of India
Represented by -----
The Secretary , Department of Posts,
Dak Bhawan, Samsad Marg
New Delhi --- 110001
2. The Director of Postal Services,
Nagaland , Kohima-- 799001
3. The ~~Chief~~ Postmaster General,
N.E. Circle , Shilong
793001

----- **Respondents.**

DETAILS OF THE APPLICATION

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

Order No.F3/VIII - 02/99 - 2000 dated, Kohima 1.11.2004 passed by the Director of Postal Services Nagaland, Kohima imposing the penalty of Rule 11(ix)(Dismissal) of the CCS (CCA) Rules 1965.

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.

Contd..... P/2

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 Inspector of Post offices (Complaints) commonly known as C.I. (Postal), in the Divisional Office, Kohima during the year 1999 he took some personal loans from some of his departmental friends viz .

Rs. 65,400 /- from one Shibji Chowdhury of Kohima H.P.O.,
Rs. 7,000 /- from one Stephen Yesica of Wokha S.P.O.,
Rs. 3,000/- from one Rakesh Kr. Shing of Dayang S.P.O. and
Rs. 2000/- from Ramashwar Roy of Papernagar S.P.O.

all in Nagaland , on different dates for a life saving surgical operation of his uncle at Assam Medical College Hospital, Dibrugarh , Assam.

- 4.2 That, unfortunately, the applicant was served with a Charge-Sheet under Rule -14 of the CCS (CCA) Rules 1965 vide Charge -Sheet dtd. 06.1.2000 on the ground that the said amounts were money of the Govt. which were paid to him from office cash unauthorisedly by the paying officials as the applicant influenced his official position as an Inspector of Post offices and by the above act the applicant violated departmental rules which constituted misconduct on the part of the applicant .

A copy of the Charge -Sheet is annexed to the application as Annexure-A-1

- 4.3 That an Inquiry officer was appointed to inquire into the Charges levelled against the applicant and a Presenting officer was appointed to represent the department on 23-03-2000 .

A copy of the appointment order of I.O. is annexed as Annexure A-2 and a copy of the order appointing the Presenting officer is annexed as Annexure A-3.

- 4.4 That , the point of inquiry before the Inquiry officer was whether the money taken

by the applicant was govt. money or personal loan . After completion of Inquiry , the Inquiry officer submitted his report on 29-04-2004 to the Discy . Authority with the findings that the Charges levelled against the applicant were not proved as the money taken by the applicant was not govt. money but personal loan and so the applicant has been absolved form all the charges .

A copy of the Inquiry report is annexed as Annexure A-24.

- 4.5 That , the disciplinary authority (Resp.No.-2) did not agree with the findings of the Inquiry officer in respect of charges under Articles I , II , III , and hold that the charges under those Articles were proved because the mony taken by the applicant was govt. money (vide Annexure A-25) and passed the final order on 1.11.2004 dismissing the applicant from service ignoring all cannons of justice and fairplay and ignoring the applicant's representation (Annexure A-26) , made against the perverse findings of the disciplinary authority (Annexure A-25).

A Copy of the final order (of dismissal) dtd. 1.11.2004 is annexed as Impugned order at pp. 18-21 in Compilation No. -1 .

- 4.6 That the applicant on receipt of the impugned order on 20.12.2004 preferred an appeal on 1.1.2005 to the appellate authority i.e the Postmaster General , N.E Circle , Shillong urging to set aside the oredr of penally as violative of Articles 14 and 311 of the Constitution of India ; but appellate authority has not passed orders on the appeal till this date though a period of 6(Six) month from the date of preference of appeal has expired on 30.6.05.

A Copy of the appeal dated 1.1.2005 is annexed as Annexure A- 28.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 *Denial of right to Cross-examine PWs :-*

The proseecution examined -

PW-1, PW - 2 and PW - 3 on 24.01.2002 ;

PW-4 , PW -5 and PW - 6 on 28.01.2002 ;

PW - 7 on 29.01.2002 .

After less than one month on 27.02.2002 the applicant gave a requisition to the I.O

for summoning of PWs for cross-examination by the applicant vide item 4 of the requisition (Annexure A-20). But the I.O took decision on the requisition after 1 year 6 months 18 days on 15.9.2003 and intimated in his letter No. DSPos / Rule - 14/ 2k dtd. 15.9.2003 (Annexure A-21) that the request was disallowed as time barred as per para 23 (8) of G.I.M.H.A No. F-30/5/61- AVD dtd 25.8.2003 . The request was further disallowed on 14 th October , 2003 . (vide Annexure A -22).

But during the course of inquiry on 30.01.2004 the I.O. could not justify his action disallowing the cross-examination of the PWs on ground of time -bar by showing or producing the ruling on the subject . The I.O. took his own time of more than 1½ years to decide the issue though requisition was given within less than one month of examination-in-chief . This is a gross violation of principles of natural justice and reasonable opportunity to prove the innocence of the applicant as guaranteed by Article 311 of the Constitution of India . The right to cross -examination of PWs by the defence side is a very valuable right the denial of which vitiates the inquiry ab-initio. There is no provision in the CCS(CCA) Rules, 1965 disallowing cross-examination of a witness on the ground of time -bar as there is no limitation of period within which a witness is to be cross -examined. But the Discy. authority failed to detect this irregularity while applying his mind in examining the inquiry report ..

5.2 Denial of right to examine defence witnesses:-

The applicant gave requisition for summoning 2(two) defence witnesses viz .(1) Sri F.P.Solo and (2) Sri K.R.Das vide Annexure A-20 at item 3(i) and 3(ii); but the request was rejected by the I.O. on the ground that the proposed DWs Sri F.P. Solo at 3(i) was the disciplinary authority and Sri K.R.Das at 3(ii) was not relevant to the case . But as per rule the prescribed discy. authority can be changed and an ad-hoc discy. authority can be appointed if he is personally concerned with the charges or involved as a material witness.

The evidence of the proposed DW-1 F.P. Solo was relevant from the defence point of view as he detected the case on 30.09.99 vide Annexure A-36, he investigated the case and submitted C.L.I.(Circle level Inquiry) report on 14.03.2000 vide Annexure A-37, punished 3 officials of Kohima H.P.O. with recovery from pay of the loss sustained vide Annexures A-38 to A-40 in connection with this case and there was, therefore , a possible line of defence to prove the innocence of the applicant .

As regards evidence of Sri K.R.Das ,the proposed DW-2 , his evidence was relevant to the case from the defence point of view as Sri K.R.Das in the capacity of

Dy.Suptd. of Post offices, Kohima who was second in command to DW-1, as he attested the exhibits P.D.-3 (Annexure A -41), P.D-7 (Annexure A -42) and P.D.-8 (Annexure A-43).

5.3 Denial of inspection of documents before examination of P.W.s :-

The I.O. issued notice for holding inquiry on 23.1. 2002 on which the prosecution produced some prosecution documents (P.D) vide PD-1 to PD-9 as mentioned in the copy of proceedings dtd. 23. 1 2002 (vide Annexure A-9). As per Rule 14(11) of CCS (CCA) Rules , 1965, after production of documents by the prosecution the proceedings are to be adjourned at least for 30 days. As per Rule 14 (11)(i) the charged official should be given at least 5 days time which may be extended by further 5 days time for inspection of the documents produced; as per rule 14 (11)(ii) ibid the charged official should be asked to submit a list of witnesses to be examined on his behalf and under Rule 14(11)(iii) ibid the charged officer should be asked to give a notice within 10 days which may be extended by a further period of 10 days for discovery and production of documents which are in the possession of the govt. i.e. additional documents , but not mentioned in the list of documents proposed to be sustained.

Then after completion of processes under the succeeding sub-rules (12) and (13) of Rule 14 only , the I.O. can proceed to sub-rule (14) of Rule 14 to record oral evidences from the PWs.

But just after production of prosecution documents under sub-rule (11) of the prosecution the I.O. overruled the provisions of inspection of documents by the charged officer , and other requirements of clauses (i), (ii) and (iii) of sub-rule (11) of Rule 14 and issued summons on the very day of inquiry i.e. 23.1.02 to the PWs-1 to PW -6 (vide Annexures A -10 to A-15) after which on the following day on 24.1.2002 he recorded oral evidences of PW-1 to PW-3 (vide Annexure A-16); recorded oral evidences of PW- 4 to PW- 6 on 28.1.2002 (Vide Annexure A - 18) and recorded evidences of PW-7 on 29.1.2002 without reasonable notice to the applicant. The applicant at that time was on leave on health ground at Sabroom (Tripura State) which is about 1100 K.Ms. from the place of inquiry i.e. Dimapur (Nagaland) for which inquiry was to be held up as per Rule-71 of P&T. Manual Vol. III.

5.4 Denial of adjournment of hearing for inability to attend inquiry owing to non payment of Subsistence allowances :-

Inquiry was fixed for hearing on 28.11.2003 at Dimapur . At that time the official was under suspension at Imphal which was at a distance of more than 200 K.ms from Dimapur. The applicant intimated the I.O that it was not possible on his part to attend the Inquiry at Dimapur owing to non - payment of his subsistence allowance and requested that the hearing could be adjourned .

The I.O. recorded the objection of the applicant in the proceedings dtd. 28.11.2003; but the proceeding was not adjourned and on that day PW-7 was examined (vide Annexure A- 23). This was in violation of principles of natural justice as the applicant was denied the reasonable opportunity to prove his innocence.

5.5 *Denial of right to know evidence:-*

The Disciplinary authority stressed his reliance on a document which was not produced during the inquiry . The disciplinary authority has admitted in para 15.1 of his final order as follows:

"15.1 It is a fact that the UCP memo No.F3/VII-01/99-2000 dtd. 21/22.10.99 was not produced as a document during the course of inquiry . But its mere non-inclusion in the course of inquiry does not in any way disproves the fact that it was never issued Thus , the contention of the CO. that UCP sanction memo. dated 21/22.10.99 was not produced as a document during the course of inquiry does not in any way negates the fact that it was never issued or that this short amount was never charged as UCP on 30.9.99 itself in the Treasurer's cash book and H.O. Summary and duly incorporated in the Accounts return of Kohima H.O....."

It is, therefore clear that the U.C.P. memo. dated 21/22.10.99^e was a foreign or extraneous material which was relied upon by the disciplinary authority to base his findings .

As per sub-rule (4) of Rule 15 of the CCS (CCA) Rules, 1965 a penalty can be imposed by the disciplinary authority on the findings only on the basis of evidences adduced during the inquiry . The disciplinary authority did not afford opportunity to the applicant to inspect the document and to use of such document tantamounts to collect and use of evidences at the back of the applicant which violates the principles of natural justice and fairplay .

5.6 *Order of penalty is not a self-contained and not a speaking one :-*

The decision of the disciplinary authority is a result of caprice , whim and fancy as it is devoid of reasons recording of which is greater as the order of penalty is subject to appeal and not a judgement-in-rem. The disciplinary authority disagreed with the findings of the inquiry officer ; but the inquiry report was not at all discussed in the final orders . In the inquiry report the inquiry officer reported that all the charges levelled against the applicant were found not proved as it was not estab-

lished that the money which were paid to the applicant were office money i.e. Govt. money which was the main criterion of the charges. But the disciplinary authority did not discuss the inquiry officer's report in the final order which was unavoidable to be discussed. Intimation of reasons of disagreement with the findings of inquiry officer in a separate communication before the final order was passed is not sufficient and exhaustive and so it cannot make the final order self-contained, without the findings in the inquiry report are contained in the final order itself. As a final order is a quasi-judicial order, it is liable to be held invalid as such orders do not conform to legal requirements.

As per Rule 8 of the Postal Manual volume -III the order of punishment should contain a sufficient record of evidence including oral evidence, if any, and a statement of the findings and grounds thereof i.e. evidences recorded during the inquiry by the inquiry officer in respect of each charge, in short, the substance of the inquiry report, which are not contained in the impugned order.

5.7 *Final order was passed during deemed suspension in connection with another case :-*

The applicant was under deemed suspension in connection with a court case at the time of passing final order of dismissal from service on 1.11.2004. The applicant was acquitted in the court case on 18.10.2004 on which he deemed to have been reinstated in service. But the applicant instead of being re-instated was dismissed from service on 1-11-2004 which was illegal and bad in law.

Case law referred ;

Devedra Vs. state of U.P. (AIR 1962 SC 1334).

5.8. *Personal bias prompted the penalty:-*

The final order passed by the Disciplinary Authority was influenced by his personal bias against the applicant. This apprehension in the mind of the applicant is reasonable as it is based on cogent materials that the applicant filed 2(two) contempt petitions vide CPT-15/04 and CPT-26/04 for non-compliance of CAT's orders. The applicant has, therefore, reasonable ground of suspicion that the disciplinary authority was very much likely 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

Contd. - 8

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 Judgement 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 above case.

Amol Kumar

5.9 ***Incompetency of the disciplinary Authority:-***

The penalty under Rule 11(ix) of the CCS (CCA) rules 1965 (Dismissal) 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-45, page 272) the Director of Postal Services, Nagaland Kohima is a Divisional Director of Postal Services whose disciplinary power are limited to those of a head of a division like Sr. Supdt. of post offices / Sdtd. of post offices . The powers of Head of division is limited to penalty of (i) to (iv) of Rule 11 of the CCS (CCA) rule 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 - 46) at PP 273- 285 (284) .

As per appellate orders passed by the Chief Postmaster General / Postmaster General , Shilong , the Director of Postal Services , Nagaland Kohima , while endorsing a copy to him , has been shown as the Divisional Head , vide Annexure A - 47 , A - 48 , A - 49 in PP. 286 - 297 (288 , 293 & 297) .

The Director of Postal Services , Nagaland , Kohima is , therefore , not competent to impose the penalty of Rule 11(ix) (Dismissal) .

5.10 ***Faux-pas of the disciplinary authority:----***

The disciplinary authority in his final order repeatedly says in paras 9.1, 9.2, 14.1 , 16.2 , and 28 that the applicant did not attend the inquiry except on 30.1.2004 for a period of 3 years as a result of which the finalisation of the case has taken 4 years .

This is a false step on the part of the disciplinary authority to malign the applicant, as well as to create a bad impression on the applicant . Evidences adduced during the inquiry show that the applicant could not attend inquiry only on four occasions on 27.2 .01 , 28.11.03 , 19.7.01 & 18.1.01 owing to non receipt of subsistence allowances (Vide Annexures A - 4, A-23) and only on 23.1.02 to 29.1.02 on which he was on leave on health ground during which inquiry should be kept

pending as per Rule 71 of Postal Manual Volume - III (Extract enclosed as Annexure A- 29)

In addition preliminary hearing was held by the I.O after about one year of appointment of the I.O. Furthermore , the I.O took more than 1 year 6 months to take a decision on requisition by the applicant for discovery of additional documents, summoning of PWs for cross-examination and summoning of defence witnesses for examination and during this period no inquiry was held and the disciplinary authority took overtime to act upon the inquiry officer's report and took excessive time in passing final order on receipt of representation against the findings of the disciplinary authority . By this way more than 3years time was wasted for reasons not attributable to the applicant . As such , the plea of the disciplinary authority that it took 4 years for finalisation of the proceedings owing to non attendance in inquiry by the applicant is but a *faux-pas* .

17
Amb. 1.11.2004

6. Details of the remedies exhausted :

The applicant declares that he has availed of departmental remedies available to him under service rules as follows :

An appeal under Rule 26 (2) of the CCS (CCA) Rules, 1965 was preferred on 1.1.2005 to the appellate authority i.e. the Postmaster General , N.E . Circle , Shillong (Resp. 3); but the appeal has not yet been decided as the applicant has not received any orders passed on the appeal till this date.

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 suit is pending before any of them .

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

Nil.

8. Relief (s) sought with legal provisions relied upon :

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

1) The order of penalty dtd. 1.11.2004 may be set aside and charges against the applicant be quashed with a further direction to reinstate the applicant as Inspector of Post Offices with all consequential service benefits as the applicant

who is the Seniormost Inspector of Post Offices of N.E. Circle has been deprived of his promotion and has been Junior to his Juniors in matters of promotion owing to proceedings and so the applicant is expecting and anxiously waiting for his promotion during the short span of his Service at hand ending with retirement on 31.1.2010.

2) The impugned order of suspension No. F3/VII-01/99-2000 dated 11.11.99 wef. 8.11.99 may be set aside and quashed and the period of suspension from 8.11.99 to 9.8.2001 may be regularised as duty for all purposes.

Dark in the

GROUND FOR THE ABOVE RELIEF AND LEGAL PROVISIONS RELIED UPON:

A) AUDI ALTERAM PARTEM :

The right of cross-examination of witnesses under disciplinary proceedings under Article 311 of the Constitution of India against civil servants is regarded as an essential content of natural justice and fairness.

Case law referred to :

- Khem Chand Vs. U.O.I, AIR 1958 SC 300
- U.O.I. Vs. T.R. Verma, AIR 1957 SC 882
- Town Area Committee Vs. Jagadish Prasad, AIR 1978 SC 1407.
- Meenglas Tea Estate Vs. Workmen, AIR 1963 SC 1719.

In U.S.A. the right to cross-examination is ensured under due process clause and also under the Administrative Tribunal Act, 1946. Also in England, the position is the same as in India and the Courts are seeking to work out the details of the right to cross-examination.

- R.V Gaming Board exparte Benaim (1970) 2B 417.

(B) RIGHT TO KNOW EVIDENCE :

The disciplinary authority i.e. the adjudicating authority cannot use any material unless the opportunity is given to the party against whom it is sought to be used. Non-disclosure of evidence to the affected person is fatal to the hearing proceedings AIR 1981 SC 1758 ; AIR 1966 SC 573 ; AIR 1967 SC 1269 ; AIR 1951 SC 1623). Natural justice is infringed if a matter is decided on new evidence without giving opportunity to the other side to meet with the same (AIR 1966 SC 573). The adjudicating authority must base its decision on the materials known to the parties. No evidence can be taken into consideration which has not been known to the party concerned and for which no opportunity has been afforded to rebut (AIR 1980 SC 1217). Statutory provisions clearly under Rule 15 (4) warns that findings on the

charges should be on the basis of evidences adduced during the inquiry and not outside the inquiry .

(C) 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).

(D) 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 developement which has revolutionized administrative law owes its genesis to the decisions of the Supreme Court .

AIR 1979 SC 1728

AIR 1981 SC 487

(E) 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 :

1) Order may kindly be issued staying the operation of the orders of penalty passed by the Resp.No.-2 pending final decision on the application and the applicant be ordered to be reinstated in service on the basis of acquittal in the Court case on 18.10.2004 .

10. IN THE EVENT OF THE APPLICATION BEING SENT BY REGD. POST:

It may be stated whether the applicant desires to have oral hearing at the admission stage

Filed in person .

11. PARTICULARS OF BANK ALRAFT / POSTAL ORDER FILED IN RESPECT OF THE APPLICATION FEE:

- 1) No. of postal order - 79 560754
- 2) Office of Issue - Nongong Ho.
- 3) Date of Issue - 1.1.05
- 4) Value - Rs. 50/-
- 5) Payable to - Dy. Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati -5

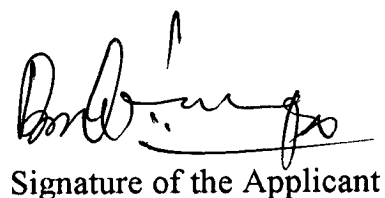
12. LIST OF ENCLOSURES:

1. Postal order No. 79 560754 dtd 1.1.05 to Rs. 50/-
2. Annexures A-1 to A-49 (in Compilation No.-2)
3. Endorsement to Sr. C.G.S.E. for receipt of service copy of the application.

VERIFICATION

I Shri S,B Hazarika S/o (Lt.) Khargeswar Hazarika age 55 years, formerly working as C.I, Divisional Office, Kohima, Nagaland residing at present at Anandapara, P.O- Sabroom, Dist. South Tripura in the State of Tripura do hereby verify that the contents of paras 1 to 4, 6 & 7 are true to my personal knowledge and paras 5 & 8 to 10 are believed to be true on legal advice and that I have not suppressed any material facts.

Date - 07.7.2005
Place - CAT / Guwahati


Signature of the Applicant

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

IMPUGNED ORDER

Annexure A

Page No 13

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES: MANIPUR: IMPHAL 795 001

No:A-1/Con/Corr/2004

13 Dec 04

To,

Shri S.B.Hazarika
C/o Ratna Kanta Hazarika
Postal Assistant
P.O Haibargaon, 782 002
Dist. Nagaon (Assam)

Sub: Final punishment order passed by the Disciplinary
Authority i/r/o Rule-14 Inquiry against Shri
S.B.Hazarika, C.I.Kohima(O/S).

Please find enclosed herewith the final punishment order passed by the DPS-
Nagaland, Kohima vide his office memo No.F-3/VII-02/99-2000/11 dated 01.11.04 being
the Disciplinary Authority in connection with the above stated case.

Encl: As stated above.

(M.C.DAS)
Supdt. of Post Offices
Manipur, Imphal 795 001

Copy to:

01. DPS-Nagaland Kohima for favour of information. The said S.B.Hazarika
is not staying presently at Imphal. Hence, the same has been sent to his
home address received from Shri U.Basumatary, ASPOs(HQ) Imphal.

(M.C.DAS)
Supdt. of Post Offices
Manipur, Imphal 795 001

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

Memo No. F -3/VII-02/99-2000

Dated at Kohima the 01-11-2004

Vide this office memo no. F3/VII-02/99-2000 dtd.06.01.2000, it was proposed to hold an enquiry under Rule 14 of the CCS (CCA) Rules, 1965 against Shri S.B.Hazarika, the then Complaint Inspector in the O/o. Director, Postal Service, Nagaland Division, Kohima, presently under suspension. The statement of articles of charges and the statement of imputation of misconduct and misbehavior in support of articles of charges and a list of documents by which the articles of charges were proposed to be sustained 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, the Charged Official (hereinafter referred to as C.O.) was given an opportunity to submit within 10 (ten) days of the receipt of the memo, a written statement of defense and to state whether he desires to be heard in person.

3. Article I of articles of charges framed against the CO and served vide memo no. F3/VII-02/99-2000 dtd.06.01.2000 were as follows:

Article I

3.1 That the said Shri Shanti Bhushan Hazarika while functioning as Complaint Inspector, Divl. Office Kohima, during the period from 3.2.99 to 7.11.99 took a sum of Rs. 65400 (Rupees sixty five thousand four hundred only) from the Treasury of Kohima H.O on 29.7.99 through the Treasurer, Kohima H.O Shri. Shivji Choudhury by using his official influence unauthorizedly for his personal use without the knowledge of Postmaster, Kohima H.O and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P&T Financial HandBook Vol.I. By the above act the said Shri Hazarika failed to maintain absolute integrity and devotion to duty and acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rule 3(I)(i) to (iii) of CCS (Conduct) Rules, 1964.

3.2 Statement of imputation of misconduct or misbehavior relating to article I framed vide memo no. F3/VII-02/99-2000 dtd. 06.01.2000, reads as follows.

That the said Shri Shanti Bhushan Hazarika while functioning as Complaint Inspector, Divl. Office Kohima, during the period from 3.2.99 to 7.11.99 took a sum of Rs. 65400 (Rupees sixty five thousand four hundred only) from the treasury of Kohima H.O on 29.7.99 through the Treasurer Shri. Shivji Choudhury by using his official influence unauthorizedly for his personal use without the knowledge of Postmaster, Kohima H.O and by breach of trust caused corresponding monetary loss to the Govt.

The taking of office cash from the treasury of Kohima H.O by Shri Hazarika was detected during the verification of cash and stamp balances of Kohima HO by the Director Postal Services, Nagaland on 30.9.99. On detection of shortage of Govt. cash, Shri Hazarika was asked to credit the entire amount to the Govt. account.

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IMPUGNED ORDER

Annexure A - 2

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✓ Shri Hazarika deposited only a sum of Rs 10,400/- to the Govt. account on 30.9.99. the remaining amount of Rs. 55000/- was charged as UCP in Kohima HO on 30.9.99.

Thus Shri S. B Hazarika, by the above act caused monetary loss to the Govt. in violation of Rule 58 of P&T Financial hand Book Vol-I. By the same act the said Shri Hazarika failed to maintain absolute integrity and devotion to duty and also acted in a manner which is unbecoming of Govt. servant violating the provisions of Rule 3(I)(i) to (iii) of CCS (Conduct) Rules, 1964.

4. Article II of articles of charges framed against the C.O served vide memo no. F3/VII-02/99-2000 dtd 06.01.2000 were as follows:

Article II

4.1 That the said Shri. Shanti Bhushan Hazarika while working as C.I Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 7000/- (Rupees Seven thousand only) from the office cash of Wokha S.O through the SPM by using his official influence unauthorizedly for his personal use during his visit to Wokha Post Office on 21.9.99 and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act Shri. Hazarika also violated Rule 3(1)(i) to (iii) CCS (Conduct) Rules, 1964.

4.2 Statement of imputation of misconduct or misbehavior relating to article II framed vide memo no. F3NII-02/99-2000 dtd 06-01-2000 were as follows:

Article II

That the said Shri. Shanti Bhushan Hazarika while working as C.I Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 7000/- (Rupees Seven thousand only) from the office cash of Wokha S.O through the SPM by using his official influence for his personal use during his visit to Wokha Post Office on 21.9.99.

On his way to Doyang SO for inspection Shri Hazarika took Rs. 7000/(Rupees Seven thousand) only from the SPM Wokha SO on 21.9.99 by giving a receipt to the SPM Wokha SO. The, case came to light when the SPM Wokha SO reported the matter to the Director Postal Services, Nagaland, Kohima.

Thus by the above act Shri. Hazarika caused monetary loss to the Govt. to the tune of Rs. 7000/- (Rupees Seven Thousand only) and violated Rule 58 of P & T Financial Hand Book Vol-I and also infringed the provisions of Rule 3(1)(i) to (iii) of CCS (Conduct) Rules, 1964.

5. Article III of articles of charges framed against the C.O served vide memo no. F3/VII-02/99-2000 dtd 06-01-2000 were as follows:

Article III

5.1 That the said Shri. Shanti Bhushan Hazarika while working as C.I Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 3000/(Rupees Three

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thousand only) for his personal use from the office cash of Doyang S.O through the SPM Doyang S.O during his visit to the Post Office on 22.9.99 by using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act Shri. Hazarika also violated Rule 3(1) (i) to (iii) CCS (Conduct) Rules, 1964.

52 Statement of imputation of misconduct or misbehavior related to the article III framed vide memo no. F3/VII-02/99-2000 dtd 06-01-2000 were as follows

Article III

That the said Shri. Shanti Bhusan Hazarika while functioning as C.I Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 3000/- (Rupees Three thousand) only for his personal use from the office cash of Doyang S.O during his visit to the Post Office on 21.9.99. by using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I.

During his visit to Doyang SO for inspection on 22.9.99 Shri Hazarika took a sum of Rs. 3000/- (Rupees Three thousand) only from Govt. cash for his personal use by giving a receipt to the SPM.

By the above act and breach of trust the said Shri. Hazarika caused monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I and thereby infringed the provisions of Rule 3(1)(i) to (iii) of CCS (Conduct) Rules, 1964.

6. Article IV of articles of charges framed against the C.O served vide memo no. F3/VII-02/99-2000 dtd 06-01-2000 were as follows:

Article IV

6.1 That the said Shri. S. B. Hazarika while functioning as C.I Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 2000/- (Rupees Two thousand only) for his personal use on 9.6.99 from the office cash of Papernagar S.O through the SPM Papernagar S.O during his visit to the said S.O by using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act Shri. Hazarika also violated Rule 3(1)(i) to (iii) CCS (Conduct) Rules, 1964.

6.2 Statement of imputation of misconduct or misbehavior related to the article IV framed vide memo no. F3/VII-02/99-2000 dtd 06-01-2000 were as follows

Article IV

That the said Shri. S.B Hazarika while functioning as C.I Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 2000/- (Rupees Two thousand) only for his personal use from the office cash of Papernagar S.O during his visit to the said S.O on 9.6.99. using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt.

Thus by the above act the said Shri. Hazarika violated Rule 58 of P & T Financial Hand Book Vol-I and thereby infringed the provisions of Rule 3(1)(i) to (iii) of CCS

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(Conduct) Rules, 1964...

The CO has submitted defense statement dtd. 17.8.04 to the Disciplinary Authority against the findings of Disciplinary Authority on I.O's report and the I.O's report sent to him vide this office memo no. F3/VII-02/99-2000 dtd. 17.7.04. Different aspect of the case with objective analysis and assessment of the case in light of his defense statement dated 17-8-04 is as discussed below:

8. The Charged Official in his Defense Statement (hereinafter referred to as D.S) dated 17-8-04 in **Para 4.1** has stated that why only Rs. 9000/- was recovered from the pay and allowances of the Treasurer, Kohima H.O and not the sum of Rs. 10,400 which he failed to credit in to government account.

8.1 The Chargesheet was issued against Treasurer, Kohima HO for giving unauthorized advance without prior permission of competent authority and the Disciplinary Authority was free to decide what punishment the Treasurer, Kohima H.O, deserved and C.O cannot dictate/decide/question the punishment awarded by the Disciplinary Authority.

8.2 Further, the credit of Rs. 10,400 was duly incorporated in the government cash of Kohima H.O, as during cash and Stamp verification by DPS on 30.9.1999, only a shortage of Rs. 55,000/- was detected (i.e Rs. 65,400 - Rs. 10,400 = Rs. 55,000). The Treasurer, Kohima HO in similar fashion to earlier given advance of Rs. 65,400/- on 29-7-99 to C.O did not reflect the subsequent deposit of Rs.10,400/- on 30-9-99, in his records but informally credited this amount to govt. cash on 30-9-99, otherwise a shortage of Rs. 65,400 should have been detected.

9. The C.O in **Para 4.1.1** of his D.S dated 17-08-04 has stated that the I.O has rejected his request for cross examination of the witnesses viz PW-1, PW-2 & PW-3, hence their evidences are not corroborative and not conclusive.

9.1 The C.O did not appear before the inquiry on different dates fixed by the I.O on 18-1-01, 27-2-01, 19-7-01, 23-1-02, 24-01-02, 25-01-02, 28-01-02, 29-01-02, 28-01-03, 10-9-03 and 23-12-03 except on 31-1-04, on one pretext or another. He was not co-operating with the inquiry at all and I.O gave him unduly long time before commencing the inquiry exparte. As per CCS (CCA) Rules 1965, any Rule-14 Departmental Proceeding case should be completed in shortest possible time, but the CO appeared before the inquiry only on 31-01-04, which happened to be the last date fixed for inquiry. Similarly the CO's headquarter during suspension was fixed at Kohima but he remained out of headquarter from 12-02-00 to 09-08-01. The C.O on one hand was not cooperating with the inquiry and did not appear before the inquiries for almost 3 years (between 18-01-01 to 23-12-03) and on other hand was merely delaying the inquiry by asking for additional documents or cross examination of witnesses, mostly irrelevant to the case.

9.2 The I.O was within his right to treat the requisition made by the C.O vide his letter dated 27-02-02 for cross examination of PW-1, PW-2 and PW3 by the C.O as time-barred as CO did not appear before the inquiry for almost 3 years till 31-01-04. The IO was very much right in treating his request as time barred as the CO could have cross examined these witnesses had he attended the inquiry on dates fixed for the same. More than adequate and sufficient opportunity was given to him by the IO, which resulted into

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inquiry to go on for almost 4 years. The contention of CO that had the opportunities of cross examination of witnesses of PW-1 PW-2 and PW-3 could have been provided, he would have nullified their depositions is merely a conjecture and figment of his imagination. He was given more than adequate opportunities to participate and cooperate with the inquiry but he deliberately failed to appear before the inquiry till 31-01-04, which is more than 3 years after the first date fixed for inquiry. The contention of the CO that as he could not cross examine these witnesses, therefore their evidences are not corroborative and not conclusive is merely his conjecture and his figment of imagination as he could have cross-examined them had he appear before the inquiry from time to time. He was merely delaying the inquiry on mostly flimsy grounds for reasons best known to him.

10. The C.O in para 4.1.2 of his D.S dated 17-08-04 has stated that the conclusion is not correct and it is not understandable as to why only Rs. 9000 was recovered from the Treasurer, while he breached the departmental rules by giving unauthorized advance of Rs. 65,400. He has also stated that it is not understandable as to why Rs. 1,400/- was let off from the total amount of Rs. 10,400/-, which the Treasurer failed to credit into Govt. account.

10.1 The Rule – 16 Chargesheet served to Treasurer, Kohima HO was for allowing a temporary advance of Rs. 65,400/- on 29-7-99 to the CO without the prior sanction of the competent authority and not reflecting this amount as well as refund of Rs. 10,400/- credited by the CO on 30-09-99 in the Treasurer's cash book and HO summary. The moot/basic question in the entire episode is who was the real beneficiary of the illegally given temporary advance from government cash. The CO vide his money receipt dated 29-7-99 has clearly admitted that the money was received by him from the Treasurer, Kohima HO for his personal gain using his official designation and consequent misuse of his official power and influence over subordinate staff in contravention of government rules and regulations which is unbecoming of a government servant.

10.2 The question raised by the CO that why only Rs. 9000/- was recovered from the Treasurer, Kohima HO and not Rs. 10400, is not relevant to the case. The Treasurer, Kohima HO duly credited the refund made by the CO of Rs. 10,400/- on 30-9-99 without mentioning it as Unclassified Receipt (UCR) in the Treasurer's cash book or HO summary, which is corroborated by the fact that the shortage found by the Director, Postal Services, Kohima during his annual verification on 30-9-99 was only Rs. 55,000/- and not Rs. 65,400.

11 The C.O. has stated in Para 4.1.2 of his D.S dtd. 17-8-2004 that the written statement dtd. 8.11.1999 of C.O. was given under duress as he was threatened by Dy. Supdt. of Post Offices, Kohima that he will be placed under suspension, if he fails to do so.

11.1 The C.O has not given any proof or evidence in support of his above contention before the Inquiry & this argument has been put forward in order to negate its content. Moreover, suspension is not a punishment and is merely resorted to remove the suspected official temporarily from the place of his working so that he does not tamper with the records. Besides, vide his letter dated 08-11-99, the CO had also granted money receipt dated

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✓ 29-7-99, in which he had duly acknowledged the receipt of Rs. 65,400/- from the Treasurer, Kohima HO.

11.2 The case was reported to police as it constituted misappropriation of Government money and was registered under PS No. 198/99 and if the CO had right intentions he would have credited the misappropriated amount in shortest possible time which would have mitigated the punishment in departmental proceedings or in the final judgement of Civil Court, Kohima. But instead, CO did not credit the money which is still lying unadjusted and is a loss to the government. Further, he simply ignored the summons served by ADC(J), Kohima to appear before him on 21-12-00 and 13-02-01 in PS case no. 198/99 under section 420 of IPC. This case is still under trial in the court of ADC(J), Kohima and the CO has so far not appeared before the court of ADC(J), Kohima, which clearly shows his utter disrespect/disregard for the law of the land and towards the judicial system of the country in general.

12. Further, the CO has contended in **Para 4.1.2** of his D.S dtd.17.8.2004 that the illegal drawal of Rs. 65,400/- from the Treasury of Kohima HO by him does not constitute misappropriation of government money as he was neither holding the custody of Government cash nor issued any order for payment of bogus bill to him.

12.1. This contention of CO is totally incorrect as it is not in dispute that he had illegally drawn Rs. 65,400/- of govt. money through Treasurer, Kohima HO on 29-7-99, by duly giving him a money receipt. Though he was not the custodian of Govt. money but he was holding a very responsible post vested with inspectorial powers and formed a part of Office of Director, Postal Services, Kohima and he misused that power for his personal gain. The illegally drawn money amounting to Rs. 65,400 on 29-7-99 from Kohima HO Treasury was utilized by him and not the Treasurer, Kohima HO.

13. The CO in **Para 4.2** of his D.S dated 17-8-04 has stated that when the Treasurer's cash book (PD-1) was produced during the inquiry by the PO, it was not explained to the IO why it was being produced. He has further stated that the charging of Rs. 55,000/- as UCP was not shown by the PO to others during the inquiry, except for the remarks of the DPS, therefore if there is any entry regarding the charge of Rs. 55,000 as UCP, it was done only after the return of the documents by the IO, on completion of the inquiry.

13.1 The Treasurer's Cash Book of Kohima HO for the period from 09-07-99 to 30-9-99 (PD-1) and HO summary of Kohima HO for the period from 07-06-99 to 30-09-99 (PD-2) formed a part of list of documents in the Rule -14 disciplinary proceeding case pending against the CO. It was produced to prove that indeed a shortage of Rs. 55,000/- was detected by the then DPS Kohima on 30-09-99, while verifying Cash and Stamps of Kohima HO. This shortage was duly noted in the Treasurer's Cash Book and HO summary of Kohima HO on 30-9-99 by the then DPS, Kohima.

13.2. The CO admits that he saw the remarks of DPS, Kohima regarding shortage of Rs. 55,000/- detected on 30-9-99 and recorded by him, but denies that it was charged as UCP under relevant columns of Treasurer's cash book and HO summary of Kohima HO on 30-9-99 and has further contended that this amount was charged as UCP subsequent to the date on which IO, PO and the CO had examined the document. The Treasurer's Cash

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✓ Book and HO summary of Kohima HO was examined by the IO/PO/CO on 30-01-04 and all these officials had put their signature in Treasurer's Cash Book. This contention of CO is obviously not correct as Rs.55,000/- was charged as UCP in the UCP schedule of 2nd fortnight of Sept' 99 and in the cash accounts of Comprehensive (Part-II) of Kohima for the month of Sept. 99 and dispatched to Director, Accounts (Postal), Kolkata, vide Speed Post No.127 dtd. 5.10.99. Further, the formal sanction memo for charging the short amount of Rs. 55,000/- was issued vide DPS, Kohima memo no. F3/VII-01/99-2000 dated 21/22. 10.99 and a copy of this memo was also marked to DA(P), Kolkata. Thus, the contention of the CO is totally incorrect, and misleading and not corroborated by documentary evidence.

14. The contention of the CO why it had taken 2 ½ months of time to disagree with the finding of the IO and to supply the IO's report to CO is also not relevant to the case and has been made merely to cast aspirations on his superior authority.

14.1 The CO did not attend the inquiry for almost 3 years and he seems to be so perturbed over 2 ½ months of time taken by the Disciplinary Authority to give his findings, fully knowing that in the interim period change in the incumbency of DPS, Kohima took place and the new Disciplinary Authority had to go carefully through minute details of the case, besides performing his normal prescribed duties and responsibilities. Moreover, the signed version of the IO's report was received by the Disciplinary Authority only on 11-06-04 and a copy of IO's report and findings of Disciplinary Authority on IO's report was forwarded to the CO on 17-7-04, which is only 1 month and 6 days after receipt of signed version of IO's report. Thus, the contention made by the CO that 2 ½ months time was taken is not correct.

15. The C.O in Para 4.2.1 of his D.S dated 17-08-04 has stated that the sanction memo of Rs. 55,000 as UCP dtd. 21-10-99 was not produced as documentary evidence during the inquiry and thus it is a foreign material.

15.1 It is a fact that the UCP memo no F3/VII-01/99-2000 dtd 21/22.10.99 was not produced as a document during the course of inquiry. But its mere non-inclusion in the course of inquiry does not in any way disproves the fact that it was never issued. The moot question is whether the shortage of Rs. 55,000/- detected on 30-9-99 was charged as UCP or not. There is clear remarks of the DPS Kohima in the Treasurer's cash book and HO summary of Kohima HO dated 30-9-99 that this shortage of Rs. 55,000/- should be charged as UCP. Both these documents were seen by IO/PO/CO on 30-01-04 and they had put their signature as a proof of having seen these documents. The CO had also admitted in Para-4.2 of his D.S dated 17-8-04 that he had seen the remarks of DPS to this effect that the short amount of Rs. 55,000/- should be charged as UCP. But, he had contended that despite remarks of DPS, Kohima to charge Rs. 55,000/- as UCP it was not done so till 30-01-04, the date on which both these documents were seen by IO/PO/CO. But, this shortage of Rs. 55,000/- was charged as UCP in the UCP schedule of 2nd fortnight of Sept'99 and in the Cash Account of Comprehensive (Part-II) of Kohima H.O. for the month of Sept' 99 and dispatched to Director Accounts (Postal), Kolkata vide

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Speed Post No.127 Dtd.05.10.99 as per prescribed monthly submission of Accounts to DA(P), Kolkata every month. Further, the copy of UCP memo dated 21/22.10.99 was marked to Postmaster, Kohima HO and DA(P) Kolkata. Thus, the contention of the CO that UCP sanction memo dated 21/22.10.99 was not produced as a document during the course of inquiry does not in any way negates the fact that it was never issued or that this short amount was never charged as UCP. On contrary, it clearly shows that the amount of Rs. 55,000/- was charged as UCP on 30/9/99 itself in the Treasurer's cash book and H.O Summary and duly incorporated in the Accounts return of Kohima H.O for the month of Sept. 1999 and sent as prescribed to DA(P), Kolkata.

16. The C.O in **Para 4.3** of his D.S. dated 17-08-04 has stated that the word "Attested" above the signature of Shri K.R Das on the written statement given by Shri S. Choudhury, Treasurer, Kohima HO on 30-09-99 resembles with the word "Attested" above his money receipt granted to the Treasurer, Kohima H.O. dtd. 29-07-99 (PD-6). Thus, the signature and remarks of 'Attested' on money receipt proves that Dy.SPOs, Kohima and Treasurer, Kohima H.O were in collusion to share the accrued interest and even DPS, Kohima was in know of things through his DSP.

16.1 The above contention of CO is merely a conjecture without supported by any documentary evidence. Since the Dy.SPOs is the second senior most ranked officer in the division, the signature was put to authenticate the document. The word "Attested" is generally written to authenticate any document and in all likelihood it was done to authenticate the money receipt granted by CO to Treasurer, Kohima HO on 29-7-99. Similar remarks and signature was found made by the then Dy.SPOs on the written statement of Treasurer, Kohima HO dated 30-9-99 in which he had explained the reasons and circumstances under which he lent the advance of Rs. 65,400 to the CO on 29-7-99. Since, the shortage of Rs. 55,000/- was detected by DPS Kohima on 30-9-99, and as a follow up measure Dy.SPOs was asked to inquire in to the shortage of cash and as a result, the written statement of Treasurer, Kohima HO was obtained and the money receipt dated 29-7-99 was also seized from Treasurer, Kohima H.O. To authenticate both these documents as being genuine, he had signed on both these documents. It cannot by any stretch of imagination can be taken to mean that his signature on both these documents implicates him for having prior knowledge of illegally lent advance by the Treasurer, Kohima HO to the CO on 29-7-99.

16.2 In **Para 4.3** of his D.S. Dtd.17.8.2004, the C.O. has alleged that the IO did not favorably consider his request to examine the then Dy.SPOS Kohima as "Defense Witness" and it was done with an intention of shielding him from getting personally implicated in the case, is also merely a conjecture. The CO did not appear before the inquiry for almost 3 years and could attend the inquiry only on 30-01-04, which happened to be the last date fixed for the inquiry. The CO on one hand was not attending the inquiry and on other hand was pestering the IO with far fetched request based on his fanciful imagination without backed by any evidence. The IO was within his rights to reject the request made by the CO to examine the DySPOs as "Defense Witness", as the same was irrelevant to the case.

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17. The C.O in Para 4.4 of his D.S. dated 17-08-04 has stated that if the lending of temporary advance was an official transaction and not a personal loan, then why Treasurer, Kohima HO was not being wholly/solely held responsible for making unauthorized advance in total disregard and breach of rules, as he was Custodian of Govt. Cash and if Treasurer could not have paid the amount to him, he could not have misused the money.

17.1 Though Treasurer, Kohima H.O is custodian of Govt. Cash, he has to work under many Superior Authorities, including the C.O, who was working as Complaint Inspector in the O/o. Director, Postal Services, Kohima. The C.O. anyhow convinced the Treasurer, Kohima H.O to lend him the temporary advance, for which he gave him a money receipt in which the Official Designation of both the Officials were duly indicated. The money was used/utilized by the C.O and he has not credited the money in Govt. account till date, if it was an official transaction. If it was a personal transaction, between the C.O and the Treasurer, Kohima H.O, the C.O has not refunded the money to the Treasurer till date so that he could have credited the amount to the Govt. account. The C.O was not a rank outsider but was holding a responsible post of Complaint Inspector in the O/o. DPS, Kohima enjoying inspectorial powers & conducting enquiries against departmental officials, if they were not performing work as per Departmental rules & regulations. Naturally any operative office staff is fearful/wary of antagonizing Inspectorial Official. Further, the C.O deceived the Treasurer, Kohima H.O in lending the advance by promising him to refund the money in a week or month's time, when his HBA loan was sanctioned, which he projected it to be as imminent.

17.2. Shri S. Choudhury, Treasurer Kohima HO (PW1) in his written statement before the I.O. on 24.1.02 has stated that he has given a temporary advance to the CO on 29.7.99 from office cash in presence of Assistant Treasurer and Overseer Cash, Kohima HO. Further, Shri S. Choudhury has stated that the loan amount of Rs.65400/- was given to the CO on 29.7.99 because of the reason that the CO was badly in need of money for medical treatment of his relative etc. and his house building advance was going to be sanctioned within a week's time and CO assured him of refunding the loan amount as soon his HBA loan was sanctioned to him. Further, he has stated that the CO was senior executive officer and treated him as an authority and in good faith, he made the payment. He has admitted that the loan amount was not shown in the Treasurer's cash book of Kohima HO and he has kept the loan amount as part of cash in Kohima HO. Shri A.K Barman, Assistant Treasurer, Kohima HO (PW2) in his written statement dated 24.1.02 before the I.O. has stated that he has seen Shri S. Choudhury, Treasurer, Kohima HO handing over cash to the CO, which was taken out from Iron Safe of the Kohima HO Treasury, where the Govt. cash of Kohima HO was kept. He has also seen Shri Hazarika (CO) handing over money receipt as a token of acknowledgement of money received from Treasurer, Kohima HO on 29.7.99. Similarly, Shri N. Ansari, Overseer Cash, Kohima HO (PW3) has stated in his written statement dated 24.1.02 before the I.O that he has seen Treasurer handing over cash to CO on 29.7.99. He has further stated that the Treasurer initially protested against the payment of the loan amount and was ultimately over ruled by the CO. He also saw a money receipt being handed over to the Treasurer by the CO. Further, the CO vide his letter No. nil dated 8.11.99 .(PD-8) addressed to DPS Nagaland, Kohima

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[Handwritten signature]
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has admitted the following, which is reproduced below verbatim.

To
The Director of Postal Services
Nagaland Divn. Kohima

Sub:- Written statement in connection with taking advance of Rs 65400/- from the Treasury of Kohima HO on 29.7.99.

Sir,

I beg to state on the above subject that the amount was actually received by me from the Kohima HO Treasury as my uncle was to undergo a major life saving operation at Assam Medical College, Dibrugarh, for which about Rs 80000/- was required. As the amount could not be arranged from any other source hence the said amount was taken from Kohima HO Treasury under compelling circumstances to save his life.

However, as I have made a clear breast of the irregularity requiring no investigation, I may kindly be spared on my assurance that the amount of outstanding of Rs.55000/- will be refunded by me within 31.3.2000, as by that time I will be well in position to refund the same and for this act of your kindness I shall ever pray.

Yours faithfully

Sd/
(S.B HAZARIKA).
C.I Kohima.
Dated: 08-11-99

17.3 The temporary advance of Rs 65400/- was taken on 29.7.99 by the CO for which he has given a money receipt on 29.7.99; the wording of the money receipt given by CO to the Treasurer reads as follows:

[" Received Rs. 65400/- (Rupees sixty five thousand four hundred only) from the treasurer of Kohima HO"]

Sd/
(S.B HAZARIKA).
C.I Kohima.
Dated: 29-07-99

17.4 To answer to the contention made in **Para 4.4** of his D.S dtd. 17.8.04, it has to be kept in mind, who was the actual recipient and user of the money and what was the official status of the borrower. The money was received by the CO and used by him. The remaining amount of Rs. 55,000/- has not been credited by the CO till date and constitutes loss of public fund. The CO has also acknowledged the receipt of the money from Treasurer, Kohima HO vide his money receipt dated 29-7-99. Further, vide his written statement dated 08-11-99, reproduced verbatim in **Para 17.2** he has explained the

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reasons and circumstances under which he was forced to take advance illegally and had even promised to credit the money within 31-3-2000, which he has failed to do so till date. The CO was holding the charge of a responsible post of Complaint Inspector, in the Office of Director, Postal Services Kohima enjoying his trust and confidence and in many matters acting on his behalf. Seeing his official stature, many subordinate officials including the Treasurer, Kohima HO are too willing to compromise with departmental rules and regulations to avoid any future trouble. For his personal failure to lend an advance of Rs. 65,400/- to the CO by the Treasurer, Kohima HO, he was proceeded under Rule-16 of CCS(CCA) Rules 1965 and awarded with a punishment of recovery of Rs. 9000/- from his pay and allowances.

17.5 Thus, from Sub-Para of 17, it can be seen that the C.O received and utilized the money for his personal use, has failed to credit the amount to the Govt. account or to the Treasurer, Kohima H.O and is merely trying to implicate the Treasurer, Kohima H.O entirely and absolving himself of all consequent responsibilities.

17.6 As for contention of CO made in Para 4.4 of his D.S dtd.17.8.2004 that he was not allowed to cross examine the treasurer is also baseless and incorrect. The CO did not attend the inquiry on all dates fixed between 18-1-01 to 23-12-03 on one pretext or another and attended the inquiry only on one date i.e 30-01-04, which happened to be the last date fixed for the inquiry. Had he attended the inquiry on the dates so fixed, he could have certainly as a matter of right cross-examined the defense witnesses. Therefore, the CO is himself entirely responsible for not availing his right to cross examine the defense witnesses. The IO had already given him unduly long time and opportunity to defend himself, but the CO deliberately failed to attend before the inquiry, except on 30-01-04.

18. The C.O, in Para 4.4.2 of the D.S dated 17-8-04 has admitted that he had taken an advance of Rs.65,400/- on 29-7-1999 from Treasurer, Kohima H.O for his personal use. But, he denies that it was taken forcibly from the Treasurer, Kohima H.O. The C.O has also contended that his written statement Dtd. 08.11.1999 was given under duress as he was threatened by the Dy. SPOs, Kohima that he will be placed under suspension if he fails to do so.

18.1 The C.O has duly acknowledged the receipt of Rs.65,400/- from Treasurer, Kohima H.O on 29.7.99 vide his money receipt Dtd.29.7.99 as reproduced verbatim in Para 17.3. Further, vide his written statement Dtd.08.11.99, as reproduced verbatim in Para 17.2, he has admitted receiving and utilizing the temporary advance of Rs.65,400/- and had even promised to refund the money by 31.3.2000.

18.2 As stated earlier also, suspension is not a punishment and if the C.O was not involved in the case he should not have given such a statement merely on threat of being placed under suspension. Further, he has himself admitted receiving Rs.65,400/- on 29-7-1999 from Treasurer, Kohima H.O. So, vide his written statement dtd. 08-11-1999, he has not stated anything new or incriminating against himself. The Director, Postal Services is not vested with the powers of Police Investigation & the question of using torture or third degree methods to obtain an incriminating confession does not arise at all. Moreover, no evidence or proof has been given by the CO to corroborate his allegation that he was threatened to be placed under suspension, if he does not give a statement like that he

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gave on 08-11-99. The bogey of duress is merely an afterthought to negate his voluntary confession made vide his letter Dtd.08.11.1999.

19. The C.O in **Para 4.4.3** of his D.S. dated 17-08-04 has stated that why only Rs. 9000/- was recovered from the Treasurer, Kohima HO and not Rs. 10,400, which he failed to credit in to Govt. account.

19.1 The C.O has categorically admitted that he has taken an advance of Rs.65,400/- on 29-7-1999 and refunded an amount of Rs. 10,400/- on 30-9-1999 from and to Treasurer, Kohima H.O respectively. The Treasurer, Kohima H.O has evidently credited the deposit made by the C.O of money amounting to Rs.10,400/- on 30-9-1999 as the shortage of cash found by the then DPS, Kohima on 30-9-1999 was only Rs.55,000/- i.e Rs.65,400 – Rs.10,400 = Rs.55,000/-. So, the Treasurer, Kohima H.O was only guilty of giving the Temporary advance of Rs.65,400/- on 29-7-1999 without the sanction of the competent authority and not showing it in his records or bringing the same to the notice of his superior authority. Similarly, the refund of Rs.10,400/- made by the C.O on 30-9-1999 was duly credited into the Govt. account without showing it into his records, otherwise shortage should have found to be as Rs.65,400/-. The Treasurer, Kohima H.O was not the actual recipient/user of the illegally lent advance, but still he was proceeded under Rule-16 of the CCS (CCA) Rules, 1965 for granting irregular advance of Rs.65,400/- to C.O and was awarded with a punishment of recovery of Rs.9000/- from his pay and allowances. Therefore, the contention made by the C.O that the refund made by him of Rs.10,400/- on 30.9.99 was not credited into Govt. account & that he misused/misutilised the money for his personal use is baseless & incorrect.

20. The C.O in **Para 4.4.4** of his D.S. dtd. 17-8-2004 has stated that if Rs. 65,400 was given as advance on 29-7-99, why only a shortage of Rs. 55,000 was only detected on 30-9-99. He has also stated that since many officials were responsible for this unauthorized advance, which official is responsible to what extent to make good the shortage found, has not been spelt out.

20.1 As stated in pre-para, the actual amount lent as advance was Rs.65,400/- on 29-7-1999 & the C.O credited an amount of Rs.10,400/- on 30-9-1999. Thus, the shortage of Govt. cash in Kohima H.O between the period 29-7-1999 to 29-9-1999 was Rs.65,400/- & between the period 30-9-1999 to till date is Rs.55,000/- which was found short on 30-9-1999 by DPS, Kohima while undertaking cash/stamp verification of Kohima H.O on 30-9-1999.

20.2 The contention of the C.O that the outstanding unauthorized advance of Rs.55,000/- is lying unadjusted against several officials pending investigation/disciplinary proceeding against them & who is responsible to what extent to adjust the advance is not clear or understandable, is obviously not correct. The C.O was the sole recipient/user of the temporary of Rs.65,400/- which he utilized for his personal use and has not credited the amount till date either in the Govt. account or to the Treasurer, Kohima H.O. The other Officials like Treasurer, Kohima H.O, Postmaster, Kohima H.O were only the subsidiary offenders by allowing this advance unauthorisedly or not detecting the shortage in time. They were not the actual user/recipient of the unauthorized advance but

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still they were chargesheeted for contributory negligence by not performing their prescribed duties/responsibilities as prescribed under Departmental rules/regulations.

21. The C.O in **Para 4.4.5** of his D.S dated 17-08-04 has contended that the temporary unauthorized advance of Rs.65,400/- given to him by the Treasurer, Kohima H.O was a personal loan and the Treasurer, Kohima H.O is alone solely responsible for granting this advance unauthorisedly in contravention of rules, is obviously not correct because of the following reasons.

21.1 The unauthorized temporary advance of Rs.65,400/- was received/utilized/used by the C.O & the C.O was holding the post of a responsible post of Complaint Inspector in the O/o The Director, Postal Services, Kohima, enjoying his trust & confidence and acting on his behalf on many matters of conduct of enquiries. The C.O has himself categorically admitted vide his money receipt Dtd. 29-7-1999 & written statement dtd. 8-11-1999 that he had received/utilized/used the money for his personal use. The other officials like Treasurer, Kohima HO, Postmaster(s) Kohima were only the subsidiary offenders and did not receive/ utilize/use the money and merely facilitated the actual withdrawal by not insisting on prior approval of competent authority or not detecting the shortage of Govt. cash in Kohima H.O. in time. For this violation of rules, Treasurer, Kohima HO and Postmaster(s), Kohima H.O have already been chargesheeted in past and appropriate penalty were imposed upon them.

22. The C.O. in **Para 4.4.6** of his D.S dtd. 17.8.2004 has stated that the points of disagreement as mentioned in **Para 4.4.6** of my findings on the I.O.s report is illusory and illogical is certainly not correct and is fully justified in view of what has been stated above.

23. As to contention made by the C.O in **Para 4.5**, it has been already discussed in **Para 18.2 and 11.1** of this memo.

24. The CO has contended in **Para 4.5.1** of his D.S. dtd 17.8.2004 that he had requested the I.O. to requisition both the then DPS, Kohima, Shri F.P.Solo and D.S.P., Kohima Shri K.R.Das to be examined/ cross examined/re-examined by P.O./C.O./ I.O. respectively as their presence were required as they were material witness of the case and their presence in the enquiry would have helped him to prove his ignorance is merely a conjecture.

24.1 The I.O. was within his rights not to accede to the request of the C.O. as he was neither co-operating with the enquiry for its early finalization as he did not attend the enquiry on various dates starting from 18.1.01 till 23.12.03. It has to be kept in mind that any enquiry cannot be allowed to continue indefinitely and the right of adequate opportunity of being heard or sufficient opportunity being given to put forward one's views has to be seen in the context of co-operation extended by such officials. In the instant case, the C.O. attended the enquiry only on one date in the life span of enquiry spanning over 3 ½ years and he was constantly stating that he was not being given adequate opportunity to examine/cross-examine the witness/ document, which he states to be violative principles of natural justice or even constitution of India. The right of stating one's views or to participate in the enquiry was given to him through out the enquiry but if he deliberately chose not to avail of this opportunity, the IO or the Department can not

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be held responsible for the same. If he himself had deliberately chosen to be absent from the enquiry for almost 3 years, it is not the fault of the administration and the official is himself entirely responsible for the same.

25. The points of disagreements on Article-I of the charge as pointed out by the C.O vide his D.S dtd.17.8.2004 has been elaborately & objectively discussed in **Para 8 to Para 24** including its Sub-Paras of this memo. Based on the same, I am fully convinced that Article-I of the charges stands fully established against the C.O & the C.O is guilty of irregular drawal of Govt. money for his personal use & not crediting the amount either to the Govt account or to the official from whom he had lent the advance, till date, thereby causing substantial loss of Govt./public fund.

26. With reference to **Para 5 to 5.3.6** of findings of Disciplinary Authority on I.Os report in respect of Article II of the charge, the C.O in his D.S Dtd.17-8-2004 has stated that since the illegally drawn amount of Rs.7000/- drawn from Wokha SO on 21-9-1999 by the C.O has not been charged as UCP, therefore there is no loss to the Govt.

26.1 The above contention of the C.O is obviously not correct. It is not in doubt that the said amount of Rs.7000/- was taken from Wokha SO on 21-9-1999 by the C.O for which he has already given a money receipt to the SPM, Wokha S.O. The money receipt granted by C.O is reproduced below verbatim.

"Received Rs. 7000 (Rupees Seven thousand) from the SPM, Wokha this day".

Sd/
(S.B Hazarika)
C.I, Kohima
Dtd : 21.9.99

26.2 From the wording of the money receipt, it is seen that the word SPM, Wokha and Official designation of the C.O has been used, which clearly shows that the temporary advance was official. Otherwise there was no need to use the official designation of lender as well as the borrower in the money receipt.

26.3 It may not be out of place to mention here that in Nagaland Division, there is culture of lending temporary advance, without the sanction of competent authority and the money receipt granted is treated as part of cash, in violation of rules and regulations.

26.4 The C.O being senior inspecting official should not have indulged in such unhealthy and illegal activities as he was supposed to inspect offices and pinpoint such irregularities. But, it is seen that he was himself engaged in such misappropriation of government money and when detected had tried to deflect the charges by stating that the loan was a personal loan and had tried to take advantage of ignorance of many SPMs and Treasurers by quoting rules that it was not shown in S.O's daily account or S.O account book or not reported to superior authority.

26.5. Shri Stephen Yesca (PW-I), the then SPM, Wokha S.O, in his written statement before the IO on 28-01-02 has stated that he had given temporary advance of Rs. 7000 on 21-9-99 to the C.O against money receipt granted by C.O from Office cash. He had

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further stated that the temporary advance was given as C.O was in need of money to mitigate the expenses on duty. He has further stated that the temporary advance of Rs 7000 was shown as part of cash represented by receipt/vouchers, which normally is not reflected in S.O a/c book or S.O daily account and is treated as good as cash. Subsequently, he reported the matter to DPS, Kohima vide his letter dtd. 12.11.99.

26.6. The C.O has stated that since the temporary advance of Rs. 7000/did not get charged as UCP, thus there was no shortage and no loss to the _ Government.

26.7. It is a fact that the temporary advance of Rs. 7000 did not get charged as UCP, which may be due to oversight, pre-occupation with works, etc., but still this amount is lying unadjusted in the Wokha S.O account and the C.O is trying to evade the issue by deflecting the issue as a personal loan taken from SPM, Wokha. If it was a personal loan, why he has not paid the loan amount to him till date so that this amount could have been adjusted.

26.8 The points of disagreement on Article-II of articles of charges as raised by C.O. vide his D.S. dtd.17.8.2004 has been elaborately & objectively discussed in **Para 26.1 to Para 26.7** of this memo. Based on the same, I am fully convinced that Article-II of the charges stands fully established against the C.O and he is guilty of irregular drawal of Govt. money and its subsequent personal use and not crediting the money into the Govt. account or to the official lending him the advance, till date, thereby causing substantial loss of Govt./public fund.

27. With reference to **Para 6 to 6.3.4** of the findings of Disciplinary Authority on I.Os report, the C.O has stated that since the unauthorized temporary advance of Rs.2000/- taken by C.O from SPM, Doyang was charged as UCP only on 21.3.2001, subsequent to issue of chargesheet to C.O on 06.1.2000, there was no loss to the Govt. at the time of issue of chargesheet and no document showing the amount charged as UCP could be produced during inquiry, the Department has not sustained any loss & this charge against the C.O is baseless.

27.1 The C.O has himself granted a money receipt to the SPM, Doyang on 22.9.1999 stated the following, which formed a part of list of documents by which the Department wanted to establish the charges against the C.O.

“Received Rs.3000/- from SPM, Doyang”

Sd/-
C.I.Kohima
Dated 22-9-1999

27.2 If the C.O did not receive the money from the SPM,Doyang, there was no need to give this money receipt. Further, in the money receipt, the official designation of lender as well as the borrower are found mentioned, which leads to the conclusion that the C.O had misused his official status and designation to obtain the advance and used that money for his personal use. He had also given a false excuse that he had run out of money & he will be refunding the money shortly after his return to headquarters, i.e. Kohima. But, he

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failed to credit the money till date either in the Govt. account, or to SPM, Doyang. This amount is still lying unadjusted & is a loss to the Govt. This amount was received by the C.O on 22.9.1999 & used by him for his personal use & the SPM, Doyang was only guilty to the extent that he allowed this advance in good faith without the prior sanction of the competent authority.

27.3 As for contention made by the C.O that the amount was not charged as UCP at the time of issue of chargesheet against him and hence there was no loss to the Govt. at the time of issue of chargesheet.

27.4 This contention of C.O pre-supposes that only on issue of UCP, any loss to the Department is established & other evidences are entirely meaningless to prove it as otherwise. Further, in his defense against Article-I of the charge he has stated that though UCP was issued before the issue of chargesheet, since it was not produced as an evidence during inquiry, it has no meaning, despite many evidences supporting the fact that the advance was indeed taken & used by him & not credited till date, including his money receipt dtd. 29.7.1999 & voluntary confession Dtd. 08.11.1999. Similarly, against Article-II of the charge, he has stated that since UCP memo could not be issued even after 5 years of its occurrence, there was no loss to the Govt. & the administration was entirely responsible for this shortage. Against the above contention in Article-I of the charge, three Govt. Officials witness to the event, Treasurer, Kohima H.O, Asstt. Treasurer, Kohima H.O and Overseer (Cash), Kohima have testified before the inquiry that the irregular & unauthorized advance was indeed taken by the C.O from Govt Cash in Kohima H.O Treasury, through Treasurer, Kohima H.O on false excuses & assurances. Further, the C.O has in all cases granted money receipt using his and concerned official's designation to receive the advance, which can not be ignored just because the UCP memo was not issued or not issued before issue of chargesheet. The C.O is merely trying to evade his wrongdoings & misuse and trying to put the entire blame of wrongdoing on helpless subordinates who out of ignorance of rules or out of fear of administration of which the C.O formed a part & parcel or on his false excuses & promises or in good faith lent him the advance in the hope that his excuses & assurances were indeed true and he will be true to his words/assurances/promises, which did not happen to be the case, and many of them had to face Departmental chargesheet for not sticking to Departmental rules & regulations.

27.5 The points of disagreement as raised by C.O in his D.S dtd. 17.8.2004 has been elaborately & objectively discussed in sub-para from 27.1 to 27.3 of this memo. Based on the same, I am fully convinced that Article-III of the Articles of charges stands fully established against the C.O & he is guilty of irregular drawal of Govt. money and its subsequent personal use and not crediting this money in Govt. account or to the officials lending him the advance, till date, thereby causing substantial loss of Govt./public fund.

28. In the concluding remarks, the C.O in his D.S dtd. 17-8-2004 has contended that I.O did not allow him to cross-examine the PWs and DWs again and again. For this the C.O is entirely responsible as he did not appear before the enquiry for 3 years except on 30-1-2004 which happened to be the last date of enquiry. Thus, the CO was given more than adequate opportunity to examine and to cross examine to the defense witnesses but he failed to avail the opportunity time and again by not appearing the enquiry or co-operating with the enquiry at all. Any enquiry cannot be allowed to continue indefinitely

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just on the ground that the accused official did not participate or co-operate during enquiry on one pretext or another.

29. Further, in the concluding remarks, the CO has contended that during the enquiry tainted witnesses were produced whose credibility was doubtful and using the same official who were accused at one time and using them as PWs is not in consonance with law. This contention of C.O is not correct as only those officials were produced as PWs who were material witnesses to the different aspect of the case. Some of these officials violated the departmental Rules and regulation by allowing unauthorized advance to the C.O for which some of them were chargesheeted and appropriate penalties was imposed on them. But these officials were not the actual user of the Govt. money and made the payment in good faith, but in contravention of the Rules to the C.O.

30. There is no limitation in law that these official should not have been produced as PWs as they were material witness of different aspect of the case. The CO in all the four cases of Illegal/ unauthorized drawal of cash from different Post Offices of Nagaland Division has granted Money receipt to the Treasurer or Sub Postmasters and in all these cases he has put forward lame excuses that either he has no money to continue further during his tour or his some relative is seriously and critically ill for which he requires money. In all such cases, he has given false assurances to the concerned Postmasters that he will return the money within a weeks time, but he has failed to credit the money even after lapse of more then 5 years.

31. The C.O being senior inspecting official should not have indulged in such unhealthy and illegal activities as he was supposed to inspect offices and pinpoint such irregularities. But, it is seen that he was himself engaged in such misappropriation of government money and when detected had tried to deflect the charges by stating that the illegal & unauthorized temporary advance was a personal loan and had tried to take advantage of ignorance of many SPMs and Treasurer by quoting rules that it was not shown in S.O's daily account or S.O account book or not reported to superior authority.

32. In short, more than adequate and sufficient opportunity were given to the CO but CO deliberately chose not to attend enquiry on all dates except on 30.1.04 which happened to be the last date fixed for the enquiry. Had he attended the enquiry as fixed on different dates he could have examined/ cross examined the PWs, but he deliberately chose not to attend enquiry on one pretext or another. Apart from pointing out deficiencies in the enquiry, he has not produced any documentary evidence to establish his innocence or disprove the charges levelled against him. The charges levelled against the CO is very serious and grave as he was involved in misappropriation of Govt. money by using his official position, which has not been credited by him even after lapse of 5 years resulting in substantial loss of public fund. The charges against the CO becomes even more grave considering that he was holding a responsible post of C.I. in the office of Director, Postal Services, Nagaland, Kohima and one of his prime duty was to pin point such irregularities committed by other subordinate staff. But the CO was himself engaged in such irregular activities which has resulted in substantial loss of public fund. Besides, because of his above mentioned acts many innocent officials, i.e. Postmaster and other subordinate staff had to undergo mental agony and had to face Departmental Proceedings for not adhering to Departmental Rules and regulation while giving

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unauthorized advance to the CO, although they were not the actual recipient or user of Govt. Money.

33. Seeing the gravity of the charges which primarily involves misappropriation of Govt. money for his personal use amounting to moral turpitude and considering that the CO has not bothered or even considered to credit the misappropriated amount to the Govt. account or to the officials who lent him the advance and is merely trying to deflect the charges leveled against him on other officials who helped him at the time of need in good faith by lending him the advance unauthorisedly and in contravention of Departmental Govt. rules. Such kind of an irresponsible & morally deviant official is not fit to be retained in service.

ORDER

Therefore, I, Shri Rakesh Kumar, Director Postal Services, Nagaland Division, Kohima being the Disciplinary Authority hereby order that Shri S.B. Hazarika, Complaint Inspector, in the O/o the Director of Postal Services, Kohima (presently under suspension) be "**Dismissed**" from service with effect from the date of issue of this order.

S/-
(RAKESH KUMAR)
Director, Postal Services
Nagaland, Kohima. 797001

Copy to:-

1. The Chief Postmaster General, N.E Circle, Shillong for information.
2. Shri S.B Hazarika, Complaint Inspector, O/o. The Director, Postal Services, Kohima, presently under suspension, for information.
3. The Postmaster Kohima H.O for stoppage of pay and allowances in view of his Dismissal Order.
4. The D.A (P), Kolkata, for information.
5. The D.A (P), Shillong, for information.
6. Concerned file of Divisional Office, Kohima.

S/-
(RAKESH KUMAR)
Director, Postal Services
Nagaland, Kohima. 797001

ATTESTED

27/4/05
ABP

42

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

COMPILATION NO-2

DOCUMENTS RELIED UPON
(WITH INDEX)

43

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

O.A. NO. 183 OF 2005

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT, 1985

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

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Date :-

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. Registrar.

Annexure A ...I..

UNREGISTERED
REGISTERED

Kohima Memo. No. 14/01/00
Page No 45
24/01/00

Memo no.F3/VII-02/99-2000
Dated at Kohima the 6.1.2000

MEMORANDUM

The undersigned proposes to hold an enquiry against Shri. S.B.Hazarika, C.I, Divl. Office, Kohima under Rule 14 of the CCS (CCA) Rules, 1965. The substance of the imputations of misconduct or mis-behaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or mis-behaviour in respect 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 & IV).

2. Shri. S.B.Hazarika is directed to submit within 10 days of the receipt of this memorandum a 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 article of charge.

4. Shri.S.B.Hazarika 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 inquiring authority or otherwise fails or refuses to comply with the provision of Rule 14 of the CCS (CCA) Rule, 1965 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold inquiry against him exparte.

5. Attention of Shri.S.B.Hazarika is invited to Rule 20 of the CCS (CCA) Rules, 1964, under which no Government 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 Govt. If any representation is received on his behalf from another person in respect of any matters dealt within these proceedings, it will be presumed that Shri. S.B.Hazarika is aware of such 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 (CCA) Rule, 1964.

6. The receipt of the memorandum may be acknowledged by Shri. S.B.Hazarika.

Registered with A/D

To,

Shri.S.B.Hazarika,
C.I. Divl. Office,
Kohima (u/s).

ATTESTED

28/1/00
HOP

(F.P.Solo)

Director of Postal Services,
Nagaland, Kohima-797001

ANNEXURE - IStatement of article of charges framed against Shri.Santi Bhusan Hazarika,
C.I, Divl. Office, Kohima.Article- I

That Shri.Santi Bhusan Hazarika while functioning as Complaints Inspector, Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs.65400/- (Rupees Sixty five thousand four hundred only) from the treasury of Kohima HO on 29.7.99 through the treasurer Shri. Shivji Choudhury by using his official influence unauthorizedly for his personal use without the knowledge of the competent authority and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act the said Shri. Hazarika failed to maintain absolute integrity and devotion to duty and acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rule 3 (1) (i) to (iii) of CCS (Conduct) Rules, 1964.

Article-II

That the said Shri.Santi Bhusan Hazarika while working as C.I, Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs.7000/- (Rupees Seven thousand only) from the office cash of Wokha SO through the SPM by using his official influence unauthorizedly for his personal use during his visit to Wokha Post Office on 21.9.99 and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act Shri. Hazarika also violated Rule 3 (1) (i) to (iii) CCS (Conduct) Rules, 1964.

Article-III

That the said Shri.S.B.Hazarika while working as C.I, Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs.3000/- (Rupees Three thousand only) for his personal use from the office cash of Doyang SO through the SPM of Doyang SO during his visit to the Post Office on 22.9.99 by using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act Shri. Hazarika also violated Rule 3 (1) (i) to (iii) CCS (Conduct) Rules, 1964.

Article-IV

That the said Shri.S.B.Hazarika while functioning as C.I, Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs.2000/- (Rupees Two thousand only) for his personal use on 9.6.99 from the office cash of Papernagar SO through the SPM Papernagar SO during his visit to the said SO by using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act Shri. Hazarika also violated Rule 3 (1) (i) to (iii) CCS (Conduct) Rules, 1964.

ATTESTED

29/4/05
AOP

Annexure A

ANNEXURE-IIStatement of imputation of misconduct or misbehaviour against Shri. S. B. Hazarika (u/s).Article-I

That the said Shri. Santi Bhusan Hazarika while functioning as Complaints Inspector, Divl. Office, Kohima, during the period from 3.2.99 to 7.11.99 took a sum of Rs. 65400/- (Rupees Sixty five thousand four hundred only) from the treasury of Kohima HO on 29.7.99 through the treasurer Shri. Shivji Choudhury by using his official influence unauthorizedly for his personal use without the knowledge of Postmaster, Kohima HO and by breach of trust caused corresponding monetary loss to the Govt.

The taking of office cash from the treasury of Kohima HO by Shri. Hazarika was detected during the verification of cash and stamp balances of Kohima HO by the Director Postal Services, Nagaland on 30.9.99. On detection of shortage of Govt. cash, Shri. Hazarika was asked to credit the entire amount to the Govt. account.

Shri. Hazarika deposited only a sum of Rs. 10,400/- to the Govt. account on 30.9.99. The remaining amount of Rs. 55000/- was charged as UCP in Kohima HO on 30.9.99.

Thus Shri. Hazarika by the above act caused monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the same act the said Shri. Hazarika failed to maintain absolute integrity and devotion to duty and also acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rule 3 (1) (i) to (iii) of CCS (Conduct) Rules, 1964.

Article-II

That the said Shri. Santi Bhusan Hazarika while functioning as C.I, Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 7000/- (Rupees Seven thousand only) from the office cash of Wokha SO through the SPM Wokha SO by using his official influence for his personal use during his visit to Wokha Post Office on 21.9.99.

On his way to Doyang SO for inspection Shri. Hazarika took Rs. 7000/- (Rupees Seven thousand) only from the SPM Wokha SO on 21.9.99 by giving a receipt to the SPM Wokha SO. The case came to light when the SPM Wokha SO reported the matter to the Director Postal Services, Nagaland, Kohima.

Thus by the above act Shri. Hazarika caused monetary loss to the Govt. to the tune of Rs. 7000/- (Rupees Seven thousand only) and violated Rule 58 of P & T Financial Hand Book Vol-I and also infringed the provisions of Rule 3 (1) (i) to (iii) of CCS (Conduct) Rules, 1964.

ATTESTED
29/10/05
HOP

Article-III

That the said Shri. Santi Bhusan Hazarika while functioning as C.I, Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs.3000/- (Rupees Three thousand) only for his personal use from the office cash of Doyang SO through the SPM of Doyang SO during his visit to the Post Office on 22.9.99 by using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I.

During his visit to Doyang SO for inspection on 22.9.99, Shri. Hazarika took a sum of Rs.3000/- (Rupees Three thousand) only from the Govt. cash for his personal use by giving a receipt to the SPM.

By the above act and breach of trust the said Shri. Hazarika caused monetary loss to the Govt. in violation of Rules 58 of P & T Financial Hand Book Vol-I and thereby infringed the provisions of Rule 3 (1) (i) to (iii) of CCS (Conduct) Rules, 1964.

Article-IV

That the said Shri. Hazarika while functioning as C.I, Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 2000/- (Rupees Two thousand) only for his personal use from the office cash of Papernagar SO through the SPM, Papernagar SO during his visit to the said SO on 9.6.99 using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt.

Thus by the above act the said Shri. Hazarika violated Rule 58 of P & T Financial Hand Book Vol-I and thereby infringed the provisions of Rule 3 (1) (i) to (iii) of CCS (Conduct) Rules, 1964.

ATTESTED

29/10/05
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ANNEXURE-III

List of documents by which the charges framed against Shri.S.B.Hazarika, C.I are proposed to be sustained.

1. Treasurer's cash book of Kohima HO for the period from 9.7.99 to 30.9.99.
2. Head office summary of Kohima HO for the period from 7.6.99 to 30.9.99.
3. Money receipt dtd. 29.7.99 granted by Shri.S.B.Hazarika, C.I, Divl. Office, Kohima.
4. Money receipt dtd. 22.9.99 granted by Shri.S.B.Hazarika, C.I, Divl. Office, Kohima.
5. Money receipt dtd. 21.9.99 granted by Shri.S.B.Hazarika, C.I, Divl. Office, Kohima.
6. Money receipt dtd. 9.6.99 granted by Shri.S.B.Hazarika, C.I, Divl. Office, Kohima.
7. Written statement of treasurer, dtd. 30.9.99.
8. Written statement of S.B.Hazarika, C.I, Divl. Office, Kohima, dtd. 8.11.99.
9. Letter no.nil, dtd.12.11.99, A/T Director Postal Services, Kohima from SPM Wokha SO

ANNEXURE-IV

List of witnesses by whom the charged framed against Shri.Santi Bhusan Hazarika, C.I are proposed to be sustained.

1. Shri.Shivji Choudhury, Treasurer, Kohima HO.
2. Shri.Stephen Yesca, SPM, Wokha SO.
3. Shri.Rakesh Kumar Singh, SPM, Doyang SO.
4. Shri.Rameshwar Roy, SPM, Papernagar SO.
5. Shri.Anil Kumar Burman, Asstt. Treasurer, Kohima HO.
6. Shir.N.Ansari, O/S Cash, Kohima HO.

ATTESTED

b
29/10/05
ABP

(23)

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

No.F3/VII-01/99-2000
Dtd, Kohima the 23.3.2000

Whereas an inquiry under Rule 14 of the CCS (CCA) Rule 1965 is being held against Shri.S.B.Hazarika C.I.Divisional office, Kohima (u/s).

And whereas the undersigned considers that an Inquiring Authority should be appointed to inquire into the charges framed against the said Shri.S.B.Hazarika.

Now therefore, the undersigned in exercise of the powers conferred by Sub rule (2) of the said rule, hereby appoints Shri.I.C.Sharma, AD (E&M) O/O the CPMG, Shillong as the Inquiry Officer to inquire into the charges framed against the said Shri.S.B.Hazarika.

sd-

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

Copy to :-

- 1) Shri. I.C.Sharma, A.D (E&M) O/O the CPMG Shillong for information and n/a (copy of the chargesheet enclosed) w.r.t CO Shillong letter No.. VIG/14/15/85 dtd, 14.3.2000.
- 2) Shri.S.B.Hazarika C.I.Divl office kohima u/s for inf.
- 3) Shri. K.R.Das Dy.SPOs (HQ) Kohima (PO)
- 4) O/C.

ATTESTED

29/4/00
188

23/3/00
(F.P.Solo)

Director of postal Services
Nagaland, Kohima-797001

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

No.F3-01/99-2000

Dtd,Kohima the 23.3.2000

Whereas as inquiry under Rule 14 of the CCS (CCA) Rules 1965, is being held against Shri.S.B.Hazarika,C.I.Divisional office Kohima u/s.

And whereas the undersigned considers that a presenting officer should be appointed to present on behalf of the undersigned the case in support of the articles of charges.

Now therefore, the undersigned in exercise of the powers conferred by Sub-rule (5) (c) of Rule 14 of the said rules hereby appoints Shri.K.R.Das Dy.SPOs (HQ) Kohima as the presenting officer.

Sol

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

Copy to :-

- 1) Shri.K.R.Das Dy.SPOs (HQ) Kohima (PO) for inf.
- 2) Shri.S.B.Hazarika C.I.Divl office Kohima (u/s) for inf.
- 3) Shri.I.C.Sharma, AD(E and M) O/O the CPMG, Shillong (IO)
- 4) O.C.

ATTESTED

b
29/4/05
HSP

23/3/00
(F.P.Solo)

Director of Postal Services
Nagaland,Kohima-797001

DEPARTMENT OF POST : INDIA

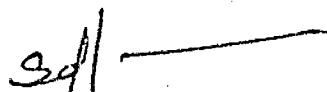
Memo No: DSPOs/Rule-14/2K. Dtd Aizawl-1, the 31st December 2001

Due to unforeseen reason the date for the adjourned Preliminary Inquiry against Sri Santi Bhusan Hazarika, SPS & C.I., refixed to be held on 17/1/2002 (Thursday) at 10.30 hrs in the Postal I.B/Kohima has been deferred to be refixed on 23/1/2002 (Wednesday) at the same venue and hours fixed earlier vide memo of even no. dtd 27/12/2001 and Sri Santi Bhusan Hazarika, S.P.S & C.I./Kohima is hereby informed to attend the above stated Inquiry as per schedule, time & venue.

Shri SB Hazarika SPS & C.I. Kohima is hereby re-asked to intimate the undersigned the name and designation of the Govt.servant, if any, who will assist Sri Hazarika, SPS, as defence Assistant to present his case on his behalf during the Inquiry.

Shri Santi Bhusan Hazarika, SPS & C.I./Kohima is hereby clearly informed that in case Sri Santi Bhusan Hazarika, SPS does not appear into the court of Inquiry as refixed above on 23/1/2002 (Wednesday) at 10.30 hrs. in the Postal I.B/Kohima, it may be considered by the court of Inquiry that Sri Hazarika, SPS. & C.I./Kohima has nothing to represent against the charges levelled against him vide memo No. F3/V11-02-99-2000 dated Kohima, the 17-1-2000 from Director of Postal Services, Nagaland, Kohima and the Court of Inquiry will proceed to consider the decision Ex-Parte.

The date of Preliminary Inquiry into the case as refixed at 10.30 hrs. on 23/1/2002 is likely to be continued for further dates.



(M.K.Das)

Inquiry Officer

&

Dy. Supdt of Pos

O O the Director of Postal Services

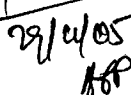
Mizoram : Aizawl-796001.

Copy forwarded to

Regd A/D 1. Sri Santi Bhusan Hazarika SPS & C.I. Kohima for information and necessary action.

Regd A/D 2. Sri Ksh. Tomba Singh, Kohima Presenting Officer & ASPOs Kohima for information and necessary action.

ATTESTED


29/1/02
HSP

Contd...2..

Annexure A-7.

...2..

Regd A/D 3. The DPS, Nagaland Dn, Kohima for kind information and he Is requested for arranging my accommodation in Postal I.B. Kohima during the said Inquiry, from 22/1/2002.

4. The Director of Postal Services, Mizoram Dn, Aizawl for information.

5. The Chief P.M.G(Vig) Shllong for kind information.

Regd A/D6. The SRO RMS 'S' Dn/ Lunding . He is requested for reservation of accommodation for the undersigned on 21/1/2002.

Regd A/D 7. Sri S.B.Hazarika, CI Kohima at Anandpara P.O. Sub.Room, Tripura-799145 an additional copy of the same memo for Information and necessary action.

8. O'C

(M.K.DAS)

Inquiry Officer

&

Dy.Suptd of Pos

O.O the Director of Postal Services

Mizoram: Aizawl-796001.

ATTESTED

29/1/02
ABP

Department of Posts.

Proceedings

Dated 23-1-2002

Authority D.P.S. / Kohima no. F 3-01/99-2000
Dated Kohima on 23-3-2000.

Venue & the hearing - Postal B.O. / Kohima.
Date - 23-01-2002.
Time - 10.30 hrs.

1st Session

In accordance to the notification vide Memo. no. D.S.P.O./Rule-14/2K Dated Arizant, the 31-12-2001, the Inquiring into the case held at Postal B.O. / Kohima at 10.30 hrs. on 23-1-2002 (Wednesday).

The following were Present:-

- a) Ksh. Tomba Singh, Presenting Officer, & Asst. P.O. / Kohima.
- (b) Sri Santi Bhushan Hazarika, S.P.S. & C.O. / Kohima did not turn up into the Inquiring on the date neither he submitted the name of any person to act as Defence Assistant on his behalf although he was repeatedly asked to submit the name of Defence Assistant to act on his behalf, if any, but without result.

The first date for Preliminary Hearing into the case was fixed by the Inquiring Officer vide Memo. no. D.S.P.O./Rule-14/2K Dated Arizant the 30th Jan'2001 in the
(Continued →)

ATTESTED

[Signature]
Attested

Proceeding
 Dat-23-1-2002 (Continued)

Page-2

in the O/O me SRO/RMS/8/22/Dimapur on 18-1-2001 (Thursday) at 11.00 hrs and the inquiry were held accordingly but on 5-2-2001 S.P.S. & C.S. (W/S) Kohima did not attend to the said Preliminary hearing. The next hearing date was re-fixed on 25-1-2001 vide Memo No. D.S. Pos / Rule-14/2K Dated Aizawl the 25th Jan, 2001 to be held at Post-1 B.1 Kohima 10.30 hrs on 27-2-2001 (Tuesday) and the notices as cited above served well in advance to Sri Atangaveika, S.P.S. & C.S. (W/S) Kohima. In against the said notice for Preliminary hearing on 27-2-2001 (Tuesday), he presented to the Inquiring Officer vide his representation dated 06/2/01 that it is not possible for him to attend the inquiry when he is staying 900 Km away and on the plea of non-granting of leave for 90 days (nearly days) by D.P.S. Kohima & requested for Subsistence allowance and Prayers for held up to the inquiry at Santa's Bazar in the O/O me Subdivisional Officer Imphal. The Prayers dated 06-2-01 by Sri Atangaveika, S.P.S. & C.S. (W/S) Kohima were sent by post. The Proceeding dated 27-2-2001 (Tuesday) was held at Post-1 B.1 Dimapur without attendance of the S.P.S. and adjourned and re-fixed to be held on 28-2-2001 (Wednesday) in the Post-1 B.1 Kohima giving due consideration to his Prayers dated 06/2/2001 with request to D.P.S. Kohima for taking necessary action to his representation dated 06-2-2001 is submit written communication to S.P.S. & I.O. also. but his Prayers for (Contd. to Page-3)

Case
 73/1/02
 P.O. 2
 A.S.P.S.

ATTESTED

[Signature]
 29/1/02
 HOP

Proceeding
Dated 23-1-2002 (Continued)

Prayer for holding up Inquiry at some other remotest State at Place of the S.D.O. / Santir bazar was not considered being it in a different Postal Division far away from occurrence of Source of Charge sheet against him. Again, on 23/1/02, S.P.S. & C.D. (U.S.) / Kohima at Santir Anandpara, Sub-room / Tripura vide his letter dated 07-3-01 represented to the D.P.s / Kohima for release of Subsistence allowance and regularization of 90 days leave W.E.F. 10-3-2001 and also represented to Inquiring Officer, vide his letter dated 07-3-01. Simultaneously with the requests in ① the Inquiry may be held at Post 1B / Dimapur, ② The Subsistence allowance from Dec 2000 to March 2001 are Paid at Dimapur so. while attending Inquiry & ③ Confirmation to above two requests is received with in 24-3-01. For giving maximum scope for representing the case into the Inquiry by Sri S.B. Dasgupta, S.P.S. & C.D. (U.S.) / Kohima, The date re-fixed for hearing on 28-3-01 (Wednesday) were cancelled until further order information with directives to D.P.s / Imphal for taking up necessary early action as deemed fit & requested by the S.P.S. vide his representation dated 07-3-2001. D.P.s / Kohima

(Contd. to Page - 4)

ATTESTED

19/4/05
AP

Proceeding
Dated. 23-1-2002 } Contd.

giving proper consideration to SPS
representative of-2-2001 intimated Sri S.B. Hazareika,
SPS & C.G. (WS) / Kohima vide his letter
No. F 3/VII-01/99-2000 (Loose) dated 21.2.2001
that his subsistence allowance
has not been withheld & he is having
liberty to take payment of his
subsistence allowance from his Perma-
nent Stg. also information to him
that he is ~~an~~ unauthorisedly living
out of Stg. In this connection
DPS Kohima referred his letter
of even no dtd. 30-01-2001 and
DPS Kohima also took necessary
action in against reformation
of Sri S.B. Hazareika, SPS & C.G. (WS)
/ Kohima and communicated to him
vide letter no. F 3/VII-01/99-2000 (Loose)
dated 23-3-2001. The Inquiry
Officer after a long gap of
3 months re fixed the preliminary
hearing date on 19-7-2001 (Thurs-
day) at 11.00 hrs. in the Post-1 IB
/ Dimapur. The said Inquiry
on 19-7-2001 (Thursday) could
not be held at Post-1 IB / Dimapur
due to absence of both SPS and
PO. & adjourned for next hearing
dates to be notified.

(Contd. to Page-5)

ATTESTED

29/1/05
APP

Recd
23/1/02
P.O. 2
ASPS

Proceedings Dtd. 23-01-02 (Contd)

The above adjourned date for Preliminary hearing were re-fixed again on 21-8-2001 (Tuesday) at 11:00 hrs. at Posson 18 Kohima vide Memo No. DsPos/Rmk-14/2K Aizawl dated 27-7-2001. Sri S.B. Hazarika, S.P.S. & C-9(US) Kohima represented vide Telegram for ~~non~~ unabling attendance on 19/7/01 at Posson 18 Dimapur which was received by me I.O. after return from Dimapur on 24-7-01.

However, the re-fixed date for hearing on 28-8-01 was cancelled by Inquiry Officer due to unforeseen reason to be further notified. The notification for holding up the inquiry into re-fixing the date again on 27/01/2002 vide DsPos/Rmk-14/2K Aizawl dated (17/01/2002) 27-12-2001 with clear information in case of failure to attend the inquiry by the S.P.S. the inquiry will be held up Ex Parte. On receipt of the said notification for hearing date on 17-01-2002 (Thursday), Sri S.B. Hazarika S.P.S. & C-9 Kohima at Anandpara, Sub-room, Tripura vide his Telegram Dated 08-1-2002 requested to postpone the inquiry on 17-1-2002 on account of "Bihu Festival". His

→ contd. Page 6.

ATTESTED

29/4/05
AFO

Proceeding dated 23-1-2002 (Contd)

His i.e. S.P.S. requests were again considered with information to him that - the said inquiry date for preliminary hearing has been deferred and re-fixed again on 23-1-2002 (Wednesday) at Post-101 Kohima at 10.30 hrs with further information that in case of failure to attend into the inquiry on 23-1-2002, the inquiry into the case will be held up Ex Parte. The information was ~~sent~~ sent to Sri S.B. Hazarika, S.P.S. & C.G. (Kohima at Anandpara Sub-Room, Tripura under Regd. AD & through FAX DPS/Agartala vide inquiry officer M. De Post No. 14/2K Mizoram dated 10-1-2002.

Sri Zanti Phusan Hazarika, S.P.S./C.G./Kohima was given sufficient scope as per his request & prayer as detailed in the foregoing proceeding notes, but instead of best effort impartially from the inquiry side, Sri Hazarika S.P.S. & C.G./Kohima failed to attend the inquiry on 23-1-2002 and under the circumstances as detailed in the foregoing proceeding paras, ~~the~~ under the provision of Para (20) (Contd. to Page - 7).

ATTESTED

[Signature]
19/1/02
Aff

[Signature]
23/1/02
PO. 2/1/02

Proceeding dtd. 23-01-2002 (Contd.)

Provision of Para (20) of Rule-14
under CCS (CCA) Rule 1965 the inquiry
is holding up Ex-Parte.

The Presenting Officer, read
out the Original Copy of Memorandum
issued vide Director of Postal Services,
Kohima, Memo. F3/VII-02/99-2000
dated, Kohima, the 6-1-2000 before
the Inquiry and produce for acceptance
it was accepted into Court of Inquiry.

The 1st Session of hearing
were adjourned for lunch break
at 13.30 hrs. on 23-1-2002 to be
re-held the 2nd Session at 14.30 hrs.
on 23-1-2002.

S/1 —
(M.K.DAS)
Inquiring Officer
Dy. S.P.O. / Aizawl

Copy to:
Regd. H.D.

- ① Sri Santu, Bhuvan Majumdar,
S.P.S. & C.D. / Kohima at
Anandpara, Sub-Room, Tripura
for information is ok.
- ② Ksh. Tomba Singh, Presenting Officer
& Dy. S.P.O. / Kohima for information
is ok.
- ③ Sh. D.P.S. / Kohima - for information
- ④ o/c

ATTESTED

(M.K.DAS)
Inquiring Officer
Dy. S.P.O. / Aizawl

29/1/05
APP

Cover
23/1/02
P.O. 2
A.S.P.O.S

Proceeding
23-01-2002.

IInd Session

Continuation & directives in Proceeding dated 23-1-2002 (1st Session), the IInd Session of the hearing into the case held up at 14.30 hrs. dated 23-1-2002.

Ksh. Tomba Singh, Presenting Officer to A.S.P.O. / Kohima has presented all the list of documents in Annexure-41 of D.P.S. / Kohima endorsed in his Memo. No. F3/VII-02/99-2000 dated Kohima the 6-1-2000 and these are accepted into the Inquiry and marked as noted against each:-

1. Treasurers Cash Book of Kohima Ho. for the Period from 09-7-99 to 30-9-99 — Marked as P.D.-1.
23-1-02.
2. Head Office Summary of Kohima Ho. for the Period from 07-6-99 to 07-6-99. — Marked as P.D.-2
23-1-02.
3. Money Receipt Dated 29-7-99 from Sri S.B. Hazareika, C.G. / Divisional Office / Kohima — Marked as P.D.-3
23-1-02.
4. Money Receipt dated 22-9-99 granted by Sri S.B. Hazareika, C.G. / Divisional Office / Kohima — Marked as P.D.-4
23-1-02.
5. Money Receipt dated 21-9-99 granted by Sri S.B. Hazareika, C.G. / Divisional Office / Kohima — Marked as P.D.-5
23-1-02.

(Continued to Page-2)

ATTESTED

[Signature]
29/1/05
A.S.P.O.

[Handwritten notes]
23/1/02
P.O. &
A.S.P.O.

Proceeding dated 23-1-2002
 IInd Session (Continued).

6. Money receipt dated 9-6-99
 granted by Sri S.B. Dazariya,
 C.G. / Kohima (Divisional Office) - Marked as

P.D.-6
 23-1-02

7. Written Statement of
 Treasures Dated 30-9-99 - Marked as

P.D.-7
 23-1-02

8. Written Statement of Sri
 S.B. Dazariya, C.G.
 Divisional Office, Kohima
 Dated 8-11-99 - Marked as

P.D.-8
 23-1-02

9. Carbon copy of the Statement
 attested by Sri K.A. Das,
 S.P.O. (219) Kohima
 Dated 08-11-99.

9. Letter No. Nil Dated
 12-11-99 Atto Director
 Postal Services, Kohima
 from S.P.M. WOKHA S.O.

- Marked as

P.D.-9
 23-1-02

The Presenting Officer into the case
 requested before the Court to submit
 additional documents from S.O.s in support
 of Charges under Article-II, III & IV which
 are required into the case for examination
 on next hearing, ~~at~~ date. This was
 accepted by the Court.

Summon to all the Presenting
 witnesses were ~~issued~~ ^{called for} vide D.S.P.O. / Rule 14/2k
 Kohima re 23-1-2002 - Presenting Officer
 into the case will take necessary action for
 appearing of the witnesses before the Court.

(Contd. to Page-3).

ATTESTED

[Signature]
 29/1/02
 HBL

[Handwritten note]
 23/1/02
 P.D. 2
 ASPoS

Proceeding dated 23-1-2002
 IInd Session (Continued.)

The Court was adjourned at
 16.30 hrs. dated 23-1-2002 with order
 for holding up next hearing on
 24-1-2002 in the Post-1 B. Kohima
 at 11.00 hrs.

Recd
 23/1/02
 P.O. &
 A.S.P.S

Sd/-
 (M.K. DAS)
 I. O. &
 Dy. S.P.O. / Aizawl.

Copy to:-

- Regd. AD. ✓
- ① Sri Santi Bhimsan Hazarika, S.P.S. &
 C.O. / Kohima at Anandapara,
 Sub-Room, Tripura for information
 & necessary action.
 - ② Ksh. Tomba Singh, Presenting Officer
 & A.S.P.O. / Kohima for information
 & neeq. action.
 - ③ D.P.S. / Kohima - for information.
 - ④ o/c

ATTESTED

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 2/1/02
 101

(M.K. DAS)
 Inquiring Officer
 Dy S.P.O. / Aizawl
 at
 Kohima
 797001

Annexure A-10

Page No 71

Summon to Prosecution Witnesses.

(Authority: Rule-14 C.C.S. (C.C.A.) Rule 1965, Govt. of India's Instruction in Annexure (6)).

Memo. No. D.P.S./Rule-14/2K Kohima Dtd 23/1/2002.

Whereas a departmental Rule-14

Enquiry under C.C.S. (C.C.A.) Rule 1965 against

Sri Santi Bhushan Hazarika, C.G. Kohima

vide D.P.S./Kohima Memo No. F3/VII-02/99-2000

Dated 6-1-2000 is holding up and whereas

Sri Shriji Choudhary is a Prosecution

witness into the case, now therefore, under the

Provision of authority as cited above, Sri Shriji Choudhary is notified to attend the inquiry for examination before the Court on - - - - - in the Venue of Postal B/Kohima at 10.00 hrs. (I.S.T.).

Sd/

(M.K.DAS)

Inquiry Officer

&
Dy. S.P.O./Asst. Secy.

Camped at Kohima.

Copy:-

1) Sri Shriji Choudhary for information & necessary action.

2) Sri Ksh. Bomba Singh, Reserving Officer, A.S.P.O. Kohima for information & necessary action.

Regd. A/D 3) Sri Santi Bhushan Hazarika, S.P.S. & C.G. Kohima at Ananda Parva, Sub-room, Tripura - for information & necessary action.

4) The D.P.S./Kohima, for information & necessary action.

5) O/c.

(M.K.DAS)
Inquiry Officer &
Dy. S.P.O./Asst. Secy.

ATTESTED

19/01/02
APP

Summon to Prosecution Witnesses.
(Authority :- Rule-14 C.C.B. (C.C.A) Rule 1965, Govt. of India's Instruction in Annexure- (6)).
Memo. No. DSPOS/Rule-14/2K Kohima Dte 23/1/2002.

Whereas a departmental Rule-14 Enquiry under C.C.B. (C.C.A.) Rule 1965 against Sri Santi Bhusan Hazarika, C.D. Kohima vide D.P.S. Kohima Memo No. F3/VII-02/99-2000 Dated 6-1-2000 is pending up and whereas Sri L. [Name] is a Prosecution witness into the case, now therefore, under the Provision & authority as cited above, Sri [Name] is notified to attend the Inquiry for examination before the Court on - - - 4/1/02 - - - in the venue of Postal 1B Kohima at 10.00 hrs. (I.S.T.).

Sd/-
(M.K.DAS)
Inquiry Officer
&
Dy. SPOS/Arizawl
Campd at Kohima.

Copy:-

- 1) In A.C. [Name] [Address] for information & necessary action.
- 2) Shri Ksh. Jombasingh, Presenting Officer & A.S.P.O. Kohima for information & necessary action.
- 3) Shri Santi Bhusan Hazarika, S.P.S. & C.D. Kohima at Ananda Para, Sub-room, Tripura - for information & necessary action.
- 4) The D.P.S. Kohima, for information & etc.
- 5) O/c.

Regd. A.P.O.

ATTESTED

29/1/02
A.P.O.

(M.K.DAS)
Inquiry Officer &
Dy SPOS/Arizawl.

Summons to Prosecution Witnesses.
(Authority :- Rule-14 C.C. (C.C.A) Rule 1965, Govt. of India's Instructions in Annexure (6)).
Memo. No. DsPos/Rule-14/2K Kohima Dtd 23/1/2002.

Whereas a departmental Rule-14 Enquiry under C.C.S (C.C.A.) Rule 1965 against Sri Sanku Bhushan Hazarika, C.D. Kohima vide D.F.S. Kohima Memo No. F3/VII-02/99-2000 Dated 6-1-2000 is pending up and whereas Sri A. Anand (1/1-14) / 15411-110 is a Prosecution witness in the case, now therefore, under the Provision of authority as cited above, Sri A. Anand (1/1-14) / 15411-110 is notified to attend the Inquiry for examination before the Court on 11/1/2002 in the venue of Postal 103 Kohima at 10.00 hrs. (I.S.T.).

Sd/-
(M.K. DAS)
Inquiry Officer
&
Dy. SPos/Asst. Secy
Campd at Kohima.

Copy:-

- 1) Sri A. Anand (1/1-14) / 15411-110 for information & necessary action. 110
- 2) Sri Ksh. Dombasingh, Presenting Officer & A.S.P. Kohima for information & necessary action.
- 3) Sri Sanku Bhushan Hazarika, S.P.S. & C.D. Kohima at Ananda Pura, Sub-room, Tripura - for information & necessary action.
- 4) The D.P.S. Kohima, for information & action.
- 5) O/c.

Regd. AID

ATTESTED

19/1/02
ABP

(M.K. DAS)
Inquiry Officer &
Dy. SPos/Asst. Secy

Summon to Prosecution Witnesses.

(Authority: Rule-14 C.C. (C.C.A) Rule 1965, Govt. of India's Instructions in Annexure (b)).

Memo. No. Ds Pos / Rule-14 / 2K Kohima Dtd 23/1/2002.

Whereas a departmental Rule-14 Enquiry under C.C.S (C.C.A) Rule 1965 against Sri Santi Bhusan Hazarika, C.D. / Kohima vide D.P.S. / Kohima Memo No. F3/VII-02/99-2000 Dated 6-1-2000 is pending up and whereas Sri Stephen Jasca, P.A. Dimpur S.O. is a Prosecution witness into the case, now therefore, under the provision of authority as cited above, Sri Stephen Jasca, P.A. Dimpur S.O. is notified to attend the inquiry for examination before the Court on - - - 25/1/02 - - - - in his venue of Postal B / Kohima at 10.00 hrs. (I.S.T.).

sd/

(M.K. DAS)

Inquiry Officer

Dy. S Pos / Arizawl

Campd at Kohima.

Copy:-

1) Sri Stephen Jasca, S.P.M., Kohima for information & necessary action.

2) Sri Ksh. Jombasingh, Presenting Officer to A.S. P.O. / Kohima for information & necessary action.

3) Sri Santi Bhusan Hazarika, S.P.S. & C.D. / Kohima at Ananda Pura, Sub-room, Tripura - for information & necessary action.

4) The D.P.S. / Kohima, for information & necessary action.

5) O/c.

Regd. H.D.

23/1/02
(M.K. DAS)
Inquiry Officer &
Dy S Pos / Arizawl.

ATTESTED

23/1/02
H.D.

Department of Posts

23/1/02 18

Annexure A

Page No 75

Summon to Prosecution Witnesses.
(Authority :- Rule-14 C.C.B. (C.C.A.) Rule 1965, Govt. of India's Instructions in Annexure (6)).

Memo. No. DS Pos / Rule-14 / 2K Kohima Dte 23/1/2002.

Whereas a departmental Rule-14 Enquiry under C.C.S (C.C.A.) Rule 1965 against Sri Santi Bhushan Hazarika, C.I. / Kohima vide D.P.S. / Kohima Memo No. F3/VII-02/99-2000 Dated 6-1-2000 is pending up and whereas Sri Rakesh Kumar Singh, S.P. / Doyang is a Prosecution witness into the case, now therefore, under the provision of authority as cited above, Sri Rakesh Kumar Singh, S.P. / Doyang is notified to attend the inquiry for examination before the Court on - 28-1-2002 (Monday) in the venue of Post Office / Kohima at 10.00 hrs. (I.S.T.).

Sd/-
(M.K. DAS)
Inquiry Officer
&
Dy. S Pos / Arizawl
Campd at Kohima.

Copy:-

1) Sri Rakesh Kumar Singh, S.P. / Doyang for information & necessary action.
now at Paternagar

2) Shri Ksh. Jamba Singh, Presencing Officer
to AS Pos / Kohima for information & necessary action.

Regd. AB

3) Shri Santi Bhushan Hazarika, S.P.S.
to C.I. / Kohima at Aranda Para,
Sub-room, Tripura - for information & necessary action.

4) The D.P.S. / Kohima, for information & necessary action.

5) O/c

ATTESTED

C.M. K. DAS
Inquiry Officer &
Dy. S Pos. / Arizawl.
23/1/2002

23/1/02
HBP

10-4

Department of Posts.

Annexure A-15.

Page No. 76

Summon to Prosecution Witnesses.

(Authority :- Rule-14 C.C.G. (C.C.A) Rule 1965, Govt. of India's Instruction in Annexure. (6)).

Memo. No. Ds Pos / Rule-14 / 2K Kohima Dte 23/1/2002.

Whereas a departmental Rule-14 Enquiry under C.C.G. (C.C.A.) Rule 1965 against Sri Santi Bhushan Hazarika, C.9.1 Kohima vide D.P.S. / Kohima Memo No. F3/VII-02/99-2000 Dated 6-1-2000 is holding up and whereas Sri Rameshwar Roy, SPM, Papernagar is a Prosecution witness into the case, now therefore, under the Provision & authority as cited above, Sri Rameshwar Roy, SPM, Papernagar is notified to attend the inquiry for examination before the Court on - 28/1/02 (MON-DA) - - - in the venue of Postal 103 / Kohima at 10.00 hrs. (I.S.T.).

sd/

(M.K.DAS)

Inquiry Officer

&
Dy. S Pos / Arizant

Campd at Kohima.

Copy:-

1) Sri Rameshwar Roy, SPM, Papernagar & necessary action.
Spm
Munglchoylen

2) Sri Ksh. Jamba Singh, Presenting Officer & AS Pos / Kohima for information & necessary action.

Regd-AID:

3) Sri Santi Bhushan Hazarika, S.P.S. & C.9.1 Kohima at Ananda Parva, Sub-room, Tripura - for information & necessary action.

4) The D.P.S. / Kohima, for information & n/a.
5) O/c.

ATTESTED

M.K.DAS
for

M.K.DAS
Inquiry Officer &
Dy S Pos, Arizant.

Signature A. A. A.

Department - 28 Profs. Page 11/14

Proceeding

Dated 24-1-2002

Authority: - D/S/Kohima No. F3-01/99-2000
Dated Kohima No 23-3-2000.

Venue of Hearing: - P.S.M.B/Kohima

Date: - 24-01-2002

Time: - 11:00 hrs.

The followings were Present into the Inquiry on the date.

(a) Ksh. Tomba Singh, PO & ASPO/Kohima

(b) Witnesses

1) Shri Shivji Choudhary

Treasurer

Kohima HO - termed as P.W.-1

2) Shri Anil Kumar Berman

Asst. Treasurer

Kohima HO - termed as P.W.-2

3) Shri N. Anand, O/S

Cash, Kohima HO - termed as P.W.-3.

The following additional documents were Presented by the PO & ASPO Presenting Officer into the enquiry & accepted by the Court of Inquiry.

(Contd. to Page-2)

ATTESTED

29/1/02
A. A. A.

Shivji Choudhary
T. R. Kohima
24.1.02

24/1/02
PO & ASPO

Proceedings Dated 24-1-2002 (Contd.)

Wokha So. Daily Account

Dated 20/9/99

to 21/9/99 } Marked as P.D-10
24/1/02

Wokha So. Summary

Dated 01/10/99 to 29/10/99

Papernagar So. Daily A/c

Marked as P.D-11
24/1/02

Dated 9-6-99 - Marked as

P.D-12
24-1-02

Papernagar So. Summary

Dated from 25-5-99 to

June '99

Marked as P.D-13
24-1-02

Doyang So. Daily A/c

Dated 22-9-99 Marked as

P.D-14
24-1-02

Doyang So. Summary

Dated 1-10-99 to

29-10-99 - Marked as

P.D-15
24-1-02

Circle Level Enquiry Report
from Director of Postal Services

Dated 14-3-2000. - Marked as

P.D-16
24-1-02

(Contd. to Page - 3)

ATTESTED

[Signature]
29/1/02
H.P.

(CONTINUED ON)

S. Shree Choudhary
F. H. Wafar
24/1/02

Recd
24/1/02
P.O. 24-905

Proceedings Dated 24-1-02 (Contd.)

Examination, Cross-Examination,
Re-examination & Examination-in-
Chief of Sri Shivjee Choudhury,
Treasurer, Kohima Ho. & P.W.-1

Sri Ksh. Tomba Singh, Presenting
Officer & ASPO/Kohima examined
Sri Sivjee Choudhury P.W.-1 as noted
below:—

Q.No.1. What is your name?

Ans.1. My name is Sri Sivjee Choudhury.

Q.No.2. From which date you are working
as Treasurer in Kohima Ho.?

Ans. to Q.2. I am serving as Treasurer
in Kohima Ho. since August 1996.

Q.No.3. How many years of service you
have rendered in the department?

Ans. to Q.No.3. About 30 years since
July, 1971.

Q.No.4. Is it a fact that you have
paid Rs. 65,400.00 (Sixty five
thousand four hundred only) to
Sri S. S. Bhusan D. Agarkar,
C.D./Divisional Officer

(Contd. to Page-4)
(Contd. to Page-5)

ATTESTED

24/1/02
ABP

Sri Shivjee Choudhury,
P.W.-1, Kohima
24/1/02

24/1/02
ABP

Proceedings Dated 24.1.02 (Contd.)
C.S./Divisional Office Kohima on 29-7-99
from the Cash of the Treasury of
Kohima H.O.?

Ans. to Q. No 4. Yes Sir; I have paid
Rupees sixty five thousand
four hundred only (Rs. 65,400/-)
to Sri Santhi Bhushan Mazuka
C.S./DVL Office Kohima on
29-7-99 from the Cash
money of Treasury at
Kohima H.O. in presence
of Sri Anil Kumar Bahman,
Asst. Treasurer & Sri
N. Ansari, O/S Cash, Kohima
H.O.

Q. No. 5. On what ground and on
what authority you have
paid the above noted
amount of Rs. 65,400/- to
Sri S. B. Mazuka, C.S. Kohima?

Ans. to Q. 5. The ground on which the said
money was given by me to Sri
S. B. Mazuka, C.S. Kohima
is that ^{the said man} he is badly in need of
money for medical treatment
etc. & his House Building Loan
will be sanctioned with in
(Contd. to Page 5)

ATTESTED

29/10/05
ABP

Shingur claudery,
P.N. volume.
24/11/02

24/11/02
24/11/02
24/11/02

Annexure A-1b.

Page - 5

74

Proceedings Dated 24-1-02 (Contd.)

within a week's time when he will refund the said money. ~~The~~

Sri S. B. Mazavika, C.I. Divisional Office/Kohima being a senior executive officials, myself treat his "Saying" as authority on good faith I made the aforesaid said payment to Sri Mazavika, C.I. Divisional Office/Kohima.

Q. No. 6. Have you Consulted your Superiors before making Payment of the said amount?

Ans. to Q. No. 6. - NO Sir, in good faith, I made the Payment.

Q. No. 7. - Whether you will make Such Payment to some other Officials in good faith as you have done in case of Sri S. B. Mazavika, C.I. Div. Office Kohima?

Ans. Q. No. 7. - NO Sir, I will not make Such Payment to any other Officials on Good faith.

Q. No. 8. - Being such a Senior Official, do you think that Payment of the said amt. to Sri S. B. Mazavika, C.I. Kohima without the knowledge of competent authority is justified?

ATTESTED

29/4/05
ASB

Sri Shingji secretary.
T.H. Kohima.
24/1/02

24/1/02
29/4/05

Proceedings Dtd. 24.1.02 (Contd)

Ans. to Q. No. 8. No Sir, it was not justified.

Q No - 9. Have you shown the aforesaid amount of payment in your Treasurer's Cash Book on the date of payment i.e. 29-7-99?

Ans. to Q. 9. No, I have not shown the said amount in the Cash Book of Treasurer's on the date.

Q. No - 10. Then above, how you have treated the said amount in the Govt. A/c?

Ans. No - 10. Sri S. B. Hazarekar, C.G. I Kohima granted a receipt of acknowledgement of Rs. 65,400/- dtd. 29-7-99 and believing that he will refund the amount very soon, it was not shown as a part of the cash taken into a/c.

Q. No. 11. Have shown the receipt granted by Sri Hazarekar (P.D.-3) to P.M. I Kohima?

Ans. to Q. 11. No, I did not show the receipt to P.M. I Kohima.

NO CROSS-EXAMINATION & NO RE-EXAMINATION WAS HELD TO SRI SHIRJEE (A.M. Dhury, P.W.-1).
(Contd to Page 7)

ATTESTED

29/1/02
ABP

Sri Shirjee Chaudhary
T.N. Kohima
24/1/02

Sofsy of
20/1/02

Proceedings Dated 24.10.02 (Contd.)

Examination in - Chief to
Sri Shrivjee Choudhury, P.W-1

Q. No. 1 In the close of the Day, whether the Postmaster is signing the Treasurer's Cash Book by Physical Counting the Cash in hand?

Ans to Q. No. 1. He is signing the Treasurer's Cash Book but not counting the money physically daily but in occasions?

Q. No. 2. With reference to your answer to Q. No. 1 above, it is asked to you that on 29-7-99, the Payment of sum amounting to Rs. 65,400/- (Sixty five thousand four hundred only) to Sri S.B. Dhanuka, C.D. / D.N. Office / Kothima was brought to the notice of P.M. / Kothima on the date?

Ans. to Q. No. 2. NO it was not brought to the notice of P.M. / Kothima (Contd. to Page-8)

ATTESTED

29/10/05

Sri Shrivjee Choudhury
P.W. Volume
24/10/02

Page
24/10/02
29/10/05

28/11/02

Page - 8

Proceedings Dtd. 24.11.02 (Contd.)

Q No. 3. Out of the amount of Rs. 65,400/- paid by you to Sri S.B. Dargavika, C.G. / Kohima if any amount has been refunded by him, is on what date & how you have shown refund in money, if any?

Ans. Q. 3. Sri Dargavika, C.G. / Kohima has refunded an amount of Rs. 10,400/- on 30.9.99 remaining balance of Rs. 55,000/- shown to be as short on cash & observed and noted by D.P.s / Kohima on the date.

(M. K. D.A.S.)
Inquiring Officer
D.S.F.O.S
Aizawl

(Contd. to Page - 9)

ATTESTED

29/11/05
A.P.P.

Shriji Choudhary
P. N. Kohima
24/11/02

50/11/02
A.P.P.

Torric Dinos
Dated 24/1/02

Dated 24/1/02.

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Examination, Cross-examination,
Re-examination & examination-in-
-chief to Sri Anil Kumar Barman,
ASSA Treasurer, Korumga Ho
— P.W-2

Examination to AW-2 by Presenting Officer

Q. no. 1. What is your name?

Ans Q no-1... My name is Sai Anil Kumar Barman.

Q. No. 2. You are working as Asst. Treasurer in Kolima Ho. Since when?

Ans. to Q. 2 : I am working as A88A
Treasurer, in Kothima Ho.
Since 1996.

Q. NO 3 - On 29-7-99 where had you been working?

Ans Q no 3: On 27-7-97, I was working
as ASST. Treasurer in Koriya
210

Q. No. 4. What is the function of
ASSH. Treasurer in Kothimadi?

Ans. Q. No 4. The main function of the
ASSM Treasurers in Kohima Ho
lies with dealing with Stamps
& Stationery.
(Contd. to Page-10).

ATTESTED

2/10/05
ABP

Page-10.

Proceedings Dated 24-1-02 (Contd.)

Q. No. 5. Have you seen on 29-7-99,
 Sri Shivjee Choudhury,
 Treasurer, Kohima Ho
 paid amount of
 Rs. 65,400/- (Sixty five thousand
 five hundred only) to Sri
 S.B. Hazareika, C.G. Kohima?

Ans. Q. No. 5. I have seen that - Sri
S. B. Dazavika, C. D. / Kohima
has taken money on
29.7.99 from Sri Shivjee
Choudhury, Treasurer on
saying that - his mother or
somebody is seriously ill & with the assurance
that - he will refund the
amount soon when his H.B.A.
will be sanctioned, but I can
not say the exact amount
taken by Sri Dazavika on the date.

Q. No. 6. ~~Whether~~ From where Sri Shivjee Choudhury, Treasurer, Kohima on 29.7.99, has paid Sri S. B. Armarika, C.B./Kohima. & What you have seen?

Ans. Q No. 6. I have seen to pay Sir S. B.
Dinawika, C. S. / Kohima by
Sir S. B. J. Choudhury, Treasurer
Kohima from the loan safe of the
Treasury at Kohima were
(Contd. to Page - 11)

ATTESTED

9/1/05
ASP

Page - 11

Proceedings Dated 24-1-02 (Contd)
where the Govt. Cash of Kohima No
is kept.

Q. No. 7. Have you seen that Sri B.
Dazareika, C.D. / Kohima
has given any Receipt
for acknowledging the paid
amount - By the Treasurer?

Ans. Q. 7. I have seen that Sri
Dazareika, C.D. / Kohima has
given a "Receipt" as
a token of acknowledgement
of money from one
Treasurer on 29-7-99.

No cross-examination & no
re-examination to P.W. 2 held.

Examination-in-chief to P.W. 2
by I.O.

Q. 1. Whether the Payment to Sri
B. Dazareika, C.D. / D.V.L. Office
Kohima by the Treasurer on
29-7-99 was brought to the
notice of the Postmaster, Kohima
by yourself?

Ans. to Q. No. 1 No I did not bring the
matter to the ^{the notice} Postmaster,
Kohima as it was not
concerned to me.

(Contd to Page - 12)

ATTESTED

[Signature]
A.P.P.

[Signature]
A.P.P.

A.P.P.

A.P.P.

[Signature]
A.P.P.

~~40-135~~

Page-12

Proceedings Dated 24.1.02 (Contd.)

Q. No. 2. Can you say, after the end of the day, how Postmaster Kohima, Signed the Treasurer's Cash Book on 29-7-99?

Ans. to Q. No. 2. I can not exactly remember now.

(M. K. Das)
Inquiring Officer
Dy S. Postmaster

Examination, (cross-examination, Re-examination and examination-in-chief to Sri N. Ansari, O/S Cash, Kohima etc.

Q. No. 1. What is your name?

Ans. Q. No. 1. My name is Sri N. Ansari?

Q. No. 2. How many years you are serving in this department?

Ans. Q. No. 2. I am serving in this department from last 31 years.

Q. No. 3. In which post you are serving in Kohima etc?

Ans. Q. No. 3. I am working as Overseer / Cash in Kohima etc.

(Contd to Page 13) →

ATTESTED

[Signature]
29/1/02

Mail Kumar Borman
ASST. T.R.

29/1/02

N. Ansari
O/S Cash Kohima etc.
24/1/2002

29/1/02
29/1/02
29/1/02

Proceedings Dated 24.1.02 (Contd)

Q. No. 4. Have you seen ~~that~~ on 29-7-99
that - Sri Shivjee Choudhary,
Treasurer, Kohima Ho.
gave Rs. 65,400/- (Sixty five
thousand four hundred only)
to Sri S. B. Hazareika, C.G. | Kohima?

Ans. to Q. No. 4. I have seen that - some
money were paid by Treasurer
to Sri S. B. Hazareika, C.G. | Kohima
even though the Treasurer
initially protesting for payment
of bag amount, but ultimately
overruled by C.G. | Kohima
when he told that the amount
will be adjusted from D.D.A.
& scooter advances getting
paid by him and he is
also granting a receipt
of money to the Treasurer.
But ~~now~~ I can not say the
exact amount paid to him
(Sri Hazareika) by the Treasurer
on 29-7-99.

Q. No. 5. At the time of payment to Sri
Hazareika, C.G. | Kohima what

Ans. Q. 5. You were doing?
I was tendering money collected
from M.O. Issue Counter to the
Treasurer.

(Contd. to Page-14) →

ATTESTED

29/1/02
AHP

N. Anasari
C/O C.A. Kohima Ho.
24.1.2002

24/1/02
20/1/02
20/1/02

Annexure A-46

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Proceedings Dated 24.1.02 (Contd.)

NO cross-examination,
re-examination & examination-in-
chief to Sri N. Arisaka, D/S Cash
Kohima HO. - PW-3 held.

The Court of Inquiry
were adjourned to be re-held
at 11:00 hrs. on 25-1-2002

(M. K. DAS.)
Inquiring Officer
Dy SPS
Aizawl

Copy to:-

- ① Sri S. B. Hengawika, C.G. / Kohima
at Anandpura, Sub-Room
Tripura for information & etc.
- ② KSR. Tomba Singh, Presenting
Officer & AS PS / Kohima for
information & etc.
- ③ The D. PS / Kohima for information
- ④ O/c.

ATTESTED

(M. K. DAS)
Inquiring Officer
Dy SPS / Aizawl

29/1/02
ABP

N. Arisaka
D/S Cash Kohima HO.
24/1/02

24/1/02
PO & AS PS

Department of Posts.

Date 1/2

Proceedings

Dated 25-1-2002.

The inquiry started at 11:00 hrs. on 25-1-2002 in the Post Office at Kohima.

The followings were present

1) KSR. Tom Ba Singh, Presenting Officer at ASPO/Kohima.

2) Sri Stephen Yesca, the then S.P.M. Wokha, now P.A./Dimapur could not turn up as was summoned as Prosecution witness due to relieving arrangements and informed through Presenting Officer that he will be present before the Court on 28-1-2002 which may be granted by the Court - Considering genuineness the Court of hearing accepted his prayer for Attendance on 28-1-2002.

The Presenting Officer submit to the Court for examination of Sri Sanapati Boro, Postmaster, Kohima dated 29-7-99 as an additional Prosecution witness into the case was also considered and Sri Boro was summoned to appear before the Court of Inquiry on 28-1-2002.

(Contd. to Page-2)

ATTESTED

29/1/05
HBL

Free
25/1/02
f.p.o. & ASPOs

Proceedings Dated 25-1-02 (Contd)

Due to absence of

Prosecution witness, the Court of Inquiry could not proceed further and adjourned to be held at 11.00 hrs. on 28-1-02 (Monday) at Post 13/Kohima.

Sd/-
(M.K. DAS)
Inquiry Officer

Dy. S.P.O.

at Kohima

Copy to:-

Regd. No. 10

① Sd. Banti Bhushan Dasgupta
(C.G. Kohima) at Anandapada
Sub-Room Po, Tripura for
information & etc.

② Ksh. Tomba Singh, P.O. & Astor
Kohima for information
& etc.

③ Sd. D.P.S. Kohima for
information.

④ O/c

M.K. DAS
(M.K. DAS)
Dy. S.P.O. / 10 &
11/3/02

ATTESTED

29/1/02

ABP

Department of Posts

Proceedings

Date 28-1-2002

Page 1/3

The Inquiry started at 11.00 hrs. on 28-1-2002 in the Post Office Kohima.

The followings were present:

1) Mr. Tomlin Singh, Presenting Officer
ASPO Kohima.

2) Witnesses:

a) Mr. Senapati Boro, Postmaster
Kohima, Dtd. 29-7-1999.

b) Mr. Parkash Kumar Singh, S.P.O. / Doyangso.
P.W.-4 (four)

c) Mr. Stephen Yerca, S.P.O. / Wakhaso.
P.W.-5 (five)

Examination of Mr. Senapati Boro, Postmaster, Kohima dated 29-7-99, P.W.-4, by Presenting Officer -
Tomlin Singh - 2

ATTESTED

29/1/02

28/1/02
28/1/02
28/1/02

Senapati Boro

28/1/02

125-29
 Proceeding dated 28/11/02 (Contd)

Q. No. 1. What is your name?

Ans. Q. No. 1. Sri Sonapati Boro is my name.

Q. No. 2. From which date you were working working as Postmaster, Kohima

Ans. Q. No. 2. So far my knowledge I was working as Postmaster, Kohima Ho. from two/three months back upto 23/8/99.

Q. No. 3. Do you have any knowledge that on 29-7-99 Sri S.B. Dhangarika, C.D. I Kohima had taken from Sri Shivjee Chaudhary, Treasurer, Kohima a sum of Rs. 65,400/- (Sixty five thousand four hundred only) for his personal use?

Ans. Q. No. 3. NO.

Q. No. 4. Whether any thing is any information was brought to your notice subsequently by the Treasurer, Kohima etc. when Sri S.B. Dhangarika, C.D. I Kohima took a sum of Rs. 65,400/- from the Cash Money
 Contd. to Page-3

ATTESTED

27/11/02
 APP

Sonapati Boro

28/11/02

28/11/02

28/11/02

Q. Treasurer of Kohima do on 29-7-99?

Ans. Q. No. 4. No, the Treasurer did not inform my thing about giving money to the amount of Rs. 65, 400/- (Sixty five thousand four hundred only) to Sri S.B. Dargavika C.I. Kohima on 29-7-99 even on any subsequent date also.

Q. No. 5. Have you signed the Treasurer's Cash Book and Kohima do Summary on 29-7-99 at the close of the day by Physical Counting of Cash?

Ans. Q. 5. Yes I have signed both the books on 29-7-99 but by physical counting the cash which was found correct.

Q. No. 6. When you find the cash correct when a sum of Rs. 65, 400/- (Sixty five thousand four hundred only) was already paid to Sri S.B. Dargavika C.I. Kohima do on 29-7-99?

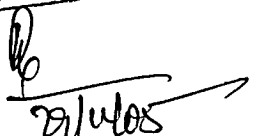
Ans. No. 6. On that date there was a cash account of (Rupees nine lacs, seven thousand, eight hundred and fifty two paise only) Rs. 9, 07, 827.52 in Treasury and this particular amount of Rs. 65, 400/- paid to Sri Dargavika, referred to Page-4

Sonapati Bore

28/10/21

28/10/21
2021/10/21

ATTESTED


Attestor

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Page C-4

Proceedings dt. 28.1.02 (Contd.)
Sri ~~Atangwika~~, C.S. / Kohima, which was a part of the cash, actually escaped my notice.

Q. No. 7. Then it appears that you have not properly checked the cash & signed the Treasurer's Cash Book & Kohima to Sunny on 29-7-99?

Ans. No. 7. No comment.

Q. No. 8. Then, when the amount of Rs. 65,400/- actually short in the Stc. Cash was came into the light?

Ans. to Q. No. 8. On 20-9-99, D.P.S. Kohima, was taking up Annual Inspection & verifying the Cash of the Stc. only - then it came to light that this amount of Rs. 65,400/- was short in the cash and the Treasurer presented the receipt granted by Sri Sri Atangwika, C.S. / Kohima and on that particular date Sri S.D. Atangwika, C.S. / Kohima, returned a sum of Rs. 20,400/- to the Treasurer when the actual shortage in the cash came to Rs. 55,000.00 (fifty five thousand only) & it was observed and noted by D.P.S. / Kohima on 20-7-79, on that day Sri S.C. Paul was working as P.M. / Kohima Ho.

Sonapati Boro
28/1/02

28/1/02
D.P.S. / Kohima

Sony.
(S-BORO)

(Contd to Page-5)

ATTESTED

29/1/05
HOP

Proceedings dated 28.1.02 (Contd.)

No. (Cross-examination & consequently re-examination held to PW-4).

Examination in chief to Sri
Sourapati Boro, Postmaster,
Kolkata on 29.7.99 by I.O.

Q. Do you admit that Sri
S.B. Hazareika, C.G. I Kolkata
on 29.7.99 has taken a
Sum of Rs. 65,400/- (Sixty five
thousand four hundred only)
from Sri Shivjee Choudhury,
ex- / To-cashier, Kolkata sto
for his Personal use?

Q. Yes. I do admit and it is
Proved by no Receipt
Granted by Sri S.B. Hazareika,
C.G. I Kolkata on that behalf.
i.e. for Rs. 65,400/- (Sixty five
thousand four hundred only).

(Contd to Page-6)

ATTESTED

29/11/02
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Sourapati Boro
28/1/02

28/1/02
202/15/115

Proceedings

Dated. 28.1.02.

Examination of Sri Stephen Jesea,
S.P.O. / Wokha - P.W.-5 on 28-1-02
by Presenting officer.

Q. No. 1. What is your name?

Ans. Q. No. 1. My name is Stephen Jesea.

Q. No. 2. How many years of service
you are rendering in this postal
department?

Ans. Q. No. 2. It is more than seventeen
years I am serving in
the postal department.

Q. No. 3. On 21-9-99 where had you
been working and in which
post?

Ans. No. 3. I was working in Wokha
Sub Post Office & working
as S.P.O. here.

Q. No. 4. Do you admit that
you have paid Rs. 7,000/-
(Seven thousand only) to
Sri S.B. Hazareika, C.D. / Kohima
on 21-9-99?

Ans. No. 4. Yes I do admit on Don't
behalf Sri S.B. Hazareika, C.D.
Took it to 7-9-99

ATTESTED

29/1/02
HSPStephen Jesea
28/01/0228/1/02
PO & HSP

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Proceedings Dated. 28-1-02 (Contd)

Kohima
C.D.) ~~Hazvika~~ ⁱⁿ has furnished
me a receipt which was marked
in the Inquiry P.D. 5 & the matter
was reported by me in the
letter no. nil dated 12/11/99 marked
in the Inquiry as P.D. 9.

Q. 5. The amount of Rs. 7,000/-
(Seven thousand only) paid
by you to Sri S. B. Hazvika, C.D.
on 21-9-99 was paid from
where?

Ans. Q. 5. The said amount of
Rs. 7000/- (Seven thousand
only) was paid to Sri S. B. Hazvika
C.D./Kohima from the cash
amount of Wokha Sub-Office
on 21-9-99.

Q. No. 6. Why you have paid
this amount of Rs. 7,000/-
(Seven thousand only) on 21-9-99
to Sri S. B. Hazvika, C.D./Kohima?

Ans. Q. No. 6. Sri S. B. Hazvika, C.D./Kohima
told me that he was proceeding
to Doyang SO. on Sub-Official
duty and he was in need of
money to mitigate the expenses
on duty that is why I paid the
said amount to Sri S. B. Hazvika,
C.D./Kohima from the cash of
(Contd to Page-8)

ATTESTED

[Signature]
27/11/02
ABP

[Signature]
28/01/02

[Signature]
28/11/02
P.D. 5 & 495

Proceeding dated 28.1.02 (contd.)
 - Cash of Wokha sub-office on 21.9.99.

Q. NO. 7. This sum Rs. 7,000 (Seven thousand only) how you have shown in Govt. A/c?

Ans. to Q. NO. 7 on that date it was actually shown to be part of cash represented by Receipt/Vouchers but I did not show it in the so. daily a/c & so account ~~so~~ thinking that the amount would be sufficient to set on his way back from Doyang on


Q. NO. 8. Why you have reported the matter belatedly on 12.11.99 to D.P.S. / Kohima?

A. to Q. NO. 8. Quite some times I forgot the matter, but when after - 1 week I found that this amount of Rs. 7,000 was still to be refunded by Sri S.P. Arzunka (D.P.S. / Kohima) so then ultimately I reported the matter to D.P.S. / Kohima on 12.11.99.


NO. Cross-examination & consequently re-examination to P.W.-5 Sri Stephen Yesca, S.P.O. / Wokha held.

(Contd. in Page-9)

ATTESTED


 29/10/02
 ACP

Stephen Yesca
 28/10/02


 28/11/02
 P.O. & S.P.O.

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~~122~~

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Proceedings Dated 28.1.02 (Contd.)

Examination-in-chief of Sri
Stephen Yerca, S.P.O. / Warkha
P.W.-5 by I.O.Q. Mr. Stephen Yerca, P.W.-5, this
amount of Rs. 7,000/- (Rupees
Seven thousand only) was
actually not paid to Sris B.
Mazavika, C.G. / Kothima
on 21-7-99, how well you
nullify it?

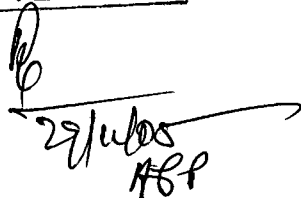
Ans. Q above: -

As Per Prosecution

Documents marked as P.D.-5 &
Prosecution Document marked
as P.D.-9 is a clear nullification
of the above question & clear
proof that a sum of Rs. 7000/-
was actually paid to Sris B.
Mazavika, C.G. / Kothima on
21-7-99 from the cash amount
of Warkha Sub-office

(Contd. to Page-10)

ATTESTED


29/1/02
ABP

Stephen

Yerca

28/01/02

Attest
28/1/02
PO & ASPOs

Proceedings

Page-10

Dated 28/1/2002 (Contd)

Examination of Sri Rakesh Kumar Singh, S.P.M./Doyang SO. P.W-6 by the Presenting Officer on 28-1-02

Q.1. What is your name?

Ans. Q. No. 1. My name is Sri Rakesh Kumar Singh.

Q. No. 2. How long you are serving in this department?

Ans. Q. No. 2. I am serving in this department since 1992.

Q. No. 3. On 22-9-99 where had you been working and in what posts?

Ans. Q. No. 3. I was working in Doyang SO, in the post of Sub-Postmaster on 22-9-99.

Q. No. 4. Do you admit that you have paid Rs. 3,000/- (three thousand only) to Sri S. B. Dargavika C.G./D.N. Office/Korima & on what ground?

Ans. Q. No. 4. Yes, I do admit that I have paid Rs. 3,000/- (three thousand only) to Sri S. B. Dargavika (Contd to Page-11)

ATTESTED

29/1/05
AOP

Rakesh Kumar Singh
28/1/02

28/1/02
P.O. A.P.S.

P. No. 1. Proceeding dated 28-1-02 (Contd.)
 At Mysore, C. S. / K. S. Hima on 22-9-99
 on the ground that Sri Dasavika,
 C. S. / K. S. Hima told that - he has
 no money to return to A. Q. which
 will be returned by him after
 reaching in the A. Q. through mail
 Overseas.

Q. No. 5. How much you paid the said
 amount of Rs. 3,000/- (Three
 Thousand only) from the cash
 amount of Doyang so dated
 22-9-99, if so, in what manner
 if you have accounted the
 said amount in Govt. account?

Ans. Q. No. 5. Yes, I have paid the
 said amount from the cash
 of Doyang so dated 22-9-99
 on obtaining a receipt
 from Sri Dasavika, C. S. / K. S. Hima
 marked as P.D.-4 in the inquiry
 and this amount suppose to be
 shown as part of cash, but
 due to ignorance I showed it
 as cash which was actually
 shown in cash considering that
 it will be return soon.

Q. No. 6. Have you reported the matter
 to the higher authority?

Ans. No. 6. Yes, the original letter of
 granted by Sri Dasavika, C. S. / K. S. Hima
 (Contd to Page - 12)

ATTESTED

29/10/05
 HRP

Prakash Kumar Singh
 28/1/02

28/1/02
 P. S. / K. S. Hima

Proceeding dated 28-1-02 (contd.)

Marked in the Inquiry as P.D-4 was sent to D.P.S. / Kolarima through mail over secs, on 1.10.01.

Q. NO. 7. After the report as above to D.P.S. / Kolarima what development of the case happened?

Ans. Q NO. 7. On 21-3-2001 (Probably), during the course of Annual Disbursement by D.P.S. / Kolarima, the amount was noted in the S.O. of Doyang as unclassified payment.

No. 6555. examination, and consequently no re-examination of P.W-6 held by Presenting Officer.

I.O. does not consider to hold Examination in chief to P.W-6.

Si S.C. Paul, the regular Postmaster, Aizawl was present on 30-7-99 when in course of verification of cash, the exact amount of shortages was noticed by D.P.S. / Kolarima, the Court of Inquiry therefore direct the Presenting Officer to present Si S.C. Paul in the Court of Inquiry for examination in the next hearing.

ATTESTED

29/1/02
HSP

Parag Kumar Singh
28/1/02

28/1/02
Doe HSP

K.T. Das M.A. B.A.

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Proceedings Dtd. 28-1-02
On 29-1-02. (Contd)

The Court is adjourned
to-day to be held at 11.00 hrs.
on 29-1-2002 at Post P.B./Kohima.

sd/

(M.K.DAS)

Inquiry Officer

Dy. S.P.O.

Nizampur-

Copy to:-

Regd. A.D. ① Sri S.B. Marawika, S.P.S.

& C.O. Kohima at

Ananda Pura, Sub. Room

P.O. Tripura for information

& nla

② Ksh. Tonba Singh, P.O. &

Post Kohima for
information & nla③ The D.P.S. Kohima for
information.

④ etc.

ATTESTED

P

29/1/02
ABP

(M.K.Das)
Inquiry Officer
Dy S.P.O. Nizampur

Rakesh Kumar Singh
28/1/02

28/1/02
20245905

Department of Posts

Proceeding Officer

Dated 29-1-02.

The inquiry under Rule-11, case of C.C.S. (C.C.A) Rules, 1965 against Sri. S.D. Mazurika, S.D. & S.O. Kohima started at 11.00 hrs. on 29-1-2002 in the Post at Kohima.

The following persons were present: -

- 1) Sh. Tomba Singh, Presenting Officer to AS PO Kohima
- 2) Sri B. C. Paul, Postmaster Kohima D.O.

Examination of Sri S. C. Paul, Postmaster, Kohima D.O. by the Presenting Officer.

Q. No. 1. What is your name?

Ans to Q. No. 1. My name is Sri Santosh Chandra Paul.

Q. No. 2. How long you are serving in this department?

Ans to Q. No. 2. I am serving in this department from 20-5-1963.

Q. No. 3. On 29-1-99 where you were working?

Ans to Q. No. 3. I was working as Office Assistant in the D. P. S. Kohima. (Contd. to Page-2)

ATTESTED

29/1/02
ABP

Proceedings Dated. 29-1-02

Q. NO. 4. After 29-7-99 when you took the charge of Postmaster Kohima HO?

Ans. to Q. 4. I took over the charge of Postmaster Kohima on 24-8-99.

Q. NO. 5. Have you verified the Cash & Stamp balances of Kohima HO on 24-8-99 Physically, when you took the charge?

Ans. to Q. 5. Yes.

Q. NO. 6. Have you found the Cash balances of the Kohima HO on 24-8-99 Correct?

Ans. to Q. NO. 6. Yes.

Q. NO. 7. Sri Shivjee Choudhary, Treasurer, Kohima HO deposed to the inquiry that he paid a Rs. 65,100/- (Sixty five thousand four hundred only) to Sri S. B. Hazareika, C.O. Kohima on 29-7-99 from the Cash of the Kohima HO in that case ~~the~~ you agree to his Statement?

(Contd. to Page-3)

ATTESTED

29/1/05
AB

29/1/05
AB

Procee Dings

Page 3

Dated 29-1-2002

Ans. Q. No. 7. NO.

Q. No. 8. Kindly see to me Receipt-
marked with Inquiry as
P.D-3 granted by D.P.
S.B. Hazareika C.S./Kohima
for receiving Rs. 65,400/-
(Sixty five thousand four
hundred only) from the
Treasurer of Kohima Stn.
dated 29-7-99 - after your
forfeiture on 21-8-99 whether
ms. R. ip it was brought
to your notice?

Ans. Q. No. 8. NO. (after seeing the receipt).

Q. No. 9. After 21-8-99 to 29-9-99
in between, have you ever
Physically counted the
Cash in the Stn. Prior
verification of the Cash
by D.P.S/Kohima on
30-9-99?

Ans. Q. No. 9. I have verified the
Cash daily with my full
Satisfaction.

Q. No. 10. If it is so, in that case,
on 30-9-99 in course of
Verification of Cash by Stamps by
D.P.S/Kohima how he could detect
a shortage of Rs. 65,400/- (Sixty five
thousand four hundred only)
(contd to Page-4)

ATTESTED

29/1/02
HOB

29/1/02
PO/2/AS/POS

29.1.02

Proceedings dated 29-1-02 (contd.)
in the Cash of the Kohima Ho. on the
date?

Ans. to Q. No. 10. D.P.S. | Kohima detected
the shortage amount in cash
on 30-9-99 before closing
the day's account, when
Treasurer was the sole
custodian of Office
Cash & Stamps at that time.

Q. No. 11. Have you any knowledge
of refund of Rs. 10,400/-
by Sri S. B. Dhangarika, C.S.
Kohima to the Treasurer

on 30-7-99?

Ans. to Q. No. 11. NO.

Q. No. 12. Whether D.P.S. | Kohima
on 30-9-99 has told you that
there is a shortage of Rs. 65,400/-
in Cash of Kohima Ho.?

Ans. to Q. 12. Yes.

Mr. C.S.S. - Examination held and
concomitantly
notice - examination held on 30-9-99.

Examination in chief to
Sri S. C. Paul, Postmaster, Kohima
by Inquiry Officer.

Q. No. Sri S. C. Paul, Postmaster Kohima
Ho. - it is asked to you
(contd. to Page - 5)

ATTESTED

29/10/05
HOB

29/11/02
P. S. Dhangarika

29/10/02

Proceedings

Dated 29/1/2002. (Contd.)

that in the alleged cash ~~of~~ m
shortages of Rs. 65,400/- (Sixty
five Thousand four hundred
only) at the cash amount of
~~Rs~~ Treasury of Kohima Ho.
detected by D.P.S. / Kohima
on 30/9/99 have you submitted any
Statement to any of the
higher authority any time?

Ans. Q. No. 1. NO Statement was asked to me
by any of the higher authority
untill a memo no. F3/7-01/99-2000
dated 21.5-2001 issued by the
D.P.S. / Kohima for initiating
disciplinary action under Rule 16
of C.S. (C.A.) Rules 1965 in against
I submitted my defence Statement
denying all the charges stating
that I was not involved in the case
which was approved by the
appellate authority exonerating
the charges. ~~to the effect that~~
~~none of the charges were~~
~~proved by the prosecution~~
~~dated 21/5/2001.~~ ~~Mr. 29/1/02 29/1/02~~

Q. No. 2. Kindly see to receipt
forwarded by Sri B.D. Hazarika,
S.P.S. & C.S. / Kohima
(Contd to Page - 6).

ATTESTED

29/1/02
HBP

29/1/02
D.P.S. / Kohima

29/1/02
29.1.02

Proceedings

Dated 29-1-2002

Marked as P.D. 3 dated 23-1-2002
and please state that if it
is not authenticated receipt
signed by Sri S. B. Hazarika,
C. G. / Kohima?

Ans. to Q. No 2. I can not say
(Seeing the P.D. 3 dated
23-1-02).

The examination is above
to Sri S. C. Paul, B.S. & Co. concluded.

All the Prosecution documents
brought or receipt into the inquiry
vide P.D.-1, P.D.-2, P.D.-3, P.D.-4, P.D.-5,
P.D.-6, P.D.-7, P.D.-9, P.D.-10
23-1-02 and P.D.-10; P.D.-11, P.D.-12;
P.D.-13, P.D.-14, P.D.-15 and P.D.-16
dated 24-1-02 put inside a
sealed packet bags is kept in
the Zima-nama i.e. custody of
Ksh. Tomba Singh, ASPOI Kohima
to be produced in the inquiry
in the next hearing date
to be notified in the subsequent
order in the para below.
(Contd to Page-7)

ATTESTED

29/1/02
ASPO

29/1/02
ASPO

Proceedings Dated 29.1.02 (Contd.)

Sri Rameswar Roy S.P.M. / Papermagar and Prosecution witness (P.W-7) did not turn up into the inquiry being on availing leave. It is therefore ordered to the Prosecution side for Presenting Sri Roy, P.W-7 before the Court on the next date for examinations. The Presenting Officer will initiate necessary action into the matter and no further Summon to Sri Roy, P.W-7 will be issued.

informed to have liberty to attend his subsequent inquiry for defending himself if he likes.

The Inquiry at Postal I.B. / Kohima is adjourned to be held further at Postal I.B. / Dimapur on 14-3-2002 (Thursday) at 11.00 hrs.

Sd/ —
(M.K. DAS)

Inquiry Officer

Co By to:
Regd. AD

- ① Sri S.B. Hazarika, S.P. Dy. S. Pos / Aizawl & C.S. / Kohima at Anandapara, Sub. room / Tripura for information & nla
- ② Sri Ksh. Tomita Singh, P.O. S. Aspor / Kohima for information & any action
- ③ Jh D.P.S. / Kohima for information & nla
- (4) J.C.

M. 29/1/02
(M.K. DAS) 104

DISPAS / 12345

ATTESTED

29/1/02
HSP

29/1/02
PC 28895

29/1/02

Annexure A-20

Page No. 113

BY FAX

FAX No. 0389-3286

KOHIMA H.O.



KOHIMA H.O. 77 Ctr. 2
REG 3700
NAME: SRI MK DAS, DPS MIZORAM
CITY: AIZAWAL 796

INS FOR RS. 0 / P-STAMP RS. 0
Gos. 20M/ SERVICE / 27/02/2002

To

Shri M.K.Das (Inquiry Officer)
Dy. Supdt. of Post Offices,
DPS's Office, Aizawal.

SHIP

Sub:- Requisition of documents & Production of witnesses.

Ref :- Your Case Mark No. DSPOS/Rule-14/2K 29.1.02.

Sir,

I shall be grateful if you kindly take action on the following issues :-

1. The copies of the following documents may kindly be ~~supplied~~ discovered and produced for inspection :
 - (i) Final Order of Rule -16 Proceeding against Shri Shibji Choudhury, Treasurer, Kohima H.O. (PW-1).
 - (ii) Final Order of Rule-16 proceeding against Shri Senapati Boro, formerly Offg. Postmaster, Kohima H.O., now Dy. Sub-Postmaster, Dimapur S.O. (PW-4).
 - (iii) Appellate orders of EPMG, Shillong quashing the penalty imposed on Shri S.C. Paul, Postmaster, Kohima available at Divisional Office, Kohima.
 - (iv) Inspection Report on Paper Nagar S.O. under Kohima H.O. of the years 1999 and 2000.

Custodians of the documents.

DPS, Kohima in respect of all documents.

Relevancy of documents.

Proceedings were instituted on the same sets of fact, so far ~~in respect of~~ docu. at sl. (i) to (iii) are concerned Document

Contd. p/2.

ATTESTED

29/4/05
HSP

(2)

at Sl.(iv) is to be inspected to see whether inspection of the office was carried out before or after the incident and if after the incident whether the incident was noted in the Inspection report.

2. The copies of the following Exhibits may kindly be supplied:-

- (i) PD-3 :- Money Receipt dtd.29.7.99 granted by Hazarika.
- (ii) PD-4 : Money Receipt dtd.29.9.99 " " "
- (iii) PD-5 : " " " 21.9.99 " " "
- (iv) PD-6 : " " " 9.6.99 " " "
- (v) PD-7 : Written Statement 30.9.99 of Treasurer, Kohima HO
- (vi) PD-9 : Letter No.Nil dated 12.11.99 A/t DPS, Kohima.
- (vii) PD-16: Circle Level Inquiry Report from DPS dtd. 14.3.2000.

3. The following witness may be summoned for examination .

- (i) Shri F.P.Sole, Director of Postal Services, Nagaland, Kohima.
- (ii) Shri K.R.Das, former Dy.Supt. of Post Offices, o/o the DPS, Kohima now Dy.S.R.M., Guwahati.

Relevancy:- The Officer at Sl.(i) above detected case of shortage of cash of Rs.65,400/- while verifying the cash & stamp balance of Kohima H.O.Treasury and collected/received informations about shortage of cash at Wokha S.O., Dayang H.E.Project, and Paper Nagar S.O.He is the investigating officer of the case and submitted C.L.I.Report on 14.3.2000.

ATTESTED

Contd.P/3

[Signature]
29/4/05
AOP

(3)

The officer at Sl.(ii) inspected the Paper Nagar S.O. and some other offices after the incident of Paper Nagar S.O. which is involved in the case.

4. The following PWS may be summoned for cross-examination by the delinquent i.e. Defence side :-

- (i) PW-1 : Shri Shibji Choudhury, Treasurer, Kohima H.O.
- (ii) PW-2 : " Anil Kumar Barman, Asstt. Treasurer, Kohima H.O.
- (iii) PW-3 : " N. Ansari, O/S Cash, Kohima H.O.
- (iv) PW-4 : " Senapati Dero, the then Postmaster, Kohima H.O. and now Dy. Sub-Postmaster, Dimapur H.O.
- (v) PW-5 : " Stephen Yesica, the then SPM, Wokha, now P. A Dimapur S.O.
- (vi) PW-6 : " Rakesh Kr. Singh, SPM, Doyang H.E. Project.

The requisition is not exhaustive.

Thanking you.

Yours faithfully.

(S. B. HAZARIKA)

C.I., Divisional Office,
KOHIMA-797001

Date: -27.2.02

ATTESTED

29/4/05

APP

Annexure A 2.1.

DEPARTMENT OF POSTS : INDIA :
OFFICE OF THE INQUIRY OFFICER &
SUPERINTENDENT POSTAL STORES DEPOT :
SILCHAR (ARUNACHAL) 788025

Memo No. DSPOs/Rule-14/2K

Dated at Arunachal the 15 th September'2003.

The next date of hearing of the Rule -14 case against Shri S.B.Hazarika ,S.P.S & C.I/ Kohima is scheduled to be held on 15.10.2003 (Wed-nes day) at 11.00 hrs in the Postal I.B/Dimapur . Shri Santi Bhusan Hazarika , S.P.S. & C.I./Kohima is hereby informed to attend the above stated inquiry as per schedule,time & venue fixed.

Shri S.B.Hazarika , S.P.S & C.I. is further informed that with reference to his requisition submitted vide No. Nil dtd 27.02.2002 under the provision of G I M H A O M No F 30/5/61-AVD dated 25th August 1961, that his requisition has been considered and supplied to be as follows:-

Item No 1 (i)(ii)(iii)(iv) of the requisition dated 27.2.2002- the disciplinary authority has been requested to make availability of the copies and to produce to the Court for handing over to you for examination through Presenting Officer on the date of hearing on 15.10.2003.

Item No 2 of the requisition:- (i) P.D-3 (ii) P.D-4 (iii) P.D-5 (iv) P.D- 6 (v) P.D- 7 (vi) P.D-9 (vii) P.D-16 Allowed to examine the exhibits on 15.10.2003.

Item No. 3(i)(ii) of the requisition- For Summoning Disciplinary Authority and the then DSPO's /Kohima - 3 (i) being disciplinary authority and 3 (ii) being the then DSPO's of the who carried out the scheduled inspection etc appears to have no scope for helping the defence side for submitting defence statement against the charges and the said requisition is not considered.

Item No. 4 of the requisition.- Re-summoning of PW-1 to PW-6 -the requisition is disallowed as Para -23(8) of G. I M H A No F-30/5/61-AVD dated 25.8.2003.being time barred.

Shri S.B.Hazarika , S.P.S & C.I./Kohima is clearly informed herewith that he should be present in the hearing of the case on 15.10.2003 and failing which the hearing may be continued EX-Parte.

This is information to all, that the hearing on 15.10.2003 may be continued for further dates .

ATTESTED

29/10/03
ABP

15/9/03
(M.K.Das)
Inquiring Officer
&
Superintendent
Postal Stores Depot, Silchar-25

Annexure A -2-

Page -2-

Copy to :-

Project-A/D

1. The Director Postal Services, Kohima . This is with reference to this office letter No. DSPO's/Rule-14/S.B.Hazarika /02 Alzawl the 23.12.2002, kindly find herewith a copy of the requisition for documents and summoning witnesses and arrange for supply of the copies as allowed through presenting officers during the hearing notified on 15.10.2003. Kindly also handover the notification to Shri S.B.Hazarika, SPO's and C.I./Kohima to his present address. This is with reference to the discussion with Shri P.Chakraborty, DSPO's/Kohima during CMC Meeting and later overphone.
2. Shri S.B.Hazarika , SP.S and C.I. /Kohima C/O Director Postal Services/Kohima for information and necessary action.
3. Ksh Tomba Singh, Presenting Officer and A.S.PO's/Imphal- He is requested to be present in the inquiry above. He will also directed to arrange presence of Shri Rameswar Roy, SPM/Paper Nagar (PW-7) in the inquiry on 15.10.2003. He is further directed to produce all the preserved documents and requisitioned documents by the S.P.O's during the said inquiry.
4. Shri Rameswar Roy, SPM/Papernagar and PW-7- He is directed to be present in the inquiry on 15.10.2003 as scheduled without fail.
5. The Chief Postmaster General (VIZ) N.E.Circle, Shillong-793001- for information.
6. Spare.
7. O/C.

ATTESTED

29/11/03
APP

15/11/2003

(M.K.Das)
Inquiring Officer
&
Superintendent
Postal Stores Depot, Silchar-25.

DEPARTMENT OF POSTS : INDIA :
OFFICE OF THE INQUIRY OFFICER &
SUPERINTENDENT POSTAL STORES DEPOT :
SILCHAR (ARUNACHAL) 788025

Memo No. DSPOs/Rule-14/2K

Dated at Arunachal the 14th, October 2003.

The next date of hearing of the Rule -14 case against Shri S.B.Hazarika, S.P.S & C.I/ Kohima is scheduled to be held on 19-11.2003 (Wednes day) at 11.00 hrs in the Postal I.B/Dimapur. Shri Santi Bhusan Hazarika, S.P.S. & C.I/Kohima is hereby informed to attend the above stated inquiry as per schedule, time & venue fixed.

Shri S.B.Hazarika, S.P.S & C.I. is further informed that with reference to his requisition submitted vide No. Nil dtd 27.02.2002 under the provision of G.I.M.H.A.O.M No F 30/5/61-AVD dated 25th August 1961, that his requisition has been considered and supplied to be as follows:-

Item No 1 (i)(ii)(iii)(iv) of the requisition dated 27.2.2002- the disciplinary authority has been requested to make availability of the copies and to produce to the Court for handing over to you for examination through Presenting Officer on the date of hearing on 19-11-2003.

Item No 2 of the requisition:- (i) P.D-3 (ii) P.D-4 (iii) P.D-5 (iv) P.D- 6 (v) P.D- 7 (vi) P.D-9 (vii) P.D-16 Allowed to examine the exhibits on 19-11-2003.

Item No. 3(i)(ii) of the requisition- For Summoning Disciplinary Authority and the then DSPO's/Kohima - 3 (i) being disciplinary authority and 3 (ii) being the then DSPO's of the who carried out the scheduled inspection etc appears to have no scope for helping the defense side for submitting defense statement against the charges and the said requisition is not considered.

Item No. 4 of the requisition.- Re-summoning of PW-1 to PW-6 -the requisition is disallowed as Para -23(8) of G. I M H A No F-30/5/61-AVD dated 25.8.2003, being time barred.

Shri S.B.Hazarika, S.P.S & C.I/Kohima is clearly informed herewith that he should be present in the hearing of the case on 19-11-2003 and failing which the hearing may be continued Ex Parte.

This is information to all, that the hearing on 19-11-2003 may be continued for further dates.

Sd/-
(M.K.Das)
Inquiring Officer
&
Superintendent
Postal Stores Depot, Silchar-25

RL
ATTESTED
29/10/03
AOP

Contd Page 2

Page -2-

Copy to : -

- Regd A.D. 1. The Director Postal Services, Kohima . This is with reference to this office letter No. DSPO's/Rule-14/S.B.Hazarika /02 Alzawl the 29-09-2002, kindly find herewith a copy of the requisition for documents and summoning witnesses and arrange for supply of the copies as allowed through presenting officers during the hearing notified on 19-11-2003.
- Regd A.D. 2. Shri S.B.Hazarika , S.P.S and C.I. /Kohima C/O Sri B. Rajbangshi, S.D.I.P.O's 2nd Sub-Division, Imphal Manipur-795001 for information and necessary action.
- Regd A.D. 3. Ksh Tomba Singh, Presenting Officer and A.S.PO's/Imphal-This is in continuation this office letter of even No dated 29-09-2003. He is requested to be present in the inquiry as scheduled above. He is also directed to arrange presence of Shri Rameswar Roy, SPM/Paper Nagar (PW-7) in the inquiry on 19-11-2003. He is further directed to produce all the preserved documents and requisitioned documents by the S.P.S during the said inquiry.
- Regd A.D. 4. Shri Rameswar Roy, SPM/Papernagar now at Monkulemba and PW-7- He is directed to be present in the inquiry on 19-11-2003 as scheduled without fail.
- Regd A.D. 5. The Director Postal Services, Imphal-795001 for kind information & necessary action.
- u/g. 6. The Chief Postmaster General (VIZ) N.E.Circle, Shillong-793001- for Information.

7. Spare.

8. O/C.

ATTESTED

29/11/03
[Signature]

[Signature]
(M.K.Das)
Inquiring Officer
&
Superintendent
Postal Stores Depot, Silchar-25.

Proceedings Rule 14 Case against
Sri B. Mayanka, SPS & J. Kohima.
Dated 28-11-2003

Venue - Postal B. at Dimapur.

As scheduled vide Inquiry Officer
Memo. no. DSPS/Rule-14/2K Dated, Arunachal
the 03/11/2003, the above Inquiry held
as per schedule mentioned above and
proceeded as follows: -

The followings were Present -

- 1) Sri Kh. Tomba Singh, P.O. & A.S.P.S (HQ)
Imphal.
- 2) Sri Rameswar Roy, P.W.-7 and S.P.M.
Imphal Paper Nagar now at
Monkalema S.O. Nagaland.

Sri B. Mayanka & SPS &
C/O Kohima now at Imphal
C/O U. Basumatary, A.S.P.S 1st. Sub. In
Imphal - 775001 Submitted an
application dated 25/11/03 referring
learned Special Judge, Manipur (West)
No. ST-3/90 dated 14-11-2002 stating
that - he was enlarged on Bail on the
cleave condition that - he must stay
at Imphal till finalisation of his case &
further stated that his
persuance to SPS Kohima did not
yield any result for release of
his subsistence allowances nor for

the change of H.Q. for Kohima to
Imphal. With the said application
he requested to hold up the Inquiry
on 28-11-2003. But consequent
upon failure of submission of any
copy of Court's order as mentioned in his
contd.

ATTESTED

29/11/03
ABP

28/11/03
1A

1st. Sub. In
D.O. 28-11-03
S.P.S. (HQ)
Imphal

as mentioned in his application dated 25.11.2003 for authenticity of the representation and as per clear notification of I.O.'s Memo. No. D&POS/Rule-14/AK dated 14-10-2003 The court's function continued on 28-11-2003 as per re. scheduled.

Examination of Sri Rameswar Roy, P.W-7 by Mr. Tomba Singh, P.O. & ASPOs on 28-11-2003

Q. no. 1. What is your name?

Ans by P.W-7 - My name is Sri Rameswar Roy.

Q. no. 2. } on 09-6-99 where had you been
by P.O. } working.

Ans. no. 2. } I was working as S.P.M.
by P.W-7 } Paper-nagar S.O. Nagaland.

Q. no. 3 } on 09-6-1999 what Sri S.B.
by P.O. } dayanika, the then C.S. / Kohima
did in Paper-nagar S.O.?

Ans. no. 3 } on 09-6-99 I was sitting in
by P.W-7 } my common room at attached
SPM's quarter in morning around
09.00 AM. When Sri dayanika came
and requested me to give him
Rs. 2000/- (two thousand) only
for his personal use. Accordingly,
I pay the said amount from my
pocket.

ATTESTED

29/11/03
APP

Q. no. 4. } 09-6-2003 was there any
by P.O. } shortages in your sub office
Cash Balances?

Ans. no. 4 — NO, there was no shortage
by P.W-7 in S.O. cash balance.

K.R. Tomba Singh
P.O. & ASPOs
28/11/03

28/11/03
M.S.
W.M.

28/11/03
10.

Q. No 5 } If it is your Personal Money
by P.O. } then why you have obtained
Money receipt in blank receipt
(PD No 6) duly signed by Sri Haryanka
on 09-6-99?

Ans. No 5 } I have not asked him for the
P.W. 7. } receipt. But he gave it from
his own accord as my satisfaction.

Q. No 6 } In the Charge-Sheet, D.P.s
by P.O. } I Kohna has mentioned the
above amount as shortage in cash
of the S.O. — What is the reason?

Q. No 6 } I know nothing about the same.
by P.W. 7. }

Q. No 7 } Then how the money receipt
by P.O. } granted by Haryanka has
been placed to D.P.s I Kohna?

Ans. No 7 } To get back my Personal Money
by P.W. 7. } of Rs 2000 from Sri S.O. Haryanka,
I handed over the receipt to
Sri K.R. Das, the then D.S. for I Kohna
who came to me S.O. for inspection
purpose.

The P.O. thus concluded
- Examination of P.W. 7.

Examination - in chief - Nil.

For additional documents to be examined
by Sri Haryanka, S.P.s and allowed by
10/ Memo. No. 125 for Rule-14/2K dated
14-10-2003 will be produced to the Court
by the P.O. during next hearing of
the 10. before 15-12-2003
through the 10.

ATTESTED

27/10/03
10.

28/11/03
10.

25-11-03 is ^{copy of the application} forwarded to D.P.S. Kohima for information ^{page - 4}
 actual position
 The Court is now adjourned for
 next hearing date to be announced
 later on.

Sd/-
 (M.K. DAS)
 Inquiry Officer
 &
 Superintendent
 P.S. D / Silchar
 at
 Dimapur Post Office

NO - DSPos/Auk-14/2K Dimapur on 28/11/2003

Regd. 11/10
 (1) Sri S.B. Hazarika, SPB & C/O Kohima
 C/O Sri U. Basumatary, DSPos/SP
 Sub-tn / Dimapur for information &
 nla.

(2) Kh. Tomba Singh, ASPO (HQ) &
 Presenting Officer

Regd. 11/10
 (3) The D.P.S. Kohima - for information
 & nla. A copy of the application
 received from Sri S.B. Hazarika, SPB & C/O Kohima
 C/O Sri U. Basumatary, DSPos/SP
 his Substantive allowance as admissible

(4) O/C

(5) Stare.

ATTESTED

Sd/-
 M.K. DAS
 APP

(M.K. DAS)
 Inquiry Officer
 &
 S.P.O. P.S.D / Sil.
 at
 Postal 10 / DMP.

DEPARTMENT OF POST : INDIA :

OFFICE OF THE INQUIRY OFFICER
&

SUPERINTENDENT POSTAL STORES DEPOT, SILCHAR - 788025

No. SSD/Rule -14/04

Dated at Arunachal the 29th April'2004.

To,

Shri Rakesh Kumar
Director of Postal Services
Kohima - 797001.Sub:- Rule -14 Inquiry Report- case of Shri S.B.Hazarika, C/I (U/S), Kohima.

Authority:- D.P.S. Kohima No. F3/VII-01/99-2000 (loose) dated at Kohima 12.10.2000.

The above Inquiry Reports along with the following enclosures are sent herewith for favour of disposal.

- Part-A- Enquiry Reports comprising original copies of
- (i) Appointment I.O. & P.O.-SI- 1 to 7.
 - (ii) Daily proceedings note - SI -8 to 12 & SI-16 to 23.
 - (iii) P.O's references - SI -13 & 14.
 - (iv) Summon to Senapati Boro - SI-15.
 - (v) Defence under Rule-14(16) of SPS -24 SLs.
 - (vi) Presenting Officer's brief-25 (1-4) SLs.
 - (vii) SPS's brief-26 SLs.
 - (vii) Enquiry Reports-27 SLs.

Part-B- Exhibits & Documents PD-1 to PD-16. & ADDL to ADDL-3Part-C- Correspondences Summons & other references - SI 1 to SI 79.Part-D- Receipt, acknowledgement & Covers - Total 1-153.

With Regards.

DA (As above).

Yours Sincerely

(M.K.Das)

Inquiry Officer &
Superintendent, PSD, Silchar-25

Copy to :-

- 1 & 2. The Chief Postmaster General (Staff) & Chief Postmaster General (Vig), N.E.Circle, Shillong -793001.
- 3 & 4. O/C & Spare.

(M.K.Das)

Inquiry Officer &
Superintendent, PSD, Silchar-25

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**Inquiry Report in the case under Rule-14 CCS
(CCA) Rule's ,1965 against Shri Santi Bhusan
Hazarika, C/I (U/S) Kohima. Office of the Director
of Postal Services, Kohima. (Page 1/22)**

Director of Postal Services, Nagaland , Kohima-797001 vide his Memo No. F-3/VIII-02/99-2000 dated at Kohima , the 06.01.2000 issued Memorandum proposing to hold enquiry against Shri S.B.Hazarika, C/I under suspension Divisional Office, Kohima under Rule-14 of the CCS (CCA) Rules 1965 and under the provision of Rule (2) of CCS (CCA) Rules 1965 the Director of Postal Services, Kohima appointed me as Inquiry Officer into the case vide his No. F3/Vii-01/99-2000 dtd Kohima , the 12.10.2000. I have since completed the inquiry and on the basis of the documentary and oral evidence adduced before me submit Inquiry Report as under :-

2. Appointment of Presenting Officer.

Initially under Sub-Rule 5 of Rule 14 of CCS (CCA) Rules 1965, Director of Postal Services/Kohima appointed Shri K.R.Das, Deputy Superintendent of Post Offices/ Kohima as presenting officer in to the case vide his No. F3-01/99-2000 dtd Kohima , the 23.03.2000 and subsequently on his superannuation appointed Ksh Tomba Singh , ASPO's Kohima Sub Dn as presenting officer into the case vide his no. F3-01/99-2000 dtd Kohima, the 07.02.2001 who attended and completed the function of P.O. till the Inquiry completed.

3. Participation by the suspected public servant in the enquiry and defense assistant available to him.

The suspected public servant (here under known as S.P.S) initially did not participate into the enquiry and giving all scope for his attendances when failed, the court proceeded ex-parte and giving all time to time proceeding notes to the S.P.S. However, the S.P.S. subsequently participate to the Inquiry on 30.01.2004 fully at Imphal. The S.P.S. did not sought for any defense assistant and represented himself into the case.

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4. Reasons for delays to complete the Inquiry as under:- 2

Besides other reasons of non-attendances to Court hearing as scheduled time to time, the reasons for delay are Non-submission of charge-sheet to inquiry officer and after persuasion supplied on 10.11.2000 only.

ii) Non-granting of subsistence allowances by the disciplinary authority initially which was represented by the S.P.S and subsequently granted after persuasion from I.O. and responded by D.P.S/Kohima on 31.03.2001 only.

iii) S.P.S. was in custody for a petty long time in connection with another case at Imphal No. RC 13 (A) /86-SLC under section 420/467/486/47C I.P.C. in the court of SPL/Judge/Manipur west dtd 11.02.2002, up to almost end of the 2002 no information of release communicated by disciplinary authority to Inquiry Officer.

5. Date of hearing fixed for and taken place at places with adjournment due to absence of both prosecution and defence side in occasions.

The case was heard on 18.01.2001 at O/O Sub-Record Officer /Dimapur on 27.02.2001, On 19.07.2001 at Postal I.B Dimapur adjournment due to absence of Presenting Officer and S.P.S. as well. Interim, the S.P.S. represented for release of his subsistence allowance which was persued to the disciplinary authority, On 23.01.2002, 24.01.2002, 25.01.2002, 28.01.2002 & 29.01.2002 at Postal I.B. Kohima, 10.09.2003 Postal I.B. Dimapur adjourned due to absence of P.O., On 28.01.2003 at Postal I.B. Dimapur, On 23.12.2003, at Postal I.B. Dimapur, the S.P.S. then represented that by SPL / Judge Manipur's Court Order he must stay at Imphal and can not leave Imphal ,Consequent on 30.01.2004 held at Postal I.B/Imphal.

6. Particulars of exhibited documents and additional document sought for and attached.

The following documents were produced for examination . The documents marked as PD (Prosecution Documents) on behalf of the disciplinary authority, PD-1 to PD-10 are usual documents supposed to be produced as per Annexure -III while PD-11 to PD-16 are additional documents produced by the P.O. on behalf of the disciplinary side.

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(A) PARTICULARS OF DOCUMENTS

Sl. No	Particulars of documents	Marked as
1	2	3
1	Treasurer's Cash Book of Kohima HO for the period from 09.07.1999 to 30.09.1999	PD-1 dtd 23.01.2002
2	Head Office Summery of Kohima HO for the period from 07.06.1999 to 30.09.1999	PD-2 dtd 23.01.2002
3	Money Receipt dated 29.07.1999 from Shri S.B.Hazarika, C.I/Divisional office/ Kohima.	PD-3 dtd 23.01.2002
4	Money Receipt dated 22.09.1999 granted by Shri S.B.Hazarika, C.I/Divisional Office/Kohima	PD-4 dtd 23.01.2002
5	Money Receipt dated 21.09.1999 granted by Sri S.B.Hazarika, C.I, Divisional Office, Kohima	PD-5 dtd 23.01.2002.
6	Money Receipt dated 09.06.1999 granted by Sri S.B.Hazarika, C.I. Kohima (divisional office)	PD-6 dtd 23.01.2002.
7	Written statement of Treasurer dated 30.09.1999	PD-7 dtd 23.01.2002.
8	Written statement of Sri S.B.Hazarika, C.I. Divisional Office, Kohima dated 08.11.1999	PD-8 dtd 23.01.2002
9	Letter No Nil dtd 12.11.1999 addressed to Director Postal Services, Kohima from SPM/Wokha SO	PD-9 dtd 23.01.2002
	Additional documents were submitted by P.O.	
10	Wokha SO Daily Accounts dated 20.09.1999 & 21.09.1999	PD-10 dtd 24.01.2002
11	Wokha SO Summery dated 01.10.1999 to 29.10.1999	PD-11 dtd 24.01.2002
12	Paper Nagar SO daily Account dtd 09.06.1999	PD-12 dtd 24.01.2002
13	Paper Nagar SO Summery dated 25.05.1999 to June'99	PD-13 dtd 24.01.2002
14	Doyang SO daily account dated 22.09.1999	PD-14
15	Doyang SO Summery dated 01.10.1999 to 29.09.1999	PD-15 dtd 24.01.2002
16	Circle level Enquiry Report from Director Postal Services dated 14.03.2000	PD-16 dtd 24.01.2004

The S.P.S. vide his letter No. Nil dtd 27.02.2002 requested to I.O for supply of some copies of documents and exhibits and summoning of DPS, Kohima & DSPO's, Kohima as witnesses also to recall PW-1 to PW-6 ,with reasonable limitation the I.O. considered his case vide No. DSPO's/Rule-14 /2K Aizawl , the 21.03.2002 which denotes as follows:-

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Item 1. (i), (ii), (iii) (iv) of the requisition.

The disciplinary authority has been requested to make availability of the copies of the documents & to produce to the Court for handing over to you through presenting officer in the next hearing to be notified in due course and it has been implemented on 30.01.2004 and noted in the proceeding notes of date.

Item 2 of the requisition.

- (i) PD-3 (ii) PD-4 (iii) PD-5 (iv) PD-6 (v) PD-7 (vi) PD-9 & (vii) PD-10 = Allowed to examine the exhibits in the next hearing date to be notified in due course and done on 30.01.2004 and noted in the proceeding.

Item 3 (i) & (ii) of the requisition.

For summoning disciplinary authority and Dy. SPO's Kohima-3 (i) being disciplinary authority and 3 (ii) being DSPO's of the division who carried out the scheduled inspections etc appears to have no scope for helping the defence side for submitting defence statement against the charges and the requisition is rejected.

Item 4 of the requisition.

Re-summoning of PW-1 to PW-6 – the requisition is rejected as per Para -23 (8) of G.I.M.H.A No. F-30/5/61/AVD dtd 25.08.1961 as stage fared.

(B) Particulars of defence documents.

Sl No	Particulars of Defence Documents	Marked as
1	2	3
1	Final order of Rule-16 proceeding against Sri Shivji Choudhury, Treasurer, Kohima HO (PW-1).	DD Addl-1
2	Final order of Rule -16 proceeding against Sri Senapati Boro, formerly offg Postmaster, Kohima	DD Addl-2
3	Appellate orders of C.P.M.G/Shillong questioning the penalty imposed on Sri S.C.Paul, Postmaster, Kohima available at divisional office, Kohima	DD Addl-3.

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7. Prosecution witnesses produced in the court and examined , cross examined/re-examined etc , the following particularized witnesses had been produced from the prosecution side and examination, cross-examination etc was done in the shape of questions and answers and noted in the day's proceeding notes.

Sl No	Particulars of witness	Marked as
1	2	3
1	Shri Shivji Choudhury, Treasurer, Kohima HO	PW-1
2	Shri Anil Kr Barman, Asstt. Treasurer, Kohima HO	PW-2
3	Shri N. Ansari O/S Cash, Kohima HO	PW-3
4	Shri Senapati Boro, Postmaster, Kohima dtd 29.07.1999	PW-4
5	Sri Stepen Yesca, SPM, Wokha	PW-5
6	Sri Rakesh Kumar Singh, SPM, Doyong SO	PW-6
7	Sri Rameswar Rao, SPM, Paper Nagar	PW-7
8	Sri S.C.Paul, Postmaster , Kohima	PW-8

The S.P.S. did not produce any defence witnesses for examination.

8. Articles of charges , imputation of misconduct or misbehavior, list of documents & list of witnesses in support of prove in Annexure-1, II, III, IV respectively.

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Annexure A-24

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ANNEXURE - 1

Statement of article of charges framed against Shri. Santi Bhusan Hazarika, C.I. Divl. Office, Kohima.

Article-I

That Shri. Santi Bhusan Hazarika while functioning as Complaints Inspector, Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 65400/- (Rupees Sixty five thousand four hundred only) from the treasury of Kohima HO on 29.7.99 through the treasurer Shri. Shivji Choudhury by using his official influence unauthorizedly for his personal use without the knowledge of the competent authority and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act the said Shri. Hazarika failed to maintain absolute integrity and devotion to duty and acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rule 3 (1) (i) to (iii) of CCS (Conduct) Rules, 1964.

Article-II

That the said Shri. Santi Bhusan Hazarika while working as C.I. Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 700/- (Rupees Seven thousand only) from the office cash of Wokha SO through the SPM by using his official influence unauthorizedly for his personal use during his visit to Wokha Post Office on 21.9.99 and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act Shri. Hazarika also violated Rule 3 (1) (i) to (iii) CCS (Conduct) Rules, 1964.

Article-III

That the said Shri. S.B. Hazarika while working as C.I. Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 3000/- (Rupees Three thousand only) for his personal use from the office cash of Doyang SO through the SPM of Doyang SO during his visit to the Post Office on 22.9.99 by using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act Shri. Hazarika also violated Rule 3 (1) (i) to (iii) CCS (Conduct) Rules, 1964.

Article-IV

That the said Shri. S.B. Hazarika while functioning as C.I. Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 2000/- (Rupees Two thousand only) for his personal use on 9.6.99 from the office cash of Papernagar SO through the SPM Papernagar SO during his visit to the said SO by using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act Shri. Hazarika also violated Rule 3 (1) (i) to (iii) CCS (Conduct) Rules, 1964.

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ANNEXURE-II

Statement of Imputation of misconduct or misbehaviour against Shri. S. B. Hazarika (u/s)

Article-I

That the said Shri. Santi Bhusan Hazarika while functioning as Complaints Inspector, Divl. Office, Kohima, during the period from 3.2.99 to 7.11.99 took a sum of Rs. 65400/- (Rupees Sixty five thousand four hundred only) from the treasury of Kohima HO on 29.7.99 through the treasurer Shri. Shivji Choudhury by using his official influence unauthorizedly for his personal use without the knowledge of Postmaster, Kohima HO and by breach of trust caused corresponding monetary loss to the Govt.

The taking of office cash from the treasury of Kohima HO by Shri. Hazarika was detected during the verification of cash and stamp balances of Kohima HO by the Director Postal Services, Nagaland on 30.9.99. On detection of shortage of Govt. cash, Shri. Hazarika was asked to credit the entire amount to the Govt. account.

Shri. Hazarika deposited only a sum of Rs. 10,400/- to the Govt. account on 30.9.99. The remaining amount of Rs. 55000/- was charged as UCP in Kohima HO on 30.9.99.

Thus Shri. Hazarika by the above act caused monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the same act the said Shri. Hazarika failed to maintain absolute integrity and devotion to duty and also acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rule 3 (1) (i) to (iii) of CCS (Conduct) Rules, 1964.

Article-II

That the said Shri. Santi Bhusan Hazarika while functioning as C.I. Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 7000/- (Rupees Seven thousand only) from the office cash of Wokha SO through the SPM Wokha SO by using his official influence for his personal use during his visit to Wokha Post Office on 21.9.99.

On his way to Doyang, SO for inspection Shri. Hazarika took Rs. 7000/- (Rupees Seven thousand) only from the SPM Wokha SO on 21.9.99 by giving a receipt to the SPM Wokha SO. The case came to light when the SPM Wokha SO reported the matter to the Director Postal Services, Nagaland, Kohima.

Thus by the above act Shri. Hazarika caused monetary loss to the Govt. to the tune of Rs. 7000/- (Rupees Seven thousand only) and violated Rule 58 of P & T Financial Hand Book Vol-I and also infringed the provisions of Rule 3 (1) (i) to (iii) of CCS (Conduct) Rules, 1964.

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Article-III

That the said Shri. Santi Bhushan Hazarika while functioning as C.I. Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs.3000/- (Rupees Three thousand) only for his personal use from the office cash of Doyang SO through the SPM of Doyang SO during his visit to the Post Office on 22.9.99 by using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I.

During his visit to Doyang SO for inspection on 22.9.99, Shri. Hazarika took a sum of Rs.3000/- (Rupees Three thousand) only from the Govt. cash for his personal use by giving a receipt to the SPM.

By the above act and breach of trust the said Shri. Hazarika caused monetary loss to the Govt. in violation of Rules 58 of P & T Financial Hand Book Vol-I and thereby infringed the provisions of Rule 3 (1) (i) to (iii) of CCS (Conduct) Rules, 1964.

Article-IV

That the said Shri. Hazarika while functioning as C.I. Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 2000/- (Rupees Two thousand) only for his personal use from the office cash of Papernagar SO through the SPM, Papernagar SO during his visit to the said SO on 9.6.99 using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt.

Thus by the above act the said Shri. Hazarika violated Rule 58 of P & T Financial Hand Book Vol-I and thereby infringed the provisions of Rule 3 (1) (i) to (iii) of CCS (Conduct) Rules, 1964.

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ANNEXURE-III

List of documents by which the charges framed against Shri.S.B.Hazarika, C.I are proposed to be sustained.

1. Treasurer's cash book of Kohima HO for the period from 9.7.99 to 30.9.99.
2. Head office summary of Kohima HO for the period from 7.6.99 to 30.9.99.
3. Money receipt dtd. 29.7.99 granted by Shri.S.B.Hazarika, C.I, Divl. Office, Kohima.
4. Money receipt dtd. 22.9.99 granted by Shri.S.B.Hazarika, C.I, Divl. Office, Kohima.
5. Money receipt dtd. 21.9.99 granted by Shri.S.B.Hazarika, C.I, Divl. Office, Kohima.
6. Money receipt dtd. 9.6.99 granted by Shri.S.B.Hazarika, C.I, Divl. Office, Kohima.
7. Written statement of treasurer, dtd. 30.9.99.
8. Written statement of S.B.Hazarika, C.I, Divl. Office, Kohima, dtd. 8.11.99.
9. Letter no.nil, dtd.12.11.99, A/T Director Postal Services, Kohima from SPM Wokha SO

ANNEXURE-IV

List of witnesses by wh. in the charges framed against Shri.Santi Bhushan Hazarika, C.I are proposed to be sustained.

1. Shri.Shivji Choudhury, Treasurer, Kohima HO.
2. Shri.Stephen Yeka, SPM, Wokha SO.
3. Shri.Rakesh Kumar Singh, SPM, Doyang SO.
4. Shri.Rameshwar Roy, SPM, Papernagar SO.
5. Shri.Anil Kumar Burman, Asstt. Treasurer, Kohima HO.
6. Shri.N.Ansari, O/S Cash, Kohima HO.

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Shri. S. B. Hazarika
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9. Case of the disciplinary authority.

The Presenting officer submitted his brief on 17.03.2004 received by the I.O. on 24.03.2004 which was supposed to be received by I.O. with in 15.02.2004 – he did not communicate the reason behind of delayed submission . Result is that the written brief from S.P.S. had to be deferred in receiving . The P.O. argued that Shri S.B.Hazarika , SPS C/I (U/S) Kohima to defend himself did not attend to to the enquiry at Postal I.B., Dimapur on 27.02.2001 for which the court was adjourned and remained absent in the next hearing at Postal I.B , Kohima on 13.01.2002 for which under the provision of Para 20 of Rule-14 of the CCS (CCA) Rules 1965 Ex-Parte proceeding was initiated on next day and subsequent hearing dates. He further argued that Sri Shivji Choudhury (PW-1) Treasurer, Kohima HO on hearing date 24.01.2002 deposed that the amount of Rs 65,400/- (Rupees sixty five thousand four hundred only) was given to Shri Hazarika on the personal influence of giving back immediately and on good faith of the written receipt granted by the charged official and thus charge is proved by the documentary evidence. For the II nd charge under article –II he argued that as per deposition statement of Sri Stepen Yesca , SPM, Wokha (PW-5) and money receipt dated 21.09.1999 the charge is proved documentarily. Similar argument was put forward by P.O. for 3rd charge in article- III, for the charges in article-IV he argued that money receipt etc is not in practice in matter of personal loan and money receipt dtd 09.06.1999 is a documentary proof which was handed over to the Dy . Superintendent of Po's , Kohima and stated that on being recoup of money, prosecution witness has given false statement. Thus he argued for establishment of all charges.

10. Case of the charged official.

The suspected public servant (SPS) submitted his written briefs on 06.04.2004 received by the I.O. on 08.04.2004 . There was no delay in submission of his written briefs. Starting with a “ Prologue” with argument that truth lies behind with some examples he defended that due to poor knowledge of prosecution in their charge sheet against the SPS is with falsity and his refutation of defence are as under:-

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ARTICLE - I

The SPS Sri S.B.Hazarika took Rs 65,400/- (Rupees sixty five thousand four hundred only) from Shri Shivji Choudhury (Treasurer) of Kohima HO as a personal loan purely on personal capacity.

As the amount was taken as personal loan from the Treasurer, Shri Shivji Choudhury on 29.07.1999 and not from the cash of treasury of Kohima HO. The cash balance in the treasurer's cash book was correctly arrived at and no shortage of cash was found and recorded on that day.

The SPS did neither ask or order Shri Shivji Choudhury, Treasurer of Kohima HO. To pay the money to him from office cash in his custody. The treasurer, Shri S.Choudhury who was produced as PW-I did not say during his deposition that the SPS, Sri S.B.Hazarika ordered him to pay the money from office cash in his custody. As he was not ordered by the SPS in his official capacity to pay the money from office cash it cannot be said that the SPS used his official influence unauthorisedly on the treasurer to pay the money from office cash.

As the amount was a big one, the treasurer, Shri Shivji Choudhury was therefore granted a receipt in plain paper for his satisfaction only. Hence, the question of use of official influence for taking the money does not arise.

As the amount was taken as a personal loan from the Treasurer Shri S.Choudhury it is not understood what official control is exercised by Postmaster, Kohima in personal lending and borrowing affairs with in the postal staff.

To speak the truth, for the sake of argument if it is held that the amount was taken without the knowledge of the Postmaster Kohima then also it is not true. The money receipt of Rs 65400/- (Rupees sixty five thousand four hundred only) by the SPS Sri S.B.Hazarika to Shri Shivji choudhury the treasure of Kohima HO dtd 29.07.1999 was duly attested by the then Superintendent of PO's (Hq) Shri K.R.Das on behalf of Director of Postal Services, Nagaland Kohima above his official seal reading "Superintendent of Post Offices (HQ) for Director of Postal Services, Nagaland, Kohima - 797001" Which implies and confirms that the amount of Rs 65400/- was paid to the SPS, Sri Hazarika was approved by the Supdt. of Po's on behalf of the Director of Postal Services, Kohima the word "attested" asper Oxford Dictionary of English means "to certify validity of", "to bear witness to" etc.etc. As such, it was within the knowledge of the Supdt. of Po's Nagaland Kohima and countersigned to the Director of Postal Services Kohima and so it cannot be said that it was without knowledge of the Postmaster Kohima. The money receipt dtd 29.07.1999 for Rs 65400/- has been produce in the inquiry as PD-3 by the prosecution which is perusable.

The then Supdt. of PO's (HQ) Shri K.R.Das, Attested the written statement of Shri S.Choudhury, Treasurer Kohima HO dtd 30.09.1999 in same manner. This statement of Shri Shivji Choudhury has been produced in the inquiry as PD-7 which may be tallied with PD-3 for confirmation.

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So, if it is held that the amount was taken not as a loan from the treasurer but from the office cash then also no irregularity is committed by the SPS as the payment was allotted by the Director of Postal Services Kohima through the Supdt. of PO's (HQ) Kohima and as such no charge of misconduct arises. The charge of Breach of trust does not arise as the SPS was not entrusted with the custody of cash of Kohima HO.

The SPS refunded Rs 10400/- on 30.09.1999 to the treasurer Shri S.Choudhury against his personal loan of Rs 65400/- and did not deposit to the Govt Account on 30.09.1999. There is no record in treasurer cash book on 30.09.1999 to show that a sum of Rs 10400/- was deposited by the SPS.

The Director of Postal Services, Kohima made a remark on the foot of the treasurer's cash book dtd 30.09.1999 that a sum of Rs 55000/- was found short in the cash only. No remark was shown as to deposit of Rs 10400/- by the SPS on that day.

It is not understood how a sum of Rs 55000/- was found short in the cash balance of treasure of Kohima HO. On 30.09.1999 which was stated to be taken long book on 29.07.1999 by the SPS, as it did not affect the cash balance till the date prior to the date of verification by the DPS on 30.09.1999.

On the day of verification i.e. 30.09.1999 it was Sri S.C.Paul who was the sitting Postmaster of Kohima HO. He was produced as PW-8 during his deposition he said that he joined as Postmaster Kohima on 24.08.1999 and in reply to Q.No. 5 & 6 he said that there was no shortage of cash in the Treasury at the time of taking charge as Postmaster Kohima on 24.08.1999 till 29.09.1999. On 30.09.1999 the shortage found by DPS, Kohima when he verified the cash & stamp balance of Kohima HO. Before the close of the accounts for the day by which time cash was in the custody of the Treasurer alone.

Then who was the Postmaster of Kohima Ho prior to 24.08.1999? It was Sri Senapati Boro who was the Postmaster of Kohima HO up to 23.08.1999 from the crucial date 29.07.1999 (the date of taking Rs 65400/- from the treasure of Kohima HO). Shri S.Boro was produced as PW-4. Shri S.Boro in reply to Q.No 3,4 & 5 during examination deposed that he had no knowledge of shortage of cash of Rs 65400/- in the cash balance of treasure of Kohima HO. On 29.07.1999 or any subsequent day till it was found by the DPS, Kohima on 30.09.1999. In reply to Question by I.O. he did not say that the amount was taken from the cash of treasurer of Kohima HO. He simply said that the amount was taken by the SPS as per receipt which is not denied by the SPS. This does not leave to conclude that the amount was taken from the office cash.

No Memo of Sanction for Unclassified Payment of Rs 55000/- nor any other document showing the charge of unclassified payment of Rs 55000/- was produce during the enquiry. In the treasurer's cash book dtd 30.09.1999 there was remark for charging Rs 55000/- as unclassified payment but no Memo of Sanction was produced showing the details and circumstances under which the amount had to be charged as unclassified payment. In balance of memo of sanction for unclassified payment there cannot be any substantial loss to the Government.

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It is not denied that Shri Shibji Choudhury (PW-I) paid Rs 65400/- to the SPS on 29.07.1999 while he was in office in the treasury on 29.07.1999. The amount was paid by him as per previous agreement prior to 29.07.1999 and he promised to pay the amount on 29.07.1999 in his office and accordingly he paid the amount on that day. But he was neither told nor ordered to pay the money from office cash. He also did not depose that the SPS told him to pay from office cash. Neither Shri A.C.Barman (PW-II) nor Shri N. Ansari (PW-3) deposed that the SPS told the treasurer to pay the money from office cash. The payment of the money in his office presence of others does not mean that the amount was paid from office cash. If he manage some portion of the total amount from office cash then it was his own arrangement with which the SPS i.e. the borrower is not concerned. Both PW-2 & PW-3 respectively Shri A.C.Barman & Shri N.Ansari deposed that some money was paid to the SPS from office cash by the treasurer in their presence, but they could not say exactly what amount was paid to the SPS.

Some very important questions arises from the circumstances of the case in which directions nobody has applied their minds. If mind is applied properly the truth will come to surface sitting all doubts at rest, the questions are :-

Q.No.1. Why the amount is Rs 65400/- and not 65000/- or 60000/- or 70000/- or 64000/- or 62000/- as case may be in round thousand figures and why and how Rs 400/- has come to be added to Rs 65000/- ? Where from Rs 400/- comes ?

Q.No.2. Shri S.Choudhury, Treasurer, Kohima HO (PW-1) deposed during examination that(reply to Q.No-5) the amount of Rs 65400/- was paid to the SPS on the condition that it would be refunded within a week' time on receipt of payment of HBA. If so, why he did not report the matter to the Postmaster Kohima HO after the expiry of one weeks time and why he kept it out of knowledge of the Postmaster Kohima for a period of 2 (two) months till 30.09.1999 on which it was deducted by the DPS/Kohima during verification of cash & stamp balances ?

The Answers are as follows:-

Ans to Q.No. 1. Actually the loan was for Rs 60000/- (Rupees sixty thousand only) but it was agreed upon by both the SPS & S.Chopudhury that interest would be charged @ Rs 4.5 % per month for two months and the amount of interest that occurred on Rs 60000/- would be added in advance to the principal of Rs 60000/- and the total amount i.e. principal + interest would be shown as amount of loan to show that the amount was lent on friendship and not on interest. Accordingly, interest was calculated and amount of loan was cost & fixed as follows:-

Principal = 60000.00 + interest @ Rs 4.5 % per month Rs 60000.00 x 4.5 % x 2 months = Rs 5400.00 = interest

Principal Rs 60000.00

Interest Rs 5400.00

Total Rs 65400.00

Amount of loan fixed Rs 65400/- (Rupees sixty five thousand four hundred only)

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Accordingly a receipt was prepared for Rs 65400/- on the basis of which a sum of Rs 65400/- was paid by Shri S.Choudhury treasurer of the SPS.

Ans to Q.No.2. As the period of loan was for 2 months from 01.08.1999 (though payment was made on 29.07.1999) to 30.09.1999 repayable on 01.10.1999. Hence Shri S.Choudhury did not bring the matter to the knowledge of the P.M.Kohima Shri Senapati Boro & Shri S.C.Paul till the end of the loan period ending on 30.09.1999. But unfortunately, the cat was going out of the bag on 30.09.1999 when the DPS /Kohima verified the cash & stamps balances of Kohima Ho and that very day it came to the knowledge of the SPS that the amount which was paid to the SPS by Shri S.Choudhury was taken from office cash. On that day only Rs 55000/- was found short by the DPS and not Rs 65400/-. A sum of Rs 10400/- was paid to Shri S.Choudhury as part refund of Rs 5000.00 + fall interest of Rs 5400.00 out of Rs 65400.00 which was personal money of S.Choudhury and so he did not credit into Govt. Account though he said Rs 10400/- was deposited by the SPS on 30.09.1999. The treasurer's cash book does not show that a sum of Rs 10400/- was deposited by the SPS on 30.09.1999.

If it was a money constituting a part of Govt. money of Rs 65400/- then why it was not credited by S.Choudhury to the Govt. through treasurer's cash book? The plea of Shivji Choudhury that he paid the amount of Rs 65400/- in anticipation of receipt of payment of HBA is not correct and true in the face of circumstances of the case.

Another question arises as to the tenure of Shri S.Choudhury as a treasurer of Kohima HO. During deposition in reply to Q.No. 2 Shri S.Choudhury said that he was working as treasurer of Kohima HO. Since August 1996 accordingly to which he was working as treasurer for about 6 (six) years on the date of his examination on 24.01.2002. The normal tenure of a treasurer of a Ho can never be of such a continuous long period. It is not understood for whose interest he was appointed as treasurer an indefinite period. Unless there is some vested interest, no person can continue as such in total this regards and violation of Departmental Rules and Orders. This is quite a Breach of Rules & Orders and so, loss caused substantially to Govt. for breach of orders is to be recovered from the official at fault for breach of order and not from others as per Rule II (III) of the CCS (CCA) Rules-1965. In this case, therefore, the authority who appointed S.Choudhury as treasurer of Kohima Ho as on 29.07.1999 & 30.09.1999 is responsible for the loss if any to the Govt. and not any other else except treasurer Shri S.Choudhury who also contributed to the same.

Another question arises from the point of attestation of PD-3 (Money receipt for Rs 65400/-) by the Supdt. of PO's (HQ) Kohima Shri K.R.Das. This receipt was not attested by Shri K.R.das at the time of taking money by the SPS, but latter on it was found that it was attested by Shri K.R.Das under his Seal of office. The question is why did he attest the money receipt? The answer is that though the money was paid to SPS as personal loan against 4.5 % interest per month, the amount was managed by Shri S. Choudhury from office cash by taking the approval of the Superintendent of Post Offices Shri K.R.Das without the knowledge of SPS and the interest amount of Rs 5400/- was shared by them. As the matter was with in the connivance or approval of Supdt. of PO's the matter was not felt to be reported to the Postmaster or any body. This was an act of collusion between Shri K.R.Das & Shri S.Choudhury, Treasurer of Kohima Ho, other wise it is not possible to lend such a big amount if it was paid from office cash.

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From what has been submitted above it is evident that the amount of Rs 65400/- taken by the SPS on 29.07.1999 through his money receipt (PD-3) was not taken from office cash but as a personal loan from Shri S.Choudhury. What ever may be the source of that amount and as such he is not guilty under article -I and hence the article of charge - I has not been sustained.

ARTICLE - II

It is not denied that the SPS Shri S.B.Hazarika took a sum of Rs 7000/- from the SPM, Wokha SO . Shri Stephen Yesca on 29.09.1999 , but the amount was taken as personal loan purely on personal capacity and not from office cash .

As the amount was taken as personal loan from the sub postmaster it did not affect the cash balance of Wokha SO on 20.09.1999 on which cash & stamp balance were correct and there was no shortage of cash in the cash balance of Wokha SO vide PD-10 (Wokha SO daily account) dtd 20.09.1999 & 21.09.1999 .

The SPS did neither ask or order Shri Stephen Yesca , SPM, Wokha to pay the money from office cash . Shri S.Yesica who was produced as PW-5 stated in reply to question No - 6 during deposition that the SPS who is in need of some money and so he paid the amount . He did not say that he was forced by the SPS to pay the money from office cash nor he said that the SPS told him or ordered him to pay the amount from office cash.

In reply to question No . 8. During deposition Shri Yesica (PW-5) said, " quite some time I forgot the matter , but when after words I found that this amount of Rs 7000/- was still to be refunded by Shri Hazarika C/I Kohima and then ultimately I reported the matter to DPS Kohima on 12.11.1999" .

This story is never be liable that a SPM should forgot for quite some time when there is a shortage of Rs 7000/- cash in his account for a period of one month 21 days from 21.09.1999 (date of taking) to 12.11.1999 (date of reporting) as he is always required to verify his cash & stamp balances and close his account every day before the close of the office. If it was the money from office cash it can never remain unheeded or forgotten for such a long time . It is possible and so it happened so because, the amount paid to the SPS on 21.09.1999 was a personal loan from his personal money which he needed to make good any amount short in his office cash that might occur subsequently .

This is just an allegation in the charge sheet only having no basis or substance at all. To sustain the charge of loss no evidence could be produce during the enquiry . Unless the amount is sanctioned for unclassified payment by the competent authority showing the fact and circumstances leading to such charge of unclassified payment no loss can be claimed as sustained . The charge sheet was issued on 06.01.2000 wherein loss was claimed to be sustained, but the CLI (Circle

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level inquiry) report PD-16 which was submitted by the DPS/Kohima on 14.03.2000 which was after more than two months of the charge sheet did not speak any think whether and when the amount was charged as unclassified payment. In Annexure - II in respect of information of misconduct of Article -II it has not been said that the amount of Rs 7000/- was charged as unclassified payment which resulted in substantial loss in corresponding amount to the Govt. The prosecution also could not show any document showing the amount charged as unclassified payment . Documents produced as PD-5, PD-9, PD-10 & PD-11 in support of the charge were of no help to the prosecution to claim the charge of loss owing to unclassified payment . It has not been understood how and on the strength of which it was claimed in the charge sheet that the SPS caused substantial loss to Govt. by taking Rs 7000/- from SPM of Wokha SO

ARTICLE - III

It is not denied that the SPS Shri S.B.Hazarika took a some of Rs 3000/- (Rupees three thousand only) from the sub postmaster Doyang SO on 22.09.1999, but that was taken from sub postmaster Doyang SO Shri Rakesh Kumar purely as a personal loan and not from office cash.

As the amount was taken as personal loan from the sub postmaster of Doyang SO and not from office cash on 22.09.1999 there was no shortage in cash balance in the account of Doyang SO. The Daily accounts of Doyang SO did 22.09.1999 which was produced as PD-14 as documentary evidence by the prosecution did not show that such an amount was paid to the SPS Shri S.B.Hazarika on 22.09.1999 or there was a shortage of Rs 3000/- in the cash balance of Doyang SO on 22.09.1999.

It is not all correct. There is no evidence to sustain the allegation . Shri R.K.Sing sub postmaster Doyang SO who was produced as PW-6 did not say that the SPS used his official influence on the ground of which he paid Rs 3000/- to the SPS from his office cash . He also did not depose during examination that the SPS told him to pay the paid money from his office cash . If the money was paid from office cash it was his own arrangement with which the SPS was not concerned . The SPS would have been involved had he ordered the SPM to pay the money from office cash , the granting of receipt of Rs 3000/- to the sub postmaster Doyang Shri R.K.Sing was for his satisfaction against the personal loan and it would not be treated as a receipt of official money As such it cannot be said that the amount was taken by using official influence unauthorisedly .

It is quite baseless and unfounded . There is no evidence to show that there was a loss to Govt. money owing to taking of Rs 3000/- from the SPM Doyang SO. The prosecution produced PD-14, PD-15 & PD-16 as documentary evidence in support of the claim , but there is nothing to show that the amount of Rs 3000/- was charged as unclassified payment in the accounts of the office. Unless the amount was charged as unclassified payment in the account supposed by the memo of sanction for unclassified payment of the amount from the sanctioning authority there cannot

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be any claim of substantial loss to the Govt. The daily accounts of Doyang SO (PD-14) dtd 22.09.1999, Doyang SO's SO Summery dtd 01.10.1999 to 29.10 1999 (PD-15) & DPS/Kohima's CLI report dated 14.03.2000 (PD-16) do not show that the amount of Rs 3000/- was charge as unclassified payment. No memo of sanction for unclassified payment issued by any competent authority was produce to sustain the claim of loss to Govt., Shri R.K.Sing SPM Doyang SO (PW-6) stated in reply to question No 7 that on 21.03.2001 probably during the course of annual inspection by the DPS/Kohima, the amount of Rs 3000/- was charged as unclassified payment, which was after about 2 (two) years and in that case also the note/orders of the DPS dtd 21.03.2001 could not be produced and even if it was produced that was of no help to the prosecution as no formal sanction. No sanction memo authorizing unclassified payment could be produced by the prosecution. As such, the claim of loss to the Govt. by the SPS does not hold good.

ARTICLE- IV

The SPS has not denied that he took a sum of Rs 2000/- on 09.06.1999 from the SPM, Paper Nagar SO Shri Rameswar Roy, But he said amount was taken as a personal loan from the SPM Sri Rameswar Roy and not from the office cash of Paper Nagar SO. As the amount was taken as personal loan on 09.06.1999 hence he did not affect the cash balance in the accounts of Paper Nagar So on that day. In support of the charge the prosecution produced. Documentary evidence as PD-6, PD-12, PD-13 & PD-16 but nothing worked. PD-12 which was daily account of Paper Nagar SO dtd 09.06.1999 did not show that a sum of Rs 2000/- was short in the account for being taken by the SPS. PD-13 which is the SO Account book of Paper Nagar SO does not show that a sum of Rs 2000/- was short in the account mand was charged as unclassified payment for being paid to the SPS. PD-16 which is the CLI report prepared and submitted by the DPS Kohima did not say in Para-9 of the report that the SPS took Rs 2000/- from the SPM Paper Nagar SO it also has not been said anything about the loss sustained by the paper nagar SO Sri Rameswar Roy SPM Paper Nagar SO who was produced as PW-7 deposed during his examination in chief in reply to Q.No 3. that the SPS requested him for Rs 2000/- for his personal use and so he paid Rs 2000/- to the SPS from his own pocket. In reply to Q. No 4 he said that there was no shortage of cash in the cash balance of the office. In reply to Q.No . 5 he stated that he did not ask for receipt from the SPS but was given to him for my satisfaction in his own accord. It is not understood how loss of Rs 2000/- was claimed to be sustained by the Govt.

The SPS described briefs submitted by Presenting Officer as hollowed and argued that punished officials has been produced as prosecution witnesses and their deposition is incredible etc and lastly concluded with "Epilogue" showing examples from epic Mahabarata and even references to the Indian constitution Archited and finishes with the hope that to identify milk as milk and water as water

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11. Analysis and assessment of evidences.

The charges framed against the SPS in article -1 is that SPS while functioning as Complaint Inspector during the period 3-2-99 to 7-11-99 took a sum of Rs 65,400/- (Rupees Sixty thousand four hundred only) from the Treasurer of Kohima H.O on 29-7-99 through the treasurer Sri Sivjee Choudhury by using his official influence unauthorisedly for his personal use without the knowledge of the Postmaster Kohima H.O. and by breach of trust caused corresponding monetary loss to the Govt. To prove the charge the following ingredients are to be satisfied-

(a) Whether Sri S.B Hazarika was complaint inspector Divisional Office /Kohima during the period, whether he exerts his official influence for taking the money .

(a) Whether Sri Sivjee Choudhury Treasurer, paid the amount to the SPS. And from what source & who are the witnesses

(b) How the account was maintained in Govt. A/C.

(c) How the shortages was detected & subsequent action thereon.

(a) There is no dispute that Sri Hazarika was the complaint inspector Divisional Office during the period 03-2-99 to 07-11-99. Exertion of official capacity is valid when he uses his official designation for achieving any sorts of activity with order .Here in all the receipts granted by the SPS. In plain papers the SPS uses his designation as C.I ie Complaint Inspector /Kohima & he was holding the charges of the C.I during the period but there is no indication of issue of any order.

In accordance to the Ans. To Q No. 4 of Proceeding Dated 24-1-02 by Sri Sivjee Choudhury P.W-1 stated that he has paid Rupees Sixty Five thousand four hundred only (Rs 65,400) to Sri Santi Bhusan Hazarika. C.I/ Divisional Office/ Kohima on 29-7-99 from the Cash money of the treasury at Kohima H.O in presence of Sri Anil Kumar Barman, Asst. Treasurer & Sri N.Ansari ,O/S cash, Kohima H.O for medical treatment. With assurance of refund after sanction of his house building loan with in a week's time. He deposed that Sri S.B.Hazarika, C.I (Divisional Office) Kohima being a senior executive official he treated the SPS'S saying as authority and on being granted a receipt by the SPS'S for acknowledgement of Rs 65,400/-dtd 29-7-99 shown into Govt. a/c as part of cash without information to P.M. Kohima. Sri Anil Baran Barman Asstt. Treasurer & P.W-2 in answer to Q.No.5 & QNo.6 proceedings dtd 24-1-02 Page-10 deposed to the Court that he has seen that Sri Hazarika , C.I/ Kohima has taken money from Sivjee choudhury Treasurer on saying that his mother or somebody is seriously ill & with the assurance that he will refund the amount soon when his H.B.A. will be sanctioned & money was paid from the iron safe of Kohima where the Govt. cashis kept but Ansari could not say the exact amount taken by Sri Hazakika on the date. Sri Ansasi, O/S cash and PW-3 told that he has seen

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that money were paid to Sri Hazarika C.I /Kohima on 29-7-99 initially protesting payment of big amount by the Treasurer but ultimately over ruled by C.I. Kohima when he told that the amount will from H.B.A. & Scooter advances getting soon by Sri Hazarika in answer to Q.No.4 Page-13 of proceedings dated 24-1-02.

© There is no indication in treasurer's cash book of accounting of Rs 65400/- on 29.07.1999.

(D) The shortages was detected by Director Postal Services ,Kohima in course of his verification of cash on 30-9-99 when a sum of Rs 10,400/- was told to be refunded by Sri S.B.Hazarika and balance amount of Rs 55,000/- (Rupees fifty five thousand only) has been charged as Unclassified Payment – Para.4.3 of Inspecting report of Kohima H.O recorded by Shri F.P.Solo ,D.P.S.Kohima from 27-9-99 to 30-9-99 but there is no mention of issue of sanction memo on the score.

The charge in article-11 is that C.I. Kohima during the period from 3-2-99 to 7-11-99 took a sum of Rs 7000/- (Rs Seven thousand only) from the office cash of Wokha S.O. through the SPM by using his official influence unauthorisedly for his personal use during his visit to Wokha Post Office on 21-9-99 and breach of trust caused corresponding loss to the Govt. . To prove the charge the following ingredients are to be satisfied .

- (i) Whether the money was actually taken the SPS or not.
 - (ii) Where from it was taken ?
 - (iii) If it is a Govt. money how it was accounted for .
 - (iv). Follow up action there of .
- (i). There is no doubt that the amount of Rs 700/- (Rupees Seven Hundred only) was taken by the SPS for which a receipt was granted in plain paper on 21.09.1999 produced in the court and marked as PD-5 and authenticated by the SPS during course of inquiry. (ii) It was taken from Sri Stephen Yesca , SPM , Wokha SO as per deposition of Sri Stephen Yesca, SPM, Wokha SO and PW-5 but there is no evidences of authenticity of his deposition .
- (iii) . The amount was paid initially maintained into Govt. account as part of cash represented by Receipt/ Vouchers and subsequently reported by the SPM. To Director Postal Services, Kohima. On 12-11-99 as shown & marked PD-5 and noted in the proceeding notes dtd 28-1-02 - there is no mention that ACG-17 was used as required in Post Office transaction .

Similar in article III the SPS was charged for taking Rs 3000/- (Rs Three thousand only) from Dyang S.O during his visit to the Post Office on 22-9-99 for his personal use unauthorisedly. Sri Rakesh Kumar SPM Doyang SO. PW-6 deposed that the amount was paid from the cash of Doyang SO. Dtd 22-9-99 on obtaining a receipt marked as PD- 4 & due to ignorance he did not show the amount as part of cash & he reported the matter to DPS /Kohima by sending the money receipt granted by the SPS and it was subsequently charged as unclassified payment during the Annual Inspection by DPS/ Kohima probably on 21-3-2001 the proceeding notes dtd 28-1-02 recorded the above deposition.

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In the article - iv it was charged that the SPS has taken Rs 2000/- (Rs Two thousand only) from SPM/ Papernagar on 9-6-99 similarly by granting money receipt and this breach of trust caused corresponding monetary loss to the Govt. The SPM Papernagar deposed tht he gave Rs 2000/- (Rs Two thousand only) to Sri S.B.Hazarika , C. I /Kohima on 9-6-99 from his personal money and the receipt granted by him was handed over to DSPOS/ Kohima during inspection of the office - this was deposed by Sri Rameswar Roy SPM Papernagar PW-7 and noted in the proceeding notes dated 28-1-03.

The SPS submitted his defence under Rule 14 (16) of CCS (CCA) Rules -1965 on 30.01.2004 stating that all the charges leveled against him by the DPS, Nagaland/Kohima under his Memo No F3-VII/02/99-2000 dtd 06.01.2000 are false, fabricated , bogus and baseless as well as a product of malice and caprice No Govt. money was utilized by him but the story was cooked up as such to malign his reputation and to shield off the actual delinquents Actual witnesses are kept out and only tutored witnesses are produced, the documents have been misused and evidences has been coloured through. The disciplinary authority did not come to a coma and produced to subject the witnesses to prostitution of proceedings once as a witness and once as a delinquent (charge-sheeted) which makes the charges more confusion than clarifying . The charges are therefore, faux-pas and product of unproductive work shop.

In his brief he refuted charges in Article-1 as he has taken money as personal loan, on the date 29.07.1999 treasurers cash book was arrived at and there was no shortages, did not order to Sri Sivji Choudhury to pay from the office cash, Sri Sivji Choudhury, Treasurer PW-1 also did not say like in his deposition to the court and thus there is no official influence. He also pointed out that the money receipt "attested " by Sri K.R.das, Dy. SPO's , Kohima on behalf of DPS denotes approval of the money receipt (PD-3) which is perusable, Rs 10,400/- not deposited on 30.09.1999 as there is no record in treasurer's cash- there is remark of DPS for Rs 55,000/-(Rupees fifty five thousand only) only as unclassified payment . He also put-question mark how shortages on 30.09.1999 when money was taken back on 29.07.1999 and there is no memo of sanction of unclassified payment of Rs 55,000/- . Subsequently , the SPS in his brief wanted to show that as per previous agreement with Sri Sivji Choudhury, Treasurer at the rate of Rs 4.5 % interest and it was convened by DSPO's/ Kohima who "attested" the receipt etc. Also he mentioned about excess tenure of the Treasurer etc.

Similarly in all other charges in Article-II, Article-III and Article-IV he wanted to repute that money taken was his personal loan, he did not influence to pay from account and there are irregularities in postal office records.

In accordance to analysis and evidence , the departmental court finds that defence under Rule-14 (16) of CCS (CCA) Rules-1965 of the SPS is not sustainable which are as under:-

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Charges are for alleged misappropriation of money from Govt. cash and all the linked and related persons were produced by the prosecution. For clarifying facts there is no bar in legal proceeding that one charge-sheeted person for his personal deficiencies can not be produced as witness either by prosecution or by defence side.

The SPS in his lengthy brief did not concentrate in reputing the charges leveled against him but also tried to shift the charges to other officials having deficiencies of their own for giving money without approval of competent authority, irregular maintenance of records etc. All the charges in Articles-I, Article-II, Article-III & Article-IV are taking of money from the Govt. cash doing temporary misappropriation and violation of Rule-58 of P & T Man Vol-I and thus violation of Rule - 3(i) to (iii) of CCS (CCA) Rules-1965. In any Govt. transaction, transactions took either by a competent sanction order from competent authority, and there is specified form to be used for voucher payments etc and in the Post Office, this form is ACG-17. Further any sorts of un-identified payment it should be charged under head "unclassified payment" supported by unclassified sanction from the competent authority. The SPS admitted that he has taken money from treasurer, on 29.07.2004 at Kohima HO, SPM Wokha SO on 21.09.1999, SPM Doyang SO on 22.09.2004 & SPM Paper Nagar SO on 22.09.1999 as personal loan for which receipt were granted. The SPM Paper Nagar SO in his deposition clearly stated that he gave the amount of Rs 2000/- (Rupees two thousand only) to the SPS from his personal money and there is no shortages of cash on the date in the SO & being it personal lending of money did not show in SO transaction. The prosecution side could not produce any proof of Govt. record in Govt. transaction but only narrated in the brief stating that in any personal transaction receipt is not granted and SPM's statement is false. All the prosecution witnesses concerned produced in the enquiry deposed that money were given from Treasury cash or Post Office cash but the records viz Treasurer's cash book in Kohima HO & HO Summery, all the sub office daily accounts at Wokha SO and Doyang SO does not reflect any transactions to SPS on the concerned dates of 29.07.1999 at Kohima HO, 21.09.1999 at Wokha SO & 22.09.1999 at Doyang SO by the Treasurer and SPM respectively. The prosecution side also failed to produce any authenticated documents as proof for transaction and shortages in the Govt. account. The shortages of cash was detected at Kohima HO by Director Postal Services after lapse of about two months on 30.09.1999 when Rs 55,000/- (Rupees fifty five thousand only) was noted as "Unclassified Payment" and there is also no unclassified sanction memo issued. In case of Wokha SO & Doyang SO the charging dates of unclassified payment of the respective amount could not be clarified by the prosecution side either by evidence or by production of records. On the basis of the evidences and analysis as foregoing para above, the SPS defence that all the money taken by him with receipt in blank paper chits is perusable and charges under Article-I, Article-II, Article-III & Article-IV are not sustainable and the SPS is free under "the benefit of doubt."

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12. FINDINGS.

On the basis of documentary and oral evidence adduced in the case before me and in view of the reasons given above, I hold all the charges in Article-I, Article-II, Article-III & Article-IV labeled against Sri Santi Bhusan Hazarika, C/I, (U/S) Kohima vide Director Postal Services, Kohima Memo No. F-3/VIII-02/99-2000 dated at Kohima, the 06.01.2000 not proved.

M. K. Das 29/4/2024
(M.K.Das)

Inquiring Officer
&

Superintendent
Postal Stores Depot, Silchar-25

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DEPARTMENT OF POSTS : INDIA

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

No.F3/VII-02/99-2000

Dated at Kohima the 17.07.2004

To,

Shri S.B Hazarika
C.I Divl. Office, Kohima (U/S)
C/O U. Baumatary
ASPO's (HQ)
Imphal - 795001.

Received on
29/7/2004

Sub :- Forwarding of I.O's report Dtd. 29-04-2004 & the findings of disciplinary authority on I.O's report.

Please find enclosed a copy of the I.Os report Dtd. 29.04.2004 and a copy of the findings of disciplinary authority Dtd. 15.07.04 on different articles of charges served vide this office memo No. F3/VII-02/99-2000 Dtd. 06.01.2000.

2. You are directed to submit your representation on the I.Os report and findings of disciplinary authority within 15 days of receipt of this reports, failing which appropriate decision will be taken in the case without waiting for your representation any further.

Encl :- A.A

(Rakesh Kumar)

Director Of Postal Services
Nagaland, Kohima - 797001.

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A.S.P.

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

No.F-3/VII-01/1999-2000

Dated at Kohima the 15-07-2004

Findings of Disciplinary authority in the Disciplinary Case Under Rule-14 of CCS (CCA) Rule 1965, against Shri S.B Hazarika, CI (U/S), Kohima O/o. DPS Kohima.

I have carefully gone through the inquiry report submitted by Shri M.K Das, Inquiry Officer, Supdt. PSD Silchar, submitted vide his letter no. SSD/Rule-14/04 dated 29-4-04, the statement of article of charges framed against Shri Shanti Bhushan Hazarika, the charged official (hereafter referred to as C.O), statement of imputation of misconduct or misbehavior against the C.O, documents by which the charges framed against the C.O was proposed to be sustained, list of witnesses by whom the Charge framed against the C.O was proposed to be sustained and other documentary evidence available in related file of the case available in the Divisional Office, Kohima. The details of the case and objective analysis of defferent aspects of the case is as discussed below.

2. Article I of articles of charges framed against the C.O and served vide memo no. F3/VII-02/99-2000 dtd.06.01.2000 were as follows:

2.1.

Article I

That the said Shri Shanti Bhusan Hazarika while functioning as Complaint Inspector, Divl. Office Kohima, during the period from 3.2.99 to 7.11.99 took a sum of Rs. 65400 (Rupees sixty five thousand four hundred only) from the treasury of Kohima H.O on 29.7.99 through the treasurer Shri. Shivji Choudhury by using his official influence unauthorisedly for his personal use without the knowledge of postmaster, Kohima H.O and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P&T Financial HandBook Vol.I. By the above act the said Shri Hazarika failed to maintain absolute integrity and devotion to duty and acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rule 3(I)(i) to (iii) of CCS (Conduct) Rules, 1964.

2.2 Statement of imputation of misconduct or misbehavior relating to article I framed vide memo no. F3/VII-02/99-2000 dtd. 06.01.2000, reads as follows.

That the said Shri Shanti Bhusan Hazarika while functioning as Complaint Inspector, Divl. Office Kohima, during the period from 3.2.99 to 7.11.99 took a sum of Rs. 65400 (Rupees sixty five thousand four hundred only) from the treasury of Kohima H.O on 29.7.99 through the treasurer Shri. Shivji Choudhury by using his official influence unauthorisedly for his personal use without the

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knowledge of postmaster, Kohima H.O and by breach of trust caused corresponding monetary loss to the Govt.

The taking of office cash from the treasury of Kohima H.O by Shri Hazarika was detected during the verification of cash and stamp balances of Kohima HO by the Director Postal Services, Nagaland on 30.9.99. On detection of shortage of Govt. cash, Shri Hazarika was asked to credit the entire amount to the Govt. account.

Shri Hazarika deposited only a sum of Rs 10,400/- to the Govt. account on 30.9.99. the remaining amount of Rs. 55000/- was charged as UCP in Kohima HO on 30.9.99.

Thus Shri Hazarika, by the above act caused monetary loss to the Govt. in violation of Rule 58 of P&T Financial hand Book Vol-I. By the same act the said Shri Hazarika failed to maintain absolute integrity and devotion to duty and also acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rule 3(I)(i) to (iii) of CCS (Conduct) Rules, 1964.

3. The I.O & the C.O have raised a number of points as mentioned below on the basis of which the I.O has concluded in his inquiry report that the charges leveled against the C.O are not sustainable.
- 3.1 Inquiry Officer (hereafter referred to as IO) in his inquiry report has stated that the temporary advance of Rs. 65400/- taken from treasurer of Kohima HO on 29.7.99 did not get reflected in the treasurer's cash book of Kohima HO on 29.7.99 nor the sum of Rs. 10400/- (Rupees Ten thousand four hundred) refunded by the CO on 30.9.99 was charged as UCP.
- 3.2 The IO has also stated that the shortage of Rs 55000/- (Fifty five thousand) detected during the cash and stamp verification of Kohima HO undertaken by DPS Nagaland Division Kohima on 30.9.99 was not charged as UCP in the treasurer's cash book and there is no mention of issue of sanction to this effect.
- 3.3 The IO has also stated in his inquiry report that the then DSPOs of Nagaland Division, Shri. K.R Das in collusion with Shri. Shivji Choudhury, Treasurer Kohima HO had actually lent a temporary advance of Rs 60000/- (Sixty Thousand) on the condition that interest at the rate of Rs 4.5% will be chargeable on the loan amount. The loan amount was taken for a period of 2 months and the interest payable on the loan amount of Rs. 60000/- for a period of 2 months comes to Rs. 5400/-, which when added together with the principal amount comes to Rs 65400/-.

As a proof of collusion between Shri K.R Das, the then DSPOs Kohima and Shri. Shivji Choudhury, Treasurer Kohima H.O, the attestation of the money receipt given by the CO on 29.7.99 by Shri. K.R Das has been taken as conclusive proof for the alleged collusion.

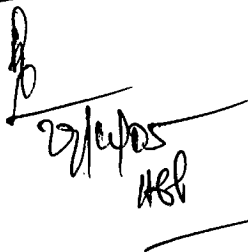
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- 3.4 The CO has stated and to a great extent agreed to by the I.O., in his written statement dated 8.11.99, that the temporary advance of Rs.65400/- received by him on 29.7.99 from Shri Shivji Choudhury, treasurer Kohima HO was taken as personal loan from the treasurer, Kohima HO and that the cash balance in the treasurer's cash book was correctly arrived at and no shortage of cash was recorded on that date. Further, the CO has stated that he has not ordered the treasurer in his official capacity for granting the temporary advance from the office cash and advance was given by the treasurer in his personal capacity.
- 3.5 The C.O and to a great extent agreed by the I.O that the written statement of C.O dtd 08.11.99 was given under duress and hence should not be taken into account.
4. I have carefully gone through all the related documents of the case i.e. I.O's inquiry report, documents and witnesses produced during the course of inquiry, defense statement of the charged official and my findings in respect of points raised by I.O in his inquiry report as detailed in sub-para of para-3, which led I.O to conclude that charges leveled against the C.O as not conclusively proved is as discussed below:
- 4.1 As regard to points raised in sub-para 3.1, that the temporary advance of Rs. 65,400 taken from treasury of Kohima H.O on 29-07-99 did not get reflected in the treasurer's cash book of Kohima H.O on 29-07-99 nor the sum of Rs. 10,400 refunded by the C.O on 30-09-99 was charged as UCP, it was failure on the part of the treasurer to adhere to the rules and guidelines which led to the above omission, for which treasurer, Kohima H.O was subsequently chargesheeted and awarded punishment of recovery of Rs. 9000 from his pay and allowances. This was a personal failure of treasurer, Kohima HPO which does not absolve the C.O from misappropriation of government money amounting to Rs. 55,000 as detected on 30-09-99 by DPS Kohima and which has not been credited yet by the CO even after his written assurance given vide his letter dtd. 08-11-99 to credit the amount by 31-03-2000.
- 4.1.1 The handing over of temporary advance of Rs. 65,400 has been substantiated by all the officials present at the time of handing over of the advance in the Kohima HPO treasury, i.e Shri Shivjee Choudhury, Treasurer, Kohima H.O, Shri A.K Barman, Asstt. Treasurer, Shri N. Ansari, overseer cash and even the C.O vide his money receipt granted to treasurer, Kohima H.O dtd 29-07-99 and his letter dtd. 08-11-99 as reproduced verbatim in para 4.4.1 and para 4.4 respectively.
- 4.1.2 Thus, I come to the conclusion that though the temporary advance of Rs. 65,400 given to C.O on 29-7-99 or subsequent refund of Rs. 10,400 made by C.O on 30-09-99 was not accounted for in the Treasurer's cash book or H.O Summary of Kohima H.O on 29/7/99 and 30/9/99 respectively, it was due to the personal failings of treasurer, Kohima H.O to adhere to the departmental rules and regulation and treating it as part of cash and did not bring it to the notice of his

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superior, for which he has already been proceeded under Rule – 16 of CCS (CCA) Rules 1965 and awarded punishment of recovery of Rs. 9000 from his pay and allowances. But, this does not in any way negates the actual handing over of temporary advance of Rs. 65,400 to the C.O by the treasurer Kohima h.O from Government cash on 29-07-99 and also does not absolves the C.O from misappropriation of Government money, Rs. 55,000 of which he has failed to credit till date despite his written assurance given vide his letter dtd 08-11-99.

4.2 The contention of IO as contained in Para 3.2 that the shortage of Rs 55000/- detected during the cash and stamp verification of Kohima HO on 30.9.99 by the DPS Nagaland was not charged as UCP on 30.9.99 in the Treasurer's cash book and HO summary, and no sanction memo was issued by the DPS against the UCP of Rs. 55000/- is not correct and the documentary evidence speaks contrary to the above contention of the IO. The Treasurer's cash book of Kohima HO for the period from 9.7.99 to 30.9.99 (PD-1) and HO summary of Kohima HO for the period from 7.6.99 to 30.9.99 (PD-2) clearly shows that the short amount of Rs. 55000/- was charged as UCP on 30.9.99 against the relevant column of Treasurer's cash book and HO summary. These two documents were produced as exhibit during the course of enquiry and in the relevant pages of Treasurer's cash book and HO summary dtd. 30.9.99 has been seen by the IO, PO, and the CO. and they have put their signature on these pages as a token of having seen it.

4.2.1 Further, the contention of the IO that no sanction memo was issued against the UCP of Rs 55000/- charged on 30.9.99 in the Treasurer's cash book and HO summary is also not correct. On perusal of relevant file available in the Divisional Office. it is seen that the sanction memo for charging the short amount of Rs 55000/- as UCP was issued vide this office memo no. F3/VII-01/99-2000 dtd 21.10.99. This memo dated 21.10.99 was not requisitioned as evidence during the course of inquiry either by IO or PO and if there was any doubt about the issue of sanction memo, the same should have been clarified by issuing a requisition letter to this office by IO or PO. This was never done and IO had arrived at an erroneous conclusion that no sanction memo was issued for Rs.55000/- duly charged in Treasurer's cash book and HO summary on 30.9.99. Thus the contention of IO is not tenable and arbitrary and not supported by documentary evidence. Further, in the Treasurer's cash book dtd 30.9.99 of Kohima HO, the DPS Kohima has clearly written that the short amount of Rs 55000/- detected during cash and stamp verification should be charged as UCP. It is obvious that sanction memo for UCP could not have been issued on 30.9.99 as the DPS was verifying cash and stamp balance of Kohima HO on that day. As an immediate measure, DPS Kohima recorded his remarks for charging of short amount of Rs 55000/- as UCP in the Treasurers cash book on 30.9.99. Despite above evidences being available to the IO, he took a contrary opinion that the amount was not charged as UCP in Treasurer's cash book and HO summary and no sanction memo was issued for charging this amount as UCP, subsequently.

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4.2.2 I, therefore, disagree with the findings of the IO that the short amount of Rs 55000/- detected during cash and stamp verification of Kohima HO on 30.9.99 by DPS Kohima was not charged as UCP on 30.9.99 in the Treasurer's cash book and HO summary and no sanction memo was issued subsequently from DPS office Kohima, classifying it as UCP.

4.3 As for the contention made by the IO as contained in para 3.3 that Shri K.R Das, the then DSPOs Kohima in collusion with Shri S. Choudhury, Treasurer Kohima HO actually lent an advance of Rs 60000/- only on 30.9.99. on the understanding that interest @ Rs. 4.5% pm will be chargeable on the principle amount of Rs 60000/- has not been substantiated by any documentary evidence. He has solely based his above imaginary findings on the defence statement dated 6.4.04 submitted by the CO. It is surprising to see that such arbitrary conclusion has been arrived at by the IO without any documentary evidence for the same. Further, IO has stated that Shri K.R Das, the then DSPOs Kohima had put his signature and name and designation seal on the money receipt granted by the CO to the Treasurer Kohima HO on 29.9.99 by giving the remark of "Attested", which has been taken to mean by the IO to prove that Shri.K.R.Das, was hand in glove with the Treasurer, Kohima HO and had prior knowledge about the temporary advance. On close scrutiny of money receipt dated 29.9.99, it is seen that Shri K.R Das has put his signature under his name and designation on the money receipt but no date has been mentioned and the word "Attested" which is not in the handwriting of K.R Das was found placed just above the signature. Since the word "attested" is not in the handwriting of Shri K. R Das, it could have been subsequently inserted by any of the interested party. Further, the signature of K.R Das found on the money receipt does not bear any date and signature and in all likelihood was put to authenticate the document. The argument put forward by the IO that the signature of Shri K.R Das and remark "Attested" leads to the conclusion that the knowledge of taking of advance by the CO on 30.9.99 from the Treasurer Kohima HO was known to him and he was in tacit understanding with the Treasurer, Kohima HO to share the accrued interest on the principle amount of Rs. 60,000/-. This conclusion arrived at by the IO has no basis and has not been substantiated by any documentary evidences and is merely based on figment of imagination and is hence arbitrary. Even presuming that the word "Attested" was used by Shri K.R Das, the then DSPOs, put just above his signature on the money receipt, it cannot be concluded that the word "Attested" in the money receipt was used to indicate his prior knowledge about the temporary advance handed over by the treasurer to the CO and that he had some sort of share in the accrued interest. In most likelihood the money receipt signed by Shri. K.R Das, the then DSPOs was for authenticating money receipt. The conclusion made by the IO is like jumping to a conclusion without any hard evidence and hence arbitrary and not sustainable.

I, therefore, disagree with the finding of the IO that the signature and the remarks "Attested" as recorded in the money receipt dtd. 29.9.99 by Shri K.R Das, the then DSPOs proves that he was in collusion with Treasurer, Kohima HO to

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share the interest on alleged principle amount of RS 60000/- and he had prior knowledge about the temporary advance and the same was done with prior approval of DSPOs, Kohima. As pointed out earlier, the IO has reached to the above conclusion merely on hearsay without checking the fact and available documentary evidences, both oral or written.

- 4.4 With regard to point raised in para 3.4 by the C.O to a great extent agreed to by the I.O. it is seen from the evidences adduced during the enquiry and documentary evidence produced during the enquiry that in the money receipt, the word "Treasurer" of Kohima HO has been used and the CO has also used his official designation. This clearly shows that the loan amount is not a personal loan between two private persons, otherwise there was no need for mentioning the official designation of the lender as well as the borrower. Further the loan amount was taken by the CO from the office cash through Treasurer, Kohima HO in the Kohima HO Treasury, which has been substantiated by Shri Shivji Choudhury ((PW1), Treasurer, Kohima HO, Shri A.K Barman (PW2) Assistant Treasurer Kohima HO and Shri. N. Ansari Overseer Cash Kohima HO (PW3).

Shri S. Choudhury, Treasurer Kohima HO (PW1) in his written statement before the IO on 24.1.02 has stated that he has given a temporary advance to the CO on 29.7.99 from office cash in presence of assistant Treasurer and Overseer Cash, Kohima HO. Further, Shri S. Choudhury has stated that the loan amount of Rs.65400/- was given to the CO on 29.7.99 because of the reason that the CO was badly in need of money for medical treatment etc. and his house building advance was going to be sanctioned within a week's time and CO assured him of refunding the loan amount as soon his HBA loan is sanctioned to him. Further, he has stated that the CO was senior executive officer and treated him as an authority and in good faith, he made the payment. He has admitted that the loan amount was not shown in the Treasurer cash book of Kohima HO and he has kept the loan amount as part of cash in Kohima HO. Shri A.K Barman, Assistant treasurer Kohima HO (PW2) in his written statement dated 24.1.02 before the IO has stated that he has seen Shri S. Choudhury, Treasurer Kohima HO handing over cash to the CO, which was taken out from Iron Safe of the Kohima HO Treasury, where the Govt. cash of Kohima HO was kept. He has also seen Shri Hazarika (CO) handing over money receipt as token of acknowledgement of money received from Treasurer Kohima HO on 29.7.99. Similarly, Shri N. Ansari, Overseer Cash, Kohima HO (PW3) has stated in his written statement dated 24.1.02 before the IO that he has seen treasurer handing over cash to CO on 29.7.99. He has further stated that the treasurer initially protested against the payment of the loan amount and was ultimately over ruled by the CO. He also saw a money receipt being handed over to the Treasurer by the CO. Further the CO vide his letter No. nil dated 8.11.99 (PD-8) addressed to DPS Nagaland Kohima has admitted the following, which is reproduced below verbatim.

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To
The Director of Postal Services
Nagaland Divn. Kohima

Annexure A -25

Page No 154

Sub:- Written statement in connection with taking advance of Rs 65400/- from the treasury of Kohima HO on 29.7.99.

Sir,

I beg to state on the above subject that the amount was actually received by me from the Kohima HO treasury as my uncle was to undergo a major life saving operation at Assam Medical College, Dibrugarh, for which about Rs 80000/- was required. As the amount could not be arranged from any other source hence the said amount was taken from Kohima HO Treasury under compelling circumstances to save his life.

However, as I have made a clear breast of the irregularity requiring no investigation, I may kindly be spared on my assurance that the amount of outstanding of Rs.55000/- will be refunded by me within 31.3.2000, as by that time I will be well in position to refund the same and for this act of your kindness I shall ever pray.

Yours faithfully
Sd/-
(S.B HZARIKA).
C.I Kohima.
Dated : 08-11-99

4.4.1 The temporary advance Rs 65400/- was taken on 29.7.99 by the CO for which he has given a money receipt on 29.7.99. The wording of the money receipt given by CO to the Treasurer reads as follows:-

“ Received Rs. 65400/- (Rupees sixty five thousand four hundred only) from the treasurer of Kohima HO”

Sd/-
(S.B Hazarika)
C.I Kohima
Dated. 29.07.99

4.4.2. Thus it can be seen that the temporary advance of Rs. 65400 was handed over by the treasurer to the CO on 29.7.99 from the office cash of Kohima HO treasury as substantiated by the Treasurer (PW1), Assistant treasurer (PW2) and Overseer Cash (PW3). The CO has also categorically admitted vide his letter dated 8.11.99 (PD-8) that he has received the advance of Rs 65400/- from Kohima HO Treasury as his uncle was to undergo in a major life saving operation at Assam Medical College, Dibrugarh. He has further stated that “as the amount could not be arranged from any other source hence the said amount was taken loan from Kohima HO treasury under compelling circumstances to save his life”. He has further stated that outstanding advance of Rs 55000/- as on

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30.9.99 will be refunded by him within 31.3.2000. Thus from the written and documentary evidences it is proved beyond doubt that a sum of Rs 65400/- was taken as advance by the CO from the treasurer Kohima HO on 29.7.99 from the office cash of Kohima HO treasury. The treasurer Kohima HO treated the money receipt granted by the CO against the advance of Rs 65400/- as part of cash and he did not bring it to the notice of the Postmaster Kohima HO or DPS Kohima.

Before lending advance to the CO, the treasurer Kohima HO should have insisted on sanction of the competent authority for lending the advance as per rule, which he failed to do. For this omission on his part he was proceeded under Rule 16 of CCS(CCA) rules 1965 vide memo no F3/VII-01/99-2000 dtd. 2-1-2001 and awarded a punishment of recovery of Rs. 9000/- from his pay and allowances vide memo No. F3/VII-01/99-2000 (loose) dtd 13.2.01.

- 4.4.3. The advance of Rs 65400/- handed over by the treasurer to the CO was not reflected in the Treasurer's cash book and the advance was given without the sanction of the competent authority and was not brought to the notice of the Postmaster, Kohima H.O on 29.7.99 and thereafter, till the shortage was detected on 30.9.1999 by DPS, Kohima, when he undertook cash & stamp verification of Kohima H.O. This temporary advance was kept as part of cash irregularly and against Rules without the sanction of the competent authority, for which the treasurer has already been given a Rule 16 chargesheet and punished with recovery of Rs 9000/- from his pay and allowances.
- 4.4.4 Thus the failure on the part of Treasurer, Kohima HO to lend the advance to the CO without the sanction of the competent authority, his failure to bring it to the notice of Postmaster Kohima HO on 29.7.99 or thereafter was a personal failure on the part of the Treasurer Kohima HO, for which appropriate action against him has already been taken. This personal failure on the part of Treasurer, Kohima HO does not absolve the CO from the charges of temporary misappropriation of Govt. money. The CO has not credited the outstanding amount of Rs 55000/- in the Kohima HO treasury till date and this amount has been charged as UCP on 30.9.99 as recorded in the Treasurer's cash book and HO summary dtd. 30.9.99 and sanction memo for UCP was issued vide memo no. F3/VII-01/99-2000 dtd 21.10.99. The non- credit of Rs.55,000 since 29.07.99 till date constitutes misappropriation of Govt. money by the C.O., and despite his assurance to credit the money by 31.03.2000 as contained in his letter dtd.08.11.99 as reproduced verbatim in para 2,3,5, this amount is still lying as outstanding amount against the C.O.
- 4.4.5 As per the contention in para 3.4 made by the CO and to a great extent agreed by the IO, the argument put forward that the temporary advance of Rs 65400/- was taken by the CO from the Treasurer, Kohima HO as a personal loan in personal capacity, is not substantiated by evidences adduced during the course of inquiry from the witnesses. The CO vide his letter no. nil dated 8.11.99 (PD-8) addressed

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[Signature]
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to DPS Kohima has categorically admitted that the temporary advance of Rs. 65400/- was received by the CO from Kohima HO treasury for meeting the expenses towards his uncle's medical treatment.

The CO has assured of refunding the balance amount of Rs 55000/- as on 30.9.99 latest by 31.03.2000. Further, other witnesses present at the time of handing over the temporary advance by the Treasurer, Kohima H.O (including Treasurer Kohima HO himself) had in their written statement before the IO have stated that they saw Treasurer handing over office cash to the CO on 29.7.99 in Kohima treasury. Further, Shri. S. Boro who acted as the Post Master Kohima between the period 25.2.99 to 23.8.99 has admitted that though he had physically counted the cash on 29-7-99 and thereafter signed the treasurer's cash book and HO summary, the temporary advance of Rs 65400/- forming part of cash escaped his notice as there was heavy cash of Rs 9,07,827.25 on that day. Further, Postmaster Kohima HO did not give his comments on the observation made by I.O that he used to put his signature on HO summary and Treasurer's cash book without properly verifying the cash and stamp balances on that day. Treasurer, Kohima HO in his written statement before the IO has also stated that cash and stamp balances were verified occasionally and not daily by the Postmaster, Kohima HO. This leads to the conclusion that Rs. 65400/- was given by the treasurer Kohima HO to the CO on 29-7-99 from the office cash in official capacity. The money receipt granted by the CO, mentioned the treasurer by his designation and not by his name and the CO has mentioned his official designation in the money receipt dated. 29.7.99, which goes on to prove that the advance was given by the Treasurer in his official capacity from the office cash and the temporary advance was received by the CO in his official capacity and the transaction took place in the Kohima HO treasury.

- 4.4.6 I, therefore, disagree with the contention made by the CO and to a great extent agreed to by the IO that the temporary advance Rs. 65400/- was given by the Treasurer, Kohima HO on 29-7-99 to the CO was a personal loan given by Shri Shivji Choudhury, treasurer Kohima HO, on account of reasons mentioned above.
- 4.5. It is not understood, what kind of duress can a Director, Postal Service exercise on his Complaint Inspector which led him to confess the truth. The taking of temporary advance of Rs. 65,400 on 29-07-99 from treasurer, Kohima H.O is already authenticated by his money receipt granted to treasurer Kohima H.O. Director, Postal Service is not vested with powers of police investigation and question of forced confession does not arise at all. The bogey of duress is merely an afterthought to negate his voluntary confession made vide his letter dtd. 08-11-99. As is seen from his letter dtd. 08-11-99, the C.O has stated that "As I have made clear breast of the irregularity requiring no investigation, I may kindly be spared on my assurance that the outstanding amount of Rs. 55,000 will be refunded by me within 31-03-2000". This clearly shows that the confession was made merely to postpone / scuttle the investigation into this irregularity.

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4.5.1 I, therefore, do not agree with the statement of C.O as stated in his defense statement dtd. 06-04-04 and to a great extent agreed to by the I.O that the C.O's letter dtd. 08-11-99 was given under duress.

4.6. In view of reasons cited in various sub-paras of 4, I am of considered view that the charges as contained in Article I is conclusively proved beyond doubt.

5 Article II of articles of charges framed against the C.O served vide memo no. F3/VII-02/99-2000 dtd 06.01.2000 were as follows:

5.1 Article II

That the said Shri. Shanti Bhusan Hazarika while working as C.I Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 7000/- (Rupees Seven thousand only) from the office cash of Wokha S.O through the SPM by using his official influence unauthorizedly for his personal use during his visit to Wokha Post Office on 21.9.99 and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act Shri. Hazarika also violated Rule 3(1)(i) to (iii) CCS (Conduct) Rules, 1964.

5.2 Statement of imputation of misconduct or misbehavior relating to article II framed vide memo no. F3/VII-02/99-2000 dtd 06-01-2000 were as follows:

Article II

That the said Shri. Shanti Bhusan Hazarika while working as C.I Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 7000/- (Rupees Seven thousand only) from the office cash of Wokha S.O through the SPM by using his official influence for his personal use during his visit to Wokha Post Office on 21.9.99.

On his way to Doyang SO for inspection Shri Hazarika took Rs. 7000/- (Rupees Seven thousand) only from the SPM Wokha SO on 21.9.99 by giving a receipt to the SPM Wokha SO. The case came to light when the SPM Wokha SO reported the matter to the Director Postal Services, Nagaland, Kohima.

Thus by the above act shri. Hazarika caused monetary loss to the Govt. to the tune of Rs. 7000/- (Rupees Seven Thousand only) and violated Rule 58 of P & T Financial Hand Book Vol-I and also infringed the provisions of Rule 3(1)(i) to (iii) of CCS (Conduct) Rules, 1964.

5.3 In respect of Article II of the charges, I.O in his Inquiry Report has totally relied on the defense statement of the C.O dtd 06.04.04. neglecting the evidences adduced during the inquiry from Shri. Stephen Yesca, money receipt granted by C.O dtd. 21.9.99, etc. The money receipt granted by C.O is reproduced below verbatim.

"Received Rs. 7000 (Rupees Seven thousand) from the SPM, Wokha this day".

Sd/-
(S.B Hazarika)
C.I, Kohima
Dtd : 21/9/99

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5.3.1 From the wording of the money receipt, it is seen that the word SPM, Wokha and Official designation of the C.O has been used, which clearly shows that the temporary advance was official. Otherwise there was no need to use the official designation of lender as well as the borrower in the money receipt.

5.3.2 It may not be out of place to mention here that in Nagaland Division, there is culture of lending temporary advance, without the sanction of competent authority and the money receipt granted is treated as part of cash, in violation of rules and regulations.

5.3.3 The C.O being senior inspecting official should not have indulged in such unhealthy and illegal activities as he was supposed to inspect offices and pinpoint such irregularities. But, it is seen that he was himself engaged in such misappropriation of government money and when detected had tried to deflect the charges by stating that the loan was a personal loan and had tried to take advantage of ignorance of many SPMs and treasurers by quoting rules that it was not shown in S.O's daily account or S.O account book or not reported to superior authority.

5.3.4 Shri Stephen Yesca (PW-1), the then SPM, Wokha S.O, in his written statement before the I.O on 28-01-02 has stated that he had given temporary advance of Rs. 7000 on 21-9-99 to the C.O against money receipt granted by C.O from Office cash. He had further stated that the temporary advance was given as C.O was in need of money to mitigate the expenses on duty. He has further stated that the temporary advance of Rs 7000 was shown as part of cash represented by receipt/vouchers, which normally is not reflected in S.O a/c book or S.O daily account and is treated as good as cash. Subsequently, he reported the matter to DPS, Kohima vide his letter dtd. 12.11.99.

5.3.5 Further, it has been stated by the I.O which is mere repetition of the defense statement of the C.O dtd 06.04.04 that since the temporary advance of Rs. 7000/- did not get charged as UCP, thus there was no shortage and no loss to the Government.

It is a fact that the temporary advance of Rs. 7000 did not get charged as UCP, which may be due to oversight, pre-occupation with works, etc., but still this amount is lying unadjusted in the Wokha S.O account and the C.O is trying to evade the issue by deflecting the issue as a personal loan taken from SPM, Wokha. If it was a personal loan, why he has not paid the loan amount to him till date so that this amount could have been adjusted.

5.3.6 Therefore, based on points raised in sub-para of 5.3, I disagree with the findings of I.O that the charges contained in Article II is not substantiated and proved. In view of reasons cited in various sub-paras of 5.3, I am of considered view that the charges contained in Article - II of the charges is conclusively proved

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6. Article III of articles of charges framed against the C.O served vide memo no. F3/VII-02/99-2000 dtd 06-01-2000 were as follows:

6.1 Article II

That the said Shri. Shanti Bhusan Hazarika while working as C.I Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 3000/- (Rupees Three thousand only) for his personal use from the office cash of Doyang S.O through the SPM Doyang S.O during his visit to the Post Office on 22.9.99 by using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act Shri. Hazarika also violated Rule 3(1)(i) to (iii) CCS (Conduct) Rules, 1964.

- 6.2 Statement of imputation of misconduct or misbehavior related to the article III framed vide memo no. F3/VII-02/99-2000 dtd 06-01-2000 were as follows

Article III

That the said Shri. Shanti Bhusan Hazarika while functioning as C.I Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 3000/- (Rupees Three thousand) only for his personal use from the office cash of Doyang S.O during his visit to the Post Office on 21.9.99. by using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I

During his visit to Doyang SO for inspection on 22.9.99 Shri Hazarika took a sum of Rs. 3000/- (Rupees Three thousand) only from Govt. cash for his personal use by giving a receipt to the SPM.

By the above act and breach of trust the said Shri. Hazarika caused monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I and thereby infringed the provisions of Rule 3(1)(i) to (iii) of CCS (Conduct) Rules, 1964.

- 6.3 I.O in his inquiry report has stated that C.O took a personal loan of Rs. 3000 from SPM, Doyang S.O on 22.9.99, hence there was no shortage in cash balance in the account of Doyang S.O on 22.9.99. Further I.O has stated that the C.O has not used his official influence to receive Rs. 3000. The temporary advance of Rs. 3000/- was not charged as UCP nor any UCP sanction memo was issued by divisional office Kohima.

- 6.3.1 As for the temporary advance being a personal loan, Shri Rakesh Kumar Singh (PW-6) has stated in his written statement before the I.O on 28.1.02 that Rs. 3000 was lent as temporary advance to C.O on 22.9.99 from office cash as the

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29/10/05
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C.O told him that he had no money to return to the headquarter and he will be refunding the money to him when he reaches back to the headquarter. A money receipt was granted by the C.O to the SPM which is produced below verbatim.

“Received Rs. 3000/- from SPM, Doyang”

Sd/-
C.I. Kohima
Dtd. 22.9.99

In the money receipt, the word SPM, Doyang and C.I Kohima is written, which clearly shows that the transaction was official and not personal, otherwise there was no need to use official designation of lender as well as the borrower.

6.3.2 Further, the SPM Doyang S.O in his written statement before the I.O has stated that the money receipt granted by the C.O was treated as part of cash and was not reflected in the S.O account book and S.O daily account, out of ignorance of rules. He has further stated that the money receipt granted by C.O was sent to DPS. Kohima through overseer mails, Shri. Y. Lotha.

6.3.3 If the temporary advance of Rs 3000/- was given as personal loan, then there was no need for SPM, Doyang to report the matter to Director, Postal Services and should have been sorted out at personal level. SPM, Doyang S.O has stated that the temporary advance of Rs. 3000 was given from office cash and the said amount was subsequently charged as UCP on 21.3.2001. This clearly proves that the said amount is still lying unadjusted and is a loss to the Government. UCP sanction memo for Rs. 3000/- could not be issued due to oversight, pre-occupation with works, shortage of staff, etc. But, this does not in any way disproves the fact that the temporary advance was taken by C.O from SPM, Doyang S.O from office cash, which he has not credited till date either to the lender or in the government account.

6.3.4 As discussed in sub-para of 6.3, I disagree with the findings of the I.O that Article III is not proved and I am of considered view that charges as contained in Article III is proved beyond doubt.

7. Article IV of articles of charges framed against the C.O served vide memo no. F3/VII-02/99-2000 dtd 06-01-2000 were as follows:

7.1

Article IV

That the said Shri. S. B. Hazarika while functioning as C.I Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 2000/- (Rupees Two thousand only) for his personal use, on 9.6.99 from the office cash of Papernagar S.O through the SPM Papernagar S.O during his visit to the said S.O

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by using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt. in violation of Rule 58 of P & T Financial Hand Book Vol-I. By the above act Shri. Hazarika also violated Rule 3(1)(i) to (iii) CCS (Conduct) Rules, 1964.

- 7.2 Statement of imputation of misconduct or misbehavior related to the article IV framed vide memo no. F3/VII-02/99-2000 dtd 06-01-2000 were as follows

Article IV

That the said Shri. Hazarika while functioning as C.I Divl. Office, Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs. 2000/- (Rupees Two thousand) only for his personal use from the office cash of Papernagar S.O during his visit to the said S.O on 9.6.99. using his official influence unauthorizedly and by breach of trust caused corresponding monetary loss to the Govt.

Thus by the above act the said Shri. Hazarika violated Rule 58 of P & T Financial Hand Book Vol-I and thereby infringed the provisions of Rule 3(1)(i) to (iii) of CCS (Conduct) Rules, 1964.

- 7.3 I.O in his inquiry report has stated that a sum of Rs. 2000 was taken by C.O as a personal loan, as a result this amount was not reflected in the S.O account or S.O daily account of Papernagar S.O and not charged as UCP nor any UCP sanction memo was subsequently issued from divisional office.

- 7.3.1 Shri R. Roy, the then SPM, Papernagar S.O in his written statement before the I.O on 14-10-2003 has stated that he had lent an advance of Rs. 2000/- on 09.6.99 to C.O as a personal loan which he paid from his own pocket.

- 7.3.2 In view of the above, I agree with the findings of the I.O that the article IV of the charges as not proved and substantiated.

(Rakesh Kumar)

Director of Postal Services
Nagaland, Kohima -797001.

ATTESTED

[Signature]

[Signature]

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To

The Director of Postal Services,
Nagaland, Kohima-797001.

Sub:- Representation U/R-15(2) of the CCS(CCA)
Rules, 1965.

Ref:- Your No. F3/VII-02/99-2000 dated, Kohima,
17.7.04.

Sir,

The representation has been submitted
parawise as follows :-

Paras- 1 - 4 :- No comments.

4.1:- If it was a failure on the part
of the Treasurer to adhere to rules
and guidelines why only Rs.9000/-
has been recovered from his pay
& allowances while he failed to
credit a sum of Rs.10,400/- in the
Govt. account, if that money was
the money of Govt.? Why Rs.10,400/-
- 9000/- = 1,400/- was exempted
from recovery?

4.1.1:- All these officials were requi-
sitioned for cross-examination by
the SPs vide his requisition dtd.
27.2.02; but the cross-examination
of these witnesses viz. PW-1, P.W.-2
& PW-3 who were examined on 24.1.02

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Para- 4.1.1 :- was rejected by the I.O. as time-barred vide his Memo dtd. 15/9/03 and again on 14/October/03 on the ground that after one year of examination their cross-examination has been time-barred. Had them been allowed for cross-examination the veracity & credibility of their depositions could be nullified. As those PWs could not be cross-examined ^{and so} their evidences are not corroborative and not conclusive.

- 4.1.2 :- The conclusion is not correct. It is not understandable under what consideration Rs.9000/- was recovered from him while he breached the departmental rules by allowing unauthorised temporary advance of Rs. 65,400/- on 29/7/99 and by not crediting Rs. 10,400/- on 30.9.99 to Govt. A/C through making entry in the Treasurer's Cash Book, if those amounts belonged to the Govt., which led to substantial financial loss to the Govt. It also could not be understood why Rs. 1,400/- was let off from the amount of Rs. 10,400/-. The assurance to refund Rs. 55,000/- within 31.3.2000 as per W/S dated

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29/10/05
AAB

Para- 4.1.2 :- 8.11.99 was a forced one under duress of not resorting to suspension and when the matter was reported to Police on the same day the question of refund of the money does not arise during the stage of investigation by Police. This is not a case of misappropriation as the SPs was neither holding the custody of Govt. Cash nor issued any order for payment of bogus bill to him.

- 4.2 :- When the Treasurer's Cash Book (PD-1) was produced during the inquiry by the P.O. it was not explained to the I.O. why the Treasurer's Cash Book was produced, except for the remark of the DPs regarding shortage of cash of Rs. 55,000/- on the day of his verification on 30/9/99. That a sum of Rs. 55,000/- was charged as UCP on 30/9/99 was not seen and shown by the P.O. to others. What was seen and shown by the P.O. was only the remarks of the DPs; but on that day Rs. 55,000/- was not at all charged/as UPC. If there is any entry regarding the charge of

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22/10/05
Abb

Para- 4.2 :- Rs. 55,000/- as UCP then it was done so after the return of the documents by the I.O. on completion of the inquiry. If not, then why it has taken 2½ month's time to disagree with the findings of the I.O. and to supply the I.O.R. (Inquiry Officer's Report)?

Para- 4.2.1 :- As per sub-rule (4) of Rule 15 of the CCS(CCA) Rules, 1965 the findings of the Disc. Authority should be on the basis of the evidence adduced during the inquiry. As the sanction of UCP dtd. 21-10-99 was not produced as documentary evidence during the inquiry it is a foreign material i.e. outside document which cannot be based for the finding of the disciplinary authority as no opportunity was given to the SPs to examine its validity, genuineness and credibility; which tantamounts to denial of reasonable opportunity and use of evidence at the back of the SPs. This is not covered by sub-rule (4) of Rule 15 of the CCS (CCA) Rules; 1965 and hence reliance on such document tantamounts to reliance on extraneous matters which

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29/10/05
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Para- 4.2 :- is not permissible by CCS(CCA) Rules, 1965. It is the responsibility of the prosecution to produce the document either as a listed document or as an additional document to sustain a charge as the onus to prove lies with the prosecution which cannot be shifted to the shouldier as a burden to disprove the charge. The UCP memo ~~was~~ which is stated to be issued on 24.10.99 could be easily made a listed document in Annexure-III to the Charge-Sheet or as an additional document as the P.O. produced 7(seven) additional documents viz. PD-10 to PD-16 as prosecution documents but this Memo. of UCP dtd. 21-10-99. was not produced in any way though charge-sheet was issued on 6.1.-2000. It is also, on the otherhand, not the duty of the I.O. to prove the charge by any means. The Discy. Authority has ^{power to send beyond the ambit of} no, sub-rule (4) of Rule 15 of the CCS (CCA) Rules, 1965. The presenting officer in his brief did not say that either Tr.'s Cash Book or H.O. summary confirms the UCP of Rs. 55,000/- on 30/9/99.

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Para- 4.3 :- Sri K. R. Das, the D.S.POs, Kohima is in the habit of putting his signature without date below his signature. The written statement given by Sri S. Choudhury, Treasurer, Kohima H.O. on 30-9-99 (PD-7) was likewise "attested" by Sri K. R. Das without putting date below his signature. The word "attested" above his signature quite resembles with the word "attested" above his signature with designation but without date on the W/S of the Money receipt dtd. 29.7.99 (PD-6). The word "attested" above his signature is written by Sri K. R. Das himself as his handwriting is quite familiar to me owing to working together with him. If W/S of S. Choudhury dtd. 30/9/99 attested by Sri K. R. Das is held to be authenticated by Sri K. R. Das then why the money receipt dtd. 29.7.99 attested by him shall not be treated as genuine. If the handwriting of the word "attested" above the signature of Sri K. R. Das is not written by K. R. Das but by some interested party then who is that interested party? The interested party shall be none other than Sri S. Choudhury, Treasurer, as the said

ATTESTED

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29/10/05
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Para- 4.3 :- receipt was in his custody and was handed over to DPs, F.P. Solo from his custody, during verification of cash & stamp balances in the Treasury. Moreover, if for the sake of argument, the controversial word "attested" is ignored, then why he had signed the receipt under his official seal. Again, whatever may be the reason, when he signed the receipt he came to know that a sum of Rs. 65,400/- was paid by the Treasurer to the SPs. If there was nothing wrong or hidden agenda with him then why he did not report the matter to the DPs, Kohima for making payment of such a hyge amount without authority? What compelled him to remain silent over the matter ?

This could have been well clarified had he been allowed by the I.O. to examine him as D.W. as requisitioned by the SPs on 27/2/02. The I.O. rejected the requisition in that respect vide his memo. dtd. 15/9/03 and again on 14/October/03. The chance of examination of Sri K. R. Das was not allowed by the I.O. on the ground of being not relevant as K. R. Das was a Group 'B' Officer whom he perhaps

ATTESTED

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29/4/05
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Para- 4.3 :- did not like to implicate in the matter as his attestation in the money receipt was a documentary evidence. Hence, disagreement on the point of collusion of Sri K. R. Das with the Treasurer, Sri S. Choudhury is not supported by evidence on records adduced during the inquiry.

Para- 4.4 :- If there is so much magic in the word "Treasurer" and if it was a official transaction and not private one then why he has not been held responsible wholly for making unauthorised temporary advance in total disregard and breach of rules causing loss to department? Any employee of the department may approach the Treasurer for temporary advance; but unless the money is paid, there cannot be breach of rules leading to loss of the Govt. when the Treasurer pays an amount as temporary advance he breaches the rules if the temporary advance is not approved by the Competent Authority. The receipant does not take the money himself from the Cash-safe of the Treasurer. He does not hold the custody of cash. The receipant, therefore, in the eye of

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ATTESTED

[Signature]
21/10/85
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Para- 4.4 :- law is not responsible as unless he is paid he cannot get the money. Hence, the greatest check is exercised by the custodian of money, and not by the receiptant.

The money was shown as received from Treasurer as per Choice of the Treasurer for some practical reasons. The entire episode could well be cleared had he been allowed for cross-examination by the SPs.

Para- 4.4.1 :- No comments.

Para- 4.4.2 :- It is not denied that Rs. 65,000/- was taken from the Tr. Sri Shibaji Choudhury on 29.7.99; but this does not mean that the amount was forcibly taken from the custody of the Treasurer. As I was helped in the time of need, from whatever the sources it may be, I owned the responsibility and did not like that Sri S. Choudhury, Treasurer, Kohima H.O. should be in troubles for me, in case the money was arranged from the cash of Treasury of Kohima H.O. This statement dated 8.11.99 was given when I was assured by the DSPOs, K. R. Das, that I would not

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Para- 4.4.2 :- be adversely affected viz. suspension etc. if I gave the statement like that and I might take some time for refund of the amount. The contents of the statement was directed, dictated and prompted by Sri K. R. Das, DSPOs, Kohima. But Sri K. R. Das could not be examined during inquiry as he was not allowed by I.O. on the ground of being not relevant, vide I.O.'s Memos dtd. 15/9/03 and 14/October/03. That is why the circumstances under which the statement was given could not be corroborated.

Para- 4.4.3 :- The Treasurer paid unauthorisedly Rs. 65,400/- on 29/7/99 and again did not credit Rs. 10,400/- on 30/9/99. If those amount were Govt. money then why Rs. 9000/- has been recovered in place of Rs. 10,400/-? This is quite unlogical. Where the rest of Rs. 1400/- gone? This needs be clarified.

Para- 4.4.4 :- A sum of Rs. 65,400/- if held to be paid from office cash on 29.7.99 and if Rs. 55,000/- found short on 30/9/99 then it has not been

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Para- 4.4.4 :- understood how Rs. 55,000/- has been lying not credited since 29.7.99. Moreover, if a sum of Rs. 55,000/- is charged as unclassified payment on 30/9/99 pending investigation/disciplinary proceeding against several officials it has also been not understandable who to what extent will adjust the loss amount, if any.

Para- 4.4.5 :- It has been again and again stated that the amount of Rs. 65,400/- was taken as a personal loan. If it is held again and again that it was a temporary advance given by the Treasurer, it should be examined whether the temporary advance was in order or not. If it was in order, then the question of disciplinary proceeding does not arise. If the temporary advance was not in order than action needs be taken against the erring official and the amount should be recovered in full for granting such irregular advance by breach of rules. If the Treasurer made temporary advance to any official in breach of rules and if that breach of Rules causes

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Para- 4.4.5 :- substantial loss to Govt. the amount of loss can be easily recovered as per instructions contained in the Appendix to P & T. F.M.B. Vol.I governing the fixation of responsibility in matters of loss to Govt. If the Treasurer paid the amount in official capacity from office cash, then he is alone responsible for inappropriation or financial indiscipline of Govt. money.

Para- 4.4.6 :- The disagreement is illusory and illogical in view of what has been discussed above.

Para- 4.5 :- This has already been clarified in para 4.4.2.

Para- 4.5.1 :- Both Sri F. P. Solo, the then DPs, Nagaland, Kohima and Sri K. R. Das, D.S.P.O.s, Kohima were requisitioned dated 27.2.02, as their evidence in the inquiry was considered relevant to the case from the defence point of view. Because F. P. Solo was the detecting, and investigating officer and submitted his C.L.I. Report. ~~Similarly~~ Similarly K. R. Das's evidence was also relevant as he

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Para- 4.5.1 :- carried out inspection of Paper Nagar S.O. and obtained the written statement of both the SPs on 8/11/99 and of the Treasurer on 30/9/99. But the I.O. in his Memo. dtd. 15/9/2003 and again on 14th October, 2003 disallowed on the ground that F. P. Solo was the Disciplinary authority and K. R. Das was not linked to the merits of the case. But a disciplinary authority can be changed with an Adhoc Disciplinary authority if the original Disciplinary Authority is materially concerned with the charges because a witness is always a witness which cannot be substituted by any person. As the request was not granted hence, the chance to clarify the position has been denied. The element of duress could be established had he been allowed to examine as a witness. The disagreement is ~~para~~ perverse.

Para- 4.6 :- It is, therefore, quite reasonable to say that the finding of the Disciplinary authority that the Article of Charge-I has been proved is based on no evidence adduced during the inquiry but on whims, conjecture and surmise.

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ABP

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▼ Para 3.60:5.3.6:- The reasons of disagreement at the findings of the I.O. in respect of Article of Charge-II is fanciful and forceful. It has been admitted in para 5.3.5 that the amount of Rs. 7000/- has not been charged as UCP. Unless there is the charge of UCP there cannot be any claim of loss to Govt. But in the charge-sheet in the Article-II the C.O. has been charged that an amount of Rs. 7000/- was caused loss to the Govt. by the C.O. as the said amount was taken by him during his visit to Wokha S.O. on 21.9.99. It is strange that a sum of Rs. 7000/- which is short in the accounts of Wokha S.O. for a period of 5 years from 21.9.99 is still in hanging position i.e. it has neither been charged as unclassified payment nor adjusted by recovery from the SPM, Wokha S.O. if that amount was a part of cash of Wokha S.O. which was paid to the C.O. as a temporary advance unauthorisedly. The reasons for non-issue of sanction order of UCP in respect of the amount of

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Para- 5 to 5.3.6:- Rs. 7000/- of Wokha S.O. shown are filmy, hypocrite, by-passing and not at all convincing. The amount was said to be taken on 21.9.99. If a Charge-sheet U/R-14 of the CCS (CCA) Rules, 1965 can be issued on 6.1.2000 against the C.O. why an one page sanction memo of UCP cannot be issued. The Disciplinary authority had worked overtime, to issue the charge-sheet against the C.O. hence it is not believable that the UCP sanction memo. could not be issued owing to oversight, pre-occupation with works etc. It is going to mean that issue of UCP sanction memo. is not a work which is in connection with shortage of cash of Rs. 7000/- in a S.O. In brief, it is as per departmental rules that there cannot be any claim of loss to Govt. unless the amount of loss is charged as UCP. This ruling position cannot be altered by negligency. Hence, the disagreement with the I.O. in respect of findings on Article-II is perverse, arbitrary and unfounded.

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Paras- 6 to 6.3.4:- The reasons of disagreement with the I.O. in respect of findings on Article-III are of no substance at all. The amount was said to be taken on 22-9-99 by the C.O. from the SPM, Dayang S.O. during his visit to the office. The matter came to surface when charge-sheet U/R-14 of the CCS (CCA) Rules, 1965 was issued against the C.O. on 06.1.2000. In the charge-sheet it was charged that the department sustained a loss of Rs. 3000/- as the said amount was taken by the C.O. during his visit to the office on 22-9-99. But Shri Rakesh Kr. Singh, SPM, Dayang S.O. (PW-6) deposed before the inquiry that the amount of Rs. 3000/- was noted by the DPs/Kohima during inspection of the office probably on 21.3.2001. The PW-6 is not sure of the date of inspection and it has not been said that the amount was charged as unclassified payment. What was deposed by PW-6 was said to mean that the DPs/Kohima noted in the I.R. on 21-3-2001 for charging the amount as unclassified payment.

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Paras-6 to 6.3.4:- It is, therefore, clear that the amount was not charged as UCP at the time of issue of charge-sheet against the C.O. in which a loss of Rs. 3000/- was caused by the C.O. to the Govt. As there was no charge of UCP at the time of issue of charge-sheet and as no document showing the amount charged as UCP could be produced during inquiry, the loss has not been sustained and it is wrong and not in order to hold that there was loss to ^{Govt and so} the disagree-_{ment} at the findings of the I.O. in respect of Article of Charge-III are unfounded, unlogical and arbitrary.

The I.O. is right in holding that all the Articles of Charges I to IV have not been established as both oral and documentary evidences produced during the inquiry were of no help to the prosecution in establishing the charges. The charges have been found by the I.O. not sustained even while the PWs were not allowed for cross-examination and DWs were not allowed for examination again and again. Had the PWs been allowed for cross-examination and were the DWs allowed for examination the entire case would have taken a new dimension implicating several officials of the Department who were actually guilty.

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In this memo. of disagreement dtd. 17.7.04 it has been seen that an attempt has been made to shield off Sri S. Choudhury, Treasurer, Kohima H.O., Rakesh Kr. Singh, SPM, Dayang S.O. and Sri K. R. Das, Dy. Supdt. of POs, Kohima. The prosecution has disputed its own records viz. money receipt dtd. 29/7/04 attested by Sri K. R. Das, Dy. Supdt. of POs, Kohima when it has been found that the Devil is living amidst the mustard seeds. The prosecution is quite silent on the issue of breach of departmental rules by dint of which Sri S. Choudhury continued to work as Treasurer for an indefinite period. The prosecution is silent on the issue of tainted witnesses whose credibility is questionable. The prosecution of law by using the same person as accused one time and using him as PW another time definitely undermines the prestige of the prosecution and of the Department as a whole. Failure to issue UCP memos, even after 2 years/3 years etc. and failure to prepare a full-fledged C.I.I. report on the part of the investigating officer exhibits only the dismal functioning of the Divisional Head. The prosecution is disbelieving an Inquiry Officer but believing a tainted official and regulating the proceedings and findings in its own way. If the proceedings are corrected again and again by the Discy. Authority to suit its own need then the worries of the delinquent will never be ended. I, therefore, hope that you will accept the findings of the I.O. and dispose of the proceedings accordingly.

Thanking you,

Yours faithfully,

Date:- 17/8/04.

(S. B. HAZARIKA)
C.I., Nagaland, Kohima (U/S),
at Imphal.

ATTESTED

[Signature]
29/8/04
HR



EE856155570IN



To

The Postmaster General,
N.E.Circle, Shillong,
PIN-793001.

NAGAN HPD (782001)
SP EE856155570IN
Counter No:1, CP-Code:03
To: THE PMG N.E.CIRCL, SHILLONG
SHILLONG, PIN:793001
From: S B HAZARIKA, EX-C I NAGALAND KTHM
Wt: 720grams,
Amt: 55.00, 03/01/2005, 13:14

APPEAL

Under Rule 23(11) of the CCS(CCA) Rules, 1965
against the penalty of Rule 11(ix) of the CCS(CCA)
Rules, 1965.

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Date: - 01.08.2005

(S.B. HAZARIKA).
APPELLANT.

ATTESTED

[Signature]
M/As
MR

A P P E A L.

To,

The Postmaster General,
N.E. Circle, Shillong.
PIN-793001.

Appeal under Rule 23(11) of the C.C.S. (C.C.A.)
Rules, 1965 against the penalty imposed under
Rule 11(ix) *ibid*.

DETAIL OF THE APPEAL.

1. Particulars of the Order against which the appeal has been preferred :-

Order No.F.3/VII-02/2000 dtd. Kohima 1.11.2004
passed by the Director of Postal Service, Nagaland,
Kohima (Disciplinary Authority).

2. Nature and quantum of penalty imposed :-

"Dismissed" from Service under Rule 11(ix) of
the C.C.S. (CCA) Rules, 1965 from the date of
issue of the Order, i.e. 1.11.2004.

3. Date of receipt of the Order :- 20th. December, 2004
(20.12.2004).

4. Limitation :- The appellant declares that the appeal has been preferred within the limitation period prescribed in Rule 25 of the CCS.(CCA) Rules, 1965.

Sir,

5. FACTS OF THE CASE.

- 5.1. That while the appellant was functioning as C.I., Divisional Office, Kohima he was served with a charge-sheet under Rule 14 of the CCS(CCA) Rules, 1965, dtd. 6.1.20 wherein it was charged that, the appellant while working as such took a sum of Rs. 65,400/- from the Treasury of Kohima H.O. through the Treasurer, Sri Shibji Choudhury on 29.7.99 vide charge under Article-I.

In charge under Article-II, it was charged that the appellant took a sum of Rs. 7,000/- from the Wokha Sub-Post Office on 21.9.99 through the Sub-Postmaster, Wokha during his visit to that Office.

ATTESTED

(Contd..P/ 2).

In charge under Article-III, it was charged that the appellant took a sum of Rs.3,000/- from Doyang S.O. on 22.9.99 through the Sub-Postmaster, Doyang during his visit to that Office.

In charge under Article-IV, it was charged that the appellant took a sum of Rs.2,000/- from Paper Nagab S.O. on 9.6.99 through the Sub-Postmaster, paper Nagab, during his visit to that Office.

(A copy of the charge-sheet is enclosed as Annexure A-I).

5.2. That, the appellant submitted his written statement of defence on 29.1.2000 in which the appellant state that the charge of ~~this~~ breach of trust which had already been brought in the F.I.R. Vide Case No. GR/360/99 cannot be brought in the departmental proceeding and the charge of breach of trust cannot be brought against him as he was not entrusted with Govt. cash.

5.3. That the disciplinary authority then appointed one Inquiry Officer to inquire into the charges levelled against the appellant under sub-rule (2) of Rule the of the CCS(CCA) Rules, 1965.

(A copy of the I.O's appointment Order is enclosed as Annexure.A-2).

xxxx

5.4. That, on completion of inquiry the I.O. submitted his inquiry report on 29.4.2004 and the disciplinary authority supplied a copy of the same to the appellant on 17.7.04 alongwith his findings.

(A copy of the letter forwarding the I.O's report alongwith his finding is enclosed as Annexure.A-4).

ATTESTED

(Contd..P/3).

&

(A copy of the Inquiry Officer's report, I.O.R. for short, is enclosed as Annexure A-5).

3.5. That, a perusal of the I.O.R. it has been found that the I.O. found that the charges under Article-I to IV i.e. all, were not established; but the disciplinary authority disagreed with the findings of the I.O. in report of charges under Article-I to III and agreed with Article-IV.

5.6 That, the appellant submitted his representation on 17.8.2004 discharging the findings of the disciplinary authority in respect of charges under Article-I to III.

(A copy of the representation dtd. 17.8.04 is enclosed as Annexure A-60).

5.7. That, the disciplinary authority passed his final Order on 1.11.2004 dismissing the appellant from service w.e.f. the date of issue; but the said Order was received by the appellant abnormally late on 20.12.2004 through the Supdt. of Post Offices, Manipur Division, Imphal under his endorsement. No. A-I/CON/CORR/2004 dtd. 13th. Dec. 2004 despatched under Imphal RL.No. 5878 dtd. 15.12-2004.

(A copy of the Order is enclosed as Annexure-A-7).

5.8. That, the final Order passed by the disciplinary authority and the penalty proposed on the appellant is an astonishing, arbitrary malafide and cruel one which is in total violation of all cannons of justice and out of all proportions disregarding the norms guaranteed by Article-311 of the constitution of India offending Article 21 of the constitution; and hence this appeal has been preferred which may kindly be given due consideration to meet the end of justice.

ATTESTED

(Contd...P/4).

6. GROUND OF APPEAL.

6.1. Cross-examination of P.Ws were denied :-

The prosecution examined PW-1, PW-2 and PW-3 on 24.1.2002; PW-4, P.W.5 and PW-6 on 28.1.2002 and PW-7 on 29.1.2002. After less than one month on 27.2.2002 the appellant gave a notice to the I.O. for summoning the PWs. for Cross-examination Vide para 4 of the requisition (Annexure A-8). The I.O. took decision on the requisition after one year six months and 18 days on 15.9.2003 on which the appellant was intimated in his Memo No. DSPOS/Rule-14/2K dtd. 15.9.2003 (Annexure A-9). That the request is disallowed as time barred as per provisions of G. I., M.H.A., NO.F.30/5/61-AVD dtd. 25.8.2003. The request was re-disallowed on 14th October, 2003 Vide his letter dtd. 14th. October, 2003 (Annexure A-10). But in the course of inquiry on 30.1.2004 the I.O. could not justify his action by showing or producing the said Orders of M.H.A. on the strength of which the request for Cross-examination of the PWs were held time-barred. This is in gross violation of the requirement of 311 of the constitution of India nullifying the principles of natural justice. The disciplinary authority disagreed with the findings of the I.O., but failed to defect this irregularity and hence it cannot be said that the disciplinary authority applied his mind and considered the I.O.'s report dispassionately. But still the disciplinary authority in the opening line of his findings says that he had carefully gone through the Inquiry Report.

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(Contd...P/5).

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6.2. The PWs were examined without reasonable notice :-

The I.O. issued notice for hearing on 23.1.2002. On that day, the appellant could not and did not attend the inquiry as it was not a must to attend inquiry as per para-4 dtd. 6.1.2000 (Annexure A-1) ; but his non-attendance on one date does not defer him to attend the inquiry on a subsequent date i.e. ~~xxxxxx~~ the charge-sheet Official can attend the inquiry at any time or at any stage.

On 23.1.2002 the prosecution produced some prosecution documents (P.D.) from P.D-1 to P.D-9 (as mentioned in the proceedings dtd. 23.1.02 Vide- Annexure A-9) .As per sub-rule (11) of Rule 14, *ibid*, after production of the prosecution documents the proceedings are to be adjourned at least for 30 days. As per Clause (i) of Sub-rule (11) of Rule 14 *ibid*, the charge-sheet Official should be given at least 5 days' time, which may be extended by further 5 days' time, for inspection of the documents. Again as per Clause (ii) of sub-rule (11) *ibid* the Charge Officer should be asked to submit a list of witnesses to be examined on his behalf. Further as per Clause (iii) of sub-rule (11) *ibid*, the charged-Officer should be asked to give a notice within 10 (ten) days of the Order or within such further time not exceeding 10 days *Viz*: notexceeding total 20 days for discovery or production of any documents which are in possession of Govt. but not mentioned in the list of documents. Thus ,a total period of 5 days and extension 5 days (10 days) for the purpose Clause(1) &(ii) *ibid* and 10 days + extension 10 days (20 days) i.e. 30 days is absolutely necessary for the next hearing and that is why on adjouscent for 30 days time which is mandatory is prescribed in sub-rule (11) *ibid* after production of prosecution documents

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(Contd..P/6).

under sub-rule (11) even if the charge-officer fails to appear in the inquiry. Only after compliance of requirements of Clause (i), (ii) & (iii) of sub-rule (11) the I.O. could proceed to sub-rule (14) of Rule 14 ibid for taking Oral evidences on production of the PWS by prosecution.

But in the instant case a total diparature has been made by the I.O. as the I.O. on the very day of production of prosecution documents i.e. on 23-1-2002 Ordered in the proceedings dtd. 23.1.2002 to hold inquiry on the following day i.e. 24.1.2002 and on the very day of 23.1.2002 the I.O., issued summons to the PWS. for examination of them consequetively without giving notice to the appellant as required under sub-rule (11) (i), (ii) & (iii) ibid and overrided the provisions of the said sub-rule (11), (12) & (13) of rule 14 ibid and is another doze of violation of principles of natural justice. Thus the PWS were examined from 24.1.2002 to 29.1.2002 without notice to the appellant. The I.O. asked the appellant to submit the list of defence witnesses on 8th. December, 2003 i.e. after about one year of cart before the horse.

And the disciplinary authority in the opening line of his findings says that he had carefully gone through the Inquiry Report.

- 6.3. PW was examined though the Charged Official intimated he was unable to attend inquiry for non-receipt of subsistence allowance :-

The I.O. fixed 28.11.2003 for hearing. The C.O. intimated the I.O. that he was unable to attend inquiry for reasons more than one out of which non-release of his suspension allowance by the disciplinary authority was the main reason. The appellant also requested the I.O. to adjourn the proceedings on that day. The I.O. recorded the reasons of non attendance in the inquiry for now release

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Annexure A-28

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of subsistence allowances in the proceedings dtd. 28.11.2003 but instead of adjourning the proceedings the proceeding was held and PW was examined. This was in total disregard of the Supreme Court's direction not to hold inquiry in such cases as it violates the principles of natural justice because the charge-sheeted Official is denied the reasonable opportunity as guaranteed by Article 311 of the constitution of India.

And the disciplinary authority says that he had carefully gone through the Inquiry report and other connected records.

6.4. Inquiry Officer's report was suppressed in the punishment Order :-

The Inquiry Officer in his report dtd. 29.4.2004 reported that all the charges under Article I, II, III & IV were not established as clearly drawn findings in the last para of the Inquiry Report, in addition to his findings charge by charge, i.e. Article by Article. But the disciplinary authority did not discuss in the final Order what the I.O. said in support of his findings. Despite the procedural irregularities of Cross examination of the PWs, the Oral evidences revealed from the documents produced during the appellant could not be proved by the prosecution. Had the Cross-examination of the PWs been there, the case would have taken a new dimension unearthing the truth in which several other Officials. The disciplinary authority did not bring the finding of the I.O. into records of the final Order as, if brought, it would not be possible to arrive at the decision at which he has arrived. In other words, the disciplinary authority did not disclose the reasons in the final Order dtd. 1.11.2004 why the findings of the I.O. in respect of Article-I to III are not ~~xxx~~ acceptable to him.

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6.5. The punishment Order is not a self contained, speaking and reasoned Order :-

As per G.I., M.H.A., D.P & A.R. OM.No. 134/1/87-ADV-I. dtd. the 13th July, 1981 & G.I., Deptt. of Per. & Trg, O.M. No. 134/12/85-ADV-I dt. 15th. Nov, 1985 the final Orders passed by the Disciplinary authority should be self contained, speaking and reasoned orders as Orders passed by the Disciplinary authorities are in exercise of Quasi-Judicial powers. But in the final Orders dtd 1.11.2004 passed by the disciplinary authority is not a self contained, speaking and reasoned Order as the reasons of disagreement with the findings of the I.O. in the inquiry report are not recorded in the final Order passed by him.

6.6. The disciplinary authority acted outside the ambit of sub-rule (4) of Rule 15 of the CCS(CCA) Rules, 1965:-

As per sub-rule (4) of Rule 15 of the CCS(CCA) Rules, 1965 a penalty can be imposed by the Disciplinary authority on the findings only on the basis of evidences adduced during the inquiry. But the disciplinary authority in this case based his findings on the basis of evidences NOT adduced during the inquiry and relied on some extraneous matters not connected with the proceedings.

For example :

Firstly, the disciplinary authority stressed reliance on a sanction Memo of unclassified payment of Rs. 55,000, which was not produced during the inquiry. The prosecution produced some prosecution documents to sustain the charge Viz. PD-1 to PD-9 and PD-10 to PD-16 but this document i.e. unclassified sanction Memo of Rs. 55,000/- was not produced. The disciplinary authority in the final order at para 15.1 has admitted that it is fact that the sanction memo of UCP of Rs. 55,000/- dtd. 21.10.99 was not produced as documentary evidence during inquiry but contended that its mere non-inclusion in the course of inquiry

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does not in any way discroves the fact that it was never issued. The question is not whether it was issued or not for inspection and defence of the C.O. The disciplinary authority did not afford opportunity to the appellant to inspect the document and to submit his defence against that document. The case of such document not produced during the inquiry tantamounts to collect evidences behind the back of the appellant which violates the principles of natural justice. The appellant has the right to know the evidence which is used against him deprivation of which makes the deparature from fair-play violating the principles of natural justice.

Secondly, in para 11.2 of the final order, the disciplinary authority has stated that the case was reported to Police which was registered Order P.S. Case No. 198/99 and is still under trial in the Court of ADC(J), Kohima. This Court case is an extraneous matter not connected with the evidence of the instant case, and the fact of the disciplinary proceeding, if not on the same charges, cannot be influenced by the court case. The disciplinary authority has unauthorisedly imported the court matter to influence the disciplinary proceeding on the disciplinary case is devoid of material substance. The disciplinary authority cannot have mileage form the reference of the court case. If any mileage is to be derived from the court case then the appellant only yets the mileage, if the departmental proceeding and the court proceedings are on the same charges as the disciplinary authority cannot pre-decide the fate of the disciplinary proceeding while the court case is sub-judice. As such, the reference of the court case in the find Order of the disciplinary proceeding is quite an extraneous, matter not connected with the evidence during the inquiry.

6.7 : Requisition for production of defence witnesses rejected:-

The appellant gave requisition for sammoning 2 (two) defence witnesses vide requisition dtd. 27.2.2002 item 3(i) & (ii); but the request was rejected by the I.O. on the ground that the proposed PW-I at 3(i) Sri F.P. solo, the then Director of Postal Services, Nagaland, Kohima was the disciplinary authority, and

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Annexure A-28

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and DW-2 at 3(11) Sri K.R.Das, the then Dy. S.P.Os. Kohima was not relevant to the case. The DW-I Sri F.P. solo was necessitated as he detected the case and investigated the case and submitted the C.L.I. report on 14.3.2000 which was produced as PD-16 on 24.1.2002, he carried out the inspection of Kohima H.O. from 27.9.99 to 30.7.99 during which the case was detected on 30.7.97 and submitted inspection report of Kohima H.O. which was produced as DD, he furnished under Rule 16 of the CCS(CCA) Rules, 1965 & Officials namely (1) Shibji Choudhury Treasurer Kohima H.O. with the recovery of Rs.9,000/-, (2) Sri S. Boro, the then Postmaster, Kohima H.O. with the recovery of Rs. 5,500/- and (3) Sri S.C. Paul, the Postmaster, Kohima H.O. on the date of inspection of Kohima H.O. with the recovery of Rs.5,500/-. All the Punishment Orders against those Officials were produced as D.D. Addl. 1 to 3 during inquiry. For corroboration his evidence in the inquiry was very material to the charge and he involves himself as a material witness to the charges levelled against the appellant. A disciplinary authority may be changed or replaced by an adhoc disciplinary authority under the above circumstances and as per rules on the subject; but a witness is always a witness who cannot be replaced or substituted. The rejection of request for examining F.P. solo the then Disciplinary authority is not in order and it violates the principle of natural justice as the rejection tantamounts to denial of reasonable opportunity.

Similarly, K.R. Das, Dy. Supdt. of P.Os. was a relevant witness in the case as he attested the money receipt for Rs. 65,400/- dtd. 29/7/99 granted by the appellant (PD-3). Under his seal. He countersigned the written statement of the Treasurer, Kohima SPO. Sri Shibji Choudhury on 30/9/99 (PD-7) and the written statement of the appellant dtd. 8/11/99 (PD-8). It was, therefore, absolutely necessary to examine Sri K.R.Das charges levelled against the appellant. But the I.O. rejected the plea of the appellant as ~~immaterial~~ immaterial or not relevant without assigning any reasons for the rejection. By the ^{above} action of the I.O. the Principles of natural justice is violated.

contd..p.11.

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and Article 311 is breached.

6.8 Faux Pas, of the Discy. authority:-

The discy. authority in his final order again and again in paras 9.1., 9.2, ~~xxx~~ 14.1, 16.2, 22.1 and 28 states that the appellant did not attend the inquiry for a period of 3 years except on 30.1.2004 as a result of which the finalisation of the case has taken 4 years. This is reiterated only with a view to making the case of the appellant elergic.

Records of the proceedings show that the appellant was hardly responsible for delay in finalisation of the case and allegation of the disciplinary authority is not correct.

Records show that :-

- (ix) the charge-sheet was issued on 06.1.2000;
- (ii) the I.O. & P.O. were appointed on 23.3.2000 after which no inquiry was held at all for about a year;
- (iii) first hearing was held on 18.1.01 on which, ofcourse, the C.O. did not attend;
- (iv) 2nd. hearing was held on 27.2.01 on which the appellant could not attend owing to non-receipt of subsistence allowances vide proceedings dtd. 27/2/01;
- (v) hearing was fixed on 28.03.01 but the I.O. cancelled the hearing for non-payment of subsistence allowance vide I.O's letter dt. 14.3.01;
- (vi) hearing was fixed on 19.7.01 on which the P.C. did not attend the inquiry vide proceeding dtd. 19/7/01;

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- (vii) hearing was fixed on 21.8.01 but hearing was cancelled by I.O. owing to unforeseen reason Vide I.O's letter dated 8th. August, 2001;
- (viii) hearing was fixed on 17.1.02 but postponed to 23.1.02 Vide I.O's letter dated 10th. January, 2002;
- (ix) hearing was fixed on 23.1.02 on which, however, the appellant did not attend; documents were produced by the P.O. but the hearing was not adjourned for 30 days which was mandatory as per sub-rule (11) of Rule 14 for compliance of Clause (i), (ii) & (iii) of Sub-rule (11); hearing was fixed and held on 24.1.02, 25.1.02, 28.1.02 & 29.1.02 without notice to the appellant; Clauses (i), & (ii) of Sub-rule (11), sub-rule (12) & (13) of Rule 14 were overridden;
- (x) the appellant made requisition to the I.O. on 27.2.02 for discovery and production of documents, summoning of defence witnesses, summoning of Pws. for Cross-examination etc. but the decision on the requisition was taken after 1 year 6 months and 18 days on 15.9.2003; no hearing was held during the period;
- (xi) hearing was fixed on 28.11.03 but the appellant could not attend the inquiry owing to non receipt of subsistence allowances vide proceedings dtd. 28.11.03;

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- (xii) the I.O. Ordered the P.O. to submit written brief within 15.2.2004 Vide proceeding dtd. 30.1.2004 but the P.O. submitted his written brief late by one month on 17.3.2004;
- (xiii) the Inquiry Officer submitted his inquiry report on 29.4.2004 but the disciplinary authority took his own time of 3½ months to act upon the Inquiry report a copy of which was supplied to the appellant only on 17.7.2004 which was late by 2½ months as per prescribed time limit;
- (xiv) the disciplinary authority took again over time and passed the final Orders only after 3½ months on 1.11.2004 which was late 2½ months;

It is, therefore, transparent that out of 4 years time of the proceeding a total period 3 yrs has been wasted by the department as follows :

- (a) From the date of charge-sheet
i.e. 06.1.00 to the date of *first*
fixed hearing, 18.1.01 = 1 Yr.
- (b) From the date of requisition,
27.2.01 to the date of decision
on requisition, 15.9.03 = 1 Yr. 6 Ms. 18 da
- (c) Delay in submission of brief
by P.O. from 15-2-04 to 17-3-04. = x Yr. 1 Ms. 15 D.
- (d) Delay in action upon inquiry
report by Discy. authority (3½-1). = x Yr. 2M. 15da
- (e) Delay in passing final Orders
by the Discy. authority (3½-1). = x Yr. 2M. 15Da
- 3Yr.-1Ms. 3 Days

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22/10/05
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Total time wasted by the Deptt. = 3 Yrs. 1 Month 3 Days.

Hence it is not correct that owing to default of the appellant the finalisation of the proceeding took 4 years.

7. In addition to what has been said above, the written brief (written argument) (Annexure A-3) submitted dated 06.4.2004 and the representation dated 17.8.2004 submitted against the findings of the disciplinary authority dated 17.7.2004 may be treated as a part of grounds of appeal which may be given due weighting while considering the appeal.

(Copy of the written brief is enclosed as Annexure-A-3).

8. In view of totality of what has been said above it can be safely and easily said that :

- (i) statutory provisions or rules prescribing the mode of inquiry were disregarded;
- (ii) rules of natural justice were violated;
- (iii) there was no evidence, that means, punishment has been imposed in the absence of supporting evidence;
- (iv) consideration extraneous to the evidence or merits of the case, taken into account; and

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Annexure A-28

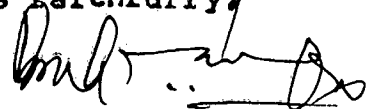
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9v). the conclusion was so wholly arbitrary and capricious that no reasonable person could have easily arrived at the conclusion.

9. It has, therefore, been earnestly prayed that the appeal of the appellant may kindly allowed and the final Orders passed by the disciplinary authority may be brushed aside terming in as violative of Article 311 of the constitution India.

Thanking you.

Yours faithfully,



(S.B. HAZARIKA).
Ex-C.I., Divl. Office, Kohima.
Anandapara,
P.O. - Sabroom-799145.
Tripura (South).

Date: 01.01.2005.

Encls:- Index with Annexure
A-1 to A-10.

*C.C. to the Director of Postal Services Nagaland,
Kohima for compliance as per letter on the subject.*



EE856155623IN



(S.B. HAZARIKA)

ATTESTED

NAGALAND HPO <782001>
SPEE856155623IN
Counter No:1, CP-Code:03
To: DIRECTOR OF POSTAL SERVICES NAGALAND KOHIMA
KOHIMA. PIN:797001
From: S B HAZARIKA, EX-C I NAGALAND KOHIMA
Wt: 55grams,
Amt: 30.00, 03/01/2005, 13:38
Have a nice day

Handwritten signature/initials
AHP

से वसूलियां सम्भव हो जाती हैं तो पहले से पारित किए गए दंड के आदेशों की पुनरीक्षा की जाए।

तथ्यों का सत्यापन

69. यह आवश्यक और अपेक्षित है कि अनुशासनिक प्राधिकारी कर्मचारी के विरुद्ध कार्रवाई आरम्भ करने से पहले मूल अभिलेखों तथ्यों का सत्यापन कर ले।

हिन्दी के आरोप-पत्र जारी करना

70. जहां तक सम्भव हो यह सुनिश्चित किया जाये कि दोषी कर्मचारी उन आरोपों को पूरी तरह समझता है जिनका स्पष्टीकरण देने के लिए उसे कहा गया है। चूंकि हिन्दी संघ की राजभाषा बन चुकी है और अंग्रेजी का प्रयोग चल रहा है इसलिए आरोप-पत्र अंग्रेजी अथवा हिन्दी में दिया जायेगा। यह दोषी कर्मचारी की मर्जी पर निर्भर करता है वह अपने लाभ के लिए किसी अन्य भाषा में उसका अनुवाद करा ले।

71. अगर कोई कर्मचारी चिकित्सा आधार पर छुट्टी पर है और इसका सफाई प्राधिकृत चिकित्सक द्वारा की गई है तो उसके विरुद्ध अनुशासनिक कार्यवाही को लम्बित रखा जाए। ऐसे मामले में दोषी कर्मचारी को अपना प्रतिरक्षा पत्र प्रस्तुत करने के लिए पर्याप्त समय भी दिया जाए।

प्रलेखों का निरीक्षण

72. औपचारिक जांच के स्तर पर पहले सम्बद्ध प्रलेखों के निरीक्षण के लिए दोषी अधिकारी को निवेदन करना चाहिए। उसके बाद किये गये ऐसे किसी निवेदन को इंकार किया जा सकता है। परन्तु यदि दोषी कर्मचारी लिखित विवरण फाइल करने से पहले विभाग द्वारा की गई प्राथमिक जांच अथवा पुलिस द्वारा किये गए अन्वेषण के दौरान गवाहों के अधिलिखित बयानों के निरीक्षण के दौरान निवेदन करता है तो यह स्वीकार कर लिया जाये कि जांच के दौरान इन साक्षियों की परीक्षा करने के लिए व्यवस्था कर दी जायेगी।

73. केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियमवली 1965 के नियम 14 में यह व्यवस्था नहीं है कि प्रलेखों की प्रतियां प्रदान की जाएं। इसलिए सामान्यतया यह आवश्यक नहीं है कि दोषी अधिकारी को प्रलेखों की प्रतियां दी जायें। दोषी अधिकारी को संबद्ध प्रलेखों के निरीक्षण

from other sources become possible subsequently, orders of punishment already passed should be reviewed.

Verification of facts

69. It is necessary and desirable that disciplinary authority before initiating action against employee verify facts from original records.

Chargesheet in Hindi

70. It should as far as possible be ensured that the delinquent official understands fully the charges he is called upon to explain. Since Hindi has become official language of the Union and use of English language continues, the chargesheet may be served in English or Hindi. It is for the delinquent to have the same translated into some other language for his own benefit.

71. Disciplinary proceedings against an official should be kept pending if he is on leave on medical grounds and it has been so recommended by the authorised medical practitioner. In such case, the accused officer should also be allowed reasonable time for the submission of his defence.

Inspection of documents

72. An accused officer should make a request for inspection of the relevant documents before the stage of the formal enquiries. Any such request made thereafter can be refused. However, if the accused official makes a request before he files a written statement during the enquiries for inspection of statements of witnesses recorded in the course of a preliminary enquiry conducted by the department or investigations made by police, it should be acceded to provided these witnesses have been examined during the enquiries.

73. Rule 14 of the CCS (CCA) Rules, 1965 does not provide for supply of copies of documents. Therefore, it should not ordinarily be necessary to supply copies of documents to

ATTESTED

Page No 245

Annexure A-29


DEPARTMENT OF POSTS

Rule 14 case under C.C.S (C.C.A) Rules 1965 against Sri Santi-Bhusan Hazarika C/I Kohima (U/S).

NOTICE

....

The date for hearing fixed on 28/03/2001 (Wednesday) is hereby cancelled until further information.


(M.K. Das) I.O &
Dy. Supdt of Pos
Mizoram: Aizawl-796001.

No. DSPos/Rule-14/2K.

Dated Aizawl-1, the 19th March 2001.

Copy forwarded:-

Regd A/D

1) The DPS/Kohima. Kindly refer to the representation submitted by Sri S.B. Hazarika C.I/Kohima (u/s) dated 07-03-2001 addressed to the undersigned & copy endorsed to you. (A copy of the same is enclosed for ready reference). Necessary early action may be taken as requested by the S.P.S as deem fit & to intimate kindly to proceed further into the enquiry.

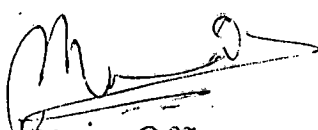
Regd A/D

2) Shri S.B. Hazarika, C.I/Kohima (u/s) at Anandapara, PO Subroom-799145 for information. *Tripura*

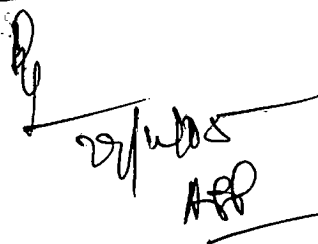
3) Director of Postal Services, Mizoram, Aizawl for information.

4) The Chief Postmaster General (Vig) NE Circle, Shillong-793001.

5) O/C.


Inquiry Officer
& Dy. Supdt of Pos
Mizoram : Aizawl-796001.

ATTESTED


22/3/01
A.S.P.

Annexure A-30

To
Sd/- H.R. Das (Inquiry Officer),
Dy S.P.Os. to DPS, Dimapur,
Aizawl-796 001.

ATTESTED

Sub: Inquiry U/R-14 of the CCS(CCA) Rules, 1965.

Ref: Your No. DPOs/Rule-14/21. Dated, D.P. 27.2.01

Sir,

With reference to your order as cited above I would like to inform you that owing to some personal regular difficulties it is not possible to attend inquiry at Kohima in the office of the ASPOs, Kohima. However, I can attend the inquiry from 23.3.01 if my following requests are acceded to.

REQUESTS

1. The inquiry may be held at Postal IB, Dimapur.
2. The subsistence allowances from Dec/2000 to March/2001 are paid at Dimapur S.O. while attending inquiry.
3. Confirmation to above two requests is received within 24.3.01.

Thanking you.

Yours faithfully,

(S.B. HAZARIKA)

CI/Nagaland, Kohima (U/S)

At Anandapara

P.O. JALANCON-799 145

(Tripura)

Date - 07.3.01.

C.C. to the DPS, Nagaland, Kohima for information & necessary action please.

ATTESTED

(S.B. HAZARIKA)

DEPARTMENT OF POSTS : INIDA : Regd. AD
OFFICE OF THE SUPERINTENDENT POSTAL STORES DEPOT :
SILCHAR (ARUNACHAL) 788025

Memo No. DSPO's/Rule -14/2K

Dated at Arunachal the 15-12-2003

The date of hearing of Rule-14 case against Shri S.B.Hazarika, SPS & C.I., Kohima to be held on 23.12.2003 (Tuesday) at 11.00 hrs at Dimapur Postal IB.Dimapur

This is for information and necessary action to all concerned.

Sd/-
(M.K.Das)
Inquiry Officer
&

Superintendent

Postal Stores Depot, Silchar-25

Copy to :- Shri S.B.Hazarika, SPS & C.I. Kohima (U/S) C/O Shri U.Basumatary ASPOs, 1st sub-dn Imphal -795001 for information and necessary action. His application in connection with Defence Witnesses has been received but request for 3(i) & 3(ii) of the requisition submitted dated 27-2-2003 holds good as was informed to him vide No.DSPOs/Rule-14/2kAizawl on The 21-3-2003. He is informed to be present with necessary permission from Hon'ble Spl. Court/Imphal in the Inquiry scheduled to be held on 23-12-2003 at Dimapur Postal I.B.& in case of his failure to be present in the Deptl. Court on 23-12-2003, Inquiry will continued to be Ex-Party.

1. The Director of Postal Services, Nagaland Division, Kohima for information and necessary action.
2. Ksh Tomba Singh, Presenting Officer and A.S.PO's/ Imphal - for information and necessary action.
3. The Director of Postal Services, Manipur Division, Imphal - for information and necessary action.
4. S.PM Dimapur He is requested for reservation of Postal IB./Dimapur on 23-12-2003.
5. S.R.O.RMS.S' Dn/Lumding He is requested for reservation in RMS.I/R on 22-12-2003 & 23-12-2003.
6. S.R.M.S' Dn./Silchar for information & n/a.
7. Spare.

Sd/-
(M.K.Das)

Inquiry Officer

&

Suptd. Postal Stores Depot, Silchar-

ATTESTED

Sd/-

29/12/03

for

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

No.B-580/Loose/II

Dated at Kohima the 2.4.02.

Whereas a criminal case against Shri.S.B.Hazarika, Complaint Inspector, Divisional Office, Kohima is under trial in the Court of the Special Judge, Manipur West, Imphal.

And whereas the said Shri. S.B.Hazarika was arrested on 1.3.02 by the Police and taken into custody for a period exceeding 48 (forty eight) hours.

Now, therefore, in exercise of the power conferred under section (2) of the CCS (CCA) Rules, 1965 the undersigned places Shri.S.B.Hazarika under deemed suspension w.e.f.1.3.02 until further order.

sd/-
(F.F.Solo)

Director Postal Services
Nagaland, Kohima - 797001.

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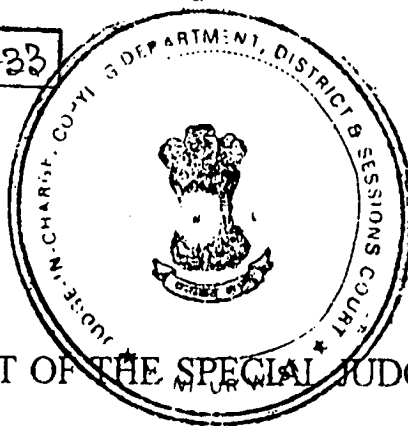
1. The Chief PMG (Vig) NE Circle, Shillong.
- ✓ 2. Shri. S.B. Hazarika, Complaint Inspector (Postal), Divisional Office, Kohima NOW at Shajivra Jail, Sector 1/4 PO. IMPHAL - 795001. Manipur.
3. The OA, Loss and Fraud Section, Divisional Office, Kohima. for inf. & n/a.
4. The P.M. Kohima HO.
5. The DA (P) Kolkatta for inf. & n/a.
6. P/F
7. Spare.

sd/-
(F.F.Solo)

Director Postal Services
Nagaland, Kohima - 797001.

ATTESTED

27/4/02
AOP



IN THE COURT OF THE SPECIAL JUDGE, MANIPUR WEST.

SPECIAL TRIAL NO. 3 OF 1990

Ref:- R.C. 13-86 Silchar,
U/S. 120-B, 409, 202, 467, 468, 417 IPC &
S.5(2) read with S.5(1)(c) and (d) P.C.Act.

C.B.I.

-Versus-

1. Shri Shanti Bushan Hazarika, (s/o Lt. Khorgeswar Hazarika), Sub-Divisional Inspector of Post Offices, Thoubal Sub-Division, Manipur.
2. Shri Krisna Chandra Deb Barma (s/o Surendra Deb Barma), Sub-Post Master Moreh Sub-Post Office, Manipur.



ACCUSED PERSONS

P R E S E N T:

Shri Ng. M. Phazang, Special Judge, Manipur West.

FOR THE C.B.I. : Shri Ibochou Singh, Advocate.

FOR THE ACCUSED NO.1. : Shri Ph. Dolen Sharma, Advocate.

FOR THE ACCUSED NO.2 : Shri Tomba Singh, Advocate.

DATE OF JUDGMENT & ORDER: 18-10-2004

J U D G M E N T & O R D E R

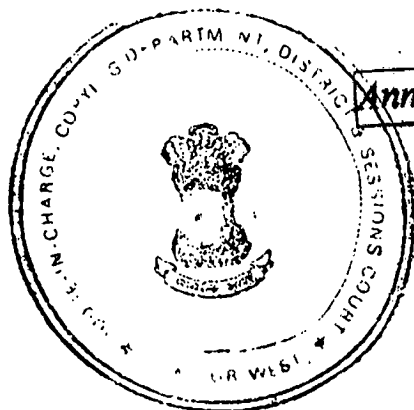
1. The two accused persons were prosecuted for cheating and misappropriation by preparing forged bills and payment vouchers showing false payment of Rs.6150/- to a fictitious firm for supply of furniture and for taking unauthorised advance of Rs.4,900/- for personal use by entering into a criminal conspiracy in their capacity of public servant.

2. The prosecution case in brief is that Shri S.C. Deb Sharma, the then Superintendent of Police in-charge of C.B.I., SPBE, Silchar registered a criminal case being R.C.13-86 SLC under Section 120-B, 409, 420, 467, 468, 471 IPC and S.5(2) read with S.5(1)(c) & (d) of the P.C.Act, 1947 against four accused persons namely (1) C.S.Panchani, Director of Postal Services, Manipur, Imphal, (2) Shri S.B. Hazarika, Sub-Divisional Postal Inspector, Thoubal, Manipur, (3) Krisnachandra Deb Barma, Sub-Post Master, Moreh Sub-Post Office, Manipur and (4) M/S. Manipur Furniture House, Imphal (P.B.D.) by preparing a First Information Report Ext.P-47 recording the following informations:

Examined by me and attested to be true copy of the original.

S. of checker:

ATTESTED



Annexure A-33

Page No 221

-2:-

"Reliable information have been received with C.S. Panchani, Director of Postal Services, Manipur, Imphal, during the year 1984 and 1985 entered into a criminal conspiracy with M/S Manipur Furniture House and made from the said firm purchases of furniture at exorbitant rates, causing the loss of Rs. 15,823/- to the Government.

It is further learnt that the said Shri C.S. Panchani in furtherance of criminal conspiracy with Shri S.B. Hazarika, SDIPO, Thoubal and Shri Krishnachandra Deb Barma, Sub-Post Master of Moreh, Sub-Post Office criminally misappropriated Rs. 20,000/- and Rs. 11,000/- by showing the payments of these amounts falsely against the purchase of furniture from non-existent fictitious Firm.

The above facts prima facie constitute commission of offences under Section 120-B, 409, 420, 467, 468, 471 IPC, & S.5(2) read with S.5(1)(c)&(d) of the P.C. Act.

An R.C. is, therefore, registered and entrusted to Shri D.B. Singha, an Inspector of Police, C.B.I.C.P.E. Divn., Silchar for investigation.

(S.C. Deb)

Deputy Superintendent of Police,
In-Charge, CBI, SPE, Silchar."

3. The investigation of the case was entrusted to Inspector, D.B. Singha. During the course of investigation the accused S.B. Hazarika, Sub-Divisional Postal Inspector, Thoubal, Manipur was found to have verified 7 numbers of bills of M/S. Ibohal Singh, Wooden Workshop bearing Bill No.1 dated 7-12-84, Bill No.2 dated 10-12-84, Bill No.3 dated 15-12-84, Bill No.4 dated 17-12-84, Bill No.5 dated 19-12-84, Bill No.6 dated 22-12-84 and Bill No.7 dated 26-12-84 amounting to a total sum of Rs. 6,150/- showing that the particulars of the furniture mentioned in the said bills had been supplied by the Firm, M/S. Ibohal Singh, Wooden Workshop, Khurai Soibam Leikai, Imphal which is a bogus and non-existent firm. Shri K.C. Deb Barma, Sub-Post Master of Moreh Sub-Post Office was also found to have prepared 7 numbers of payment vouchers dated 25-02-1985 for total sum of Rs. 6150/ (Rupees six thousand one hundred fifty only) on the strength of the said 7 numbers of forged Bills and to have shown payment of the said sum to Shri Ch. Ibohal Singh, Proprietor, M/S Ch. Ibohal Singh, Wooden Workshop. Further it was also found that S.B. Hazarika took unauthorised advance of the Government cash from Moreh Sub-Post Office by executing 5 number of Katcha receipts for a total sum of Rs. 4,900/- on different occasions for his personal use and that in conspiracy with the



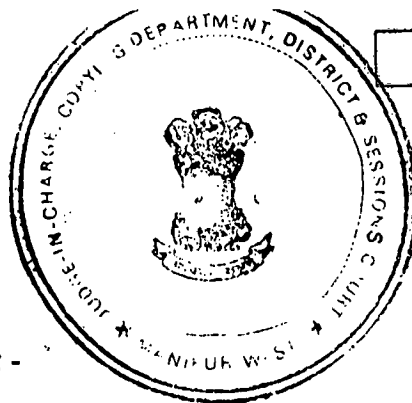
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Annexure A-23



- 3 -

accused K.C. Deb Burma, the said amount was found to have been adjusted by way of showing payment against fictitious supply of furniture by fictitious firm, M/S. Ibohal, Wooden Workshop, Imphal. The Investigation Officer thereafter obtained prosecution sanction dated 4-11-1988 which was accorded by V.S. Seksena, Addl. Postmaster General, N.E. Circle, Shillong against the two accused persons. On completion of the investigation the I.O. submitted the charge sheet, Ext.P-50 for taking cognizance and trial against the two accused persons under Section 120-B, 420, 467, 468, 471 IPC and S.5(2) read with S.5(1)& (d) of P.C. Act, 1947.



4. Upon considering the documents in the case record and after hearing the submission of the prosecution counsel and defence counsels, my Ld. predecessor framed charges under Section 5(2) read with S.5(1)(d) of the P.C. Act, Section 120-B of the Indian Penal Code against both the accused persons. A separate charges under Section 420, 468, 471 IPC were also framed against the accused S.B. Hazarika. Another separate charge also framed against the accused K.C. Deb Barma under Section 468 and 471 IPC. Both the accused persons pleaded not guilty to the charges levelled against them and both have taken the plea of total denial to the charges against them.

5. In order to establish the offences against the accused persons the prosecution must prove the following ingredients namely:-

(1) For the offences under Section 468 and 471 IPC it has to be proved that the bills and payment vouchers were forged by the accused persons and that the documents were fraudulently and dishonestly used as genuine by the accused persons for the purpose of cheating;

(2) For the offence under Section 420 IPC it has to be proved that the accused S.B. Hazarika fraudulently and dishonestly induced the other accused to deliver a sum of Rs. 4,900/- by way of unauthorised advance from the government money;

(3) For the offence under Section 5(2) of the P.C. Act it has to be proved that the accused persons in their capacity of a public servant by corrupt or illegal means obtained pecuniary advantage and misappropriated or converted it for their own use;

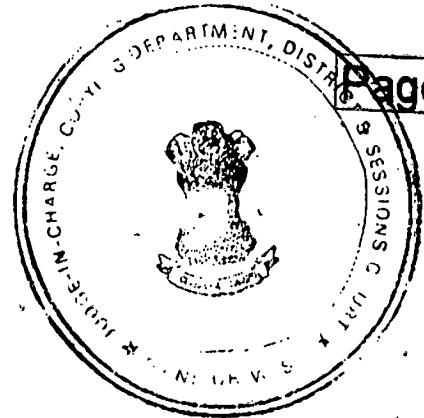
(4) For the offence under Section 120-B IPC it has to be proved that the accused persons agreed to carry out the illegal acts and that such acts were done by illegal means in pursuance of their agreement.

Examined by me and attested to be true copy of the original.

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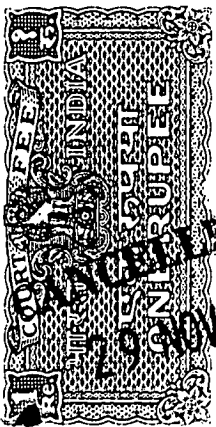
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6. In support of its case the prosecution has examined as many as 24 PWs. and has relied upon 66 documents which are marked as Ext.P-1 to Ext. P-66. The following are the bills and the payment vouchers which are said to have been forged and used for showing payment to a fictitious non-existent firm, M/S Ibohal Wooden Workshop, Khurai Soibam Leikai:-

- (1) Bill No.1 dated 7-12-84, for a sum of Rs.1,190/- in respect of supply of furniture to the Moreh Post Office which is marked as Ext.P-27;
- (2) Bill No.2 dated 10-12-84 for a sum of Rs.1,000/- in respect of supply of the furniture to Moreh Post Office which is marked as Ext.P-29;
- (3) Bill No.3 dated 15-12-84 for a sum of Rs.1,160/- in respect of supply of furniture to Tegnoupal Post Office which marked as Ext.P-31;
- (4) Bill No.4 dated 17-12-84 for a sum of Rs.720/- in respect of supply of furniture to Pallel Post Office which is marked as Ext.P-33;
- (5) Bill No.5 dated 19-12-84 for a sum of Rs.380/- for supply of furniture to Wangjing Post Office which is marked as Ext.P-35;
- (6) Bill No.6 dated 22-11-84 for a sum of Rs.850/- for supply of furniture to the Sub-Post Office, Wangjing and Pallel Post Offices which is marked as Ext.P-37; and
- (7) Bill No. 7 dated 26-12-84 for a sum of Rs.850/- for supply of furniture to Branch Post Office under Wangjing and Pallel which is marked as Ext.P-39.
- (8) Payment Voucher No.1 dated 25-2-84 showing acknowledgment receipt of a sum of Rs.1,190/- by Ch.Ibohal Singh, Wooden Workshop for supply of furniture which is marked as Ext.P-19;
- (9) Payment Voucher No.2 dated 25-2-85 showing acknowledgement receipt of a sum Rs. 1,000/- to M/S Ch.Ibohal Wooden Workshop for supply of furniture which is marked as Ext.P-20;
- (10) Payment Voucher No.3 dated 25-2-85 showing acknowledgement receipt of Rs.1,160/- by M/S Ch.Ibohal Wooden Workshop for supply of furniture which is marked as Ext.P-22;



Examined by me and attested to be true copy of the original.

S. of checker,

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- (11) Payment voucher No.4 dated 25-2-85 showing the acknowledgement receipt of Rs.720/-by M/S Ch.Ibohal Wooden Workshop for supply of furniture which is marked as Ext.P-21;
- (12) Payment voucher No.5 dated 25-2-85 showing the acknowledgement receipt of Rs.380/-by M/S Ch.Ibohal Wooden Workshop for supply of furniture which is marked as Ext.P-23;
- (13) Payment voucher No.6 dated 25-2-85 showing the acknowledgement receipt of Rs.850/-by the M/S Ch.Ibohal Wooden Workshop for supply of furniture which is marked as Ext.P-24 ; and
- (14) Payment voucher No.7 dated 25-2-85 showing the acknowledgement receipt of Rs. 850/- by M/S. Ch.Ibohal Wooden Workshop for supply of furniture which is marked as Ext.P-25.



7. The content of the above Bills reveals that the bills were prepared by Shri Ch. Ibohal Singh, Proprietor, M/S Ch.Ibohal Wooden Workshop, Khurai Soibam Leikai, Imphal and the payment vouchers shows that the amount indicated in them were received by Ch.Ibohal, Proprietor of the said firm. According to the prosecution, the said firm M/S Ch.Ibohal Singh Wooden Workshop is non-existent fictitious firm. In support of its case, the prosecution has examined Shri L. Nandakumar Singh as PW-2. He has deposed that the letter bearing No. 9/6/DIC(1)87/574 dated 21st August, 87, Ext.P-2 was written by him while he was serving as the General Manager, District Industries, Centre, Imphal wherein he had informed the Inspector, CBI, Special Police Establishment Manipur Unit, Lamphel that the Industrial Units referred to in his letter No.3/13/86-Sec/107 dated 20-8-87 were not registered as Industrial Units with the DIC, Imphal as their names were not found in the official record. The prosecution, however, has not adduced any evidence to make out the particulars of the said 4 Industrial Units referred to in the said letter. There is also nothing on the record to show that the investigating agency inquired about the registration of the firm, M/S Ibohal, Wooden Workshop as an Industrial Unit in the District Industries Centre, Imphal. No evidence has been adduced to show that M/S Ibohal Wooden Workshop was a fictitious firm at the relevant time. Further PW-2 has in his evidence clearly stated that there is no hard and fast rule or compulsion under the law that all the Industrial Units running within the jurisdiction of the District must be registered as Industrial Unit under the Industrial Centre concerned. Therefore even if the firm, M/S Ibohal Wooden Workshop was not a registered Unit, it cannot be said that the firm was non-existent. On the contrary the prosecution evidence on record also reveals that Shri Ch.Ibohal Singh was running a Saw Mill and

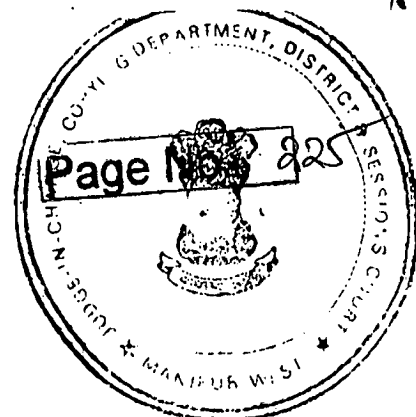
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Annexure A - 33



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Carpentry Workshop at Khurai Soibam Leikai. Shri Gurumayum Daoji Sharma who has given his evidence on 2nd Sept 1977 as PW-19 has deposed that he knew Ch. Ibohal Singh whose house lies towards the eastern side of his house and that Ch. Ibohal Singh was running a Carpentry workshop. This evidence clearly indicate that Ch. Ibohal Singh was running a Carpentry or Wooden Workshop at Khurai Soibam Leikai. It cannot therefore be ruled out that he was not running any firm under the name and style of M/S Ibohal Singh Wooden Workshop, Khurai Soibam Leikai, Imphal. The evidence on record thus clearly discloses the probability of the existence of the firm M/S Ibohal Wooden Workshop at the relevant time.



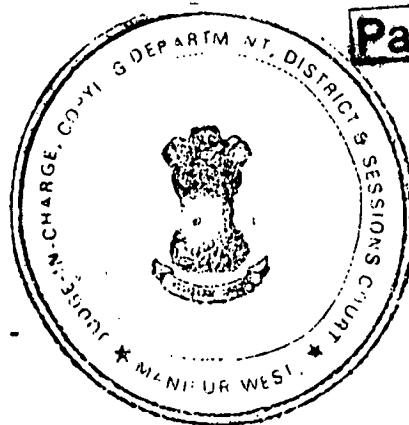
8. The prosecution also has not adduced any evidence to show that no tender for supply of furniture for the postal offices was submitted by the firm M/S Ch. Ibohal Singh, Wooden Workshop and that no supply order was issued for supply of furniture by the said firm at the relevant time. The prosecution has examined several witnesses to show that no furniture was supplied during the year 1984 to 1985 to the Postal Offices under Thoubal Sub-Division. Shri Okholet Haokip who was working as Sub-Postmaster of Pallen Sub-Branch Post Office since the year 1962 till 1972 has deposed as PW-8 that he maintained a stock register marked Ext. P-11 in which he made entry of all the furniture he received for the Sub-Branch Post Office and that he made entry in the said stock register only in the year 1971. Shri R. T. Adon who has given his evidence as PW-14 has stated that he was posted as Branch Postmaster, Pallel since the year 1975 and that he did not receive any furniture from the Head Office or from any other authority during the year 1984 and 85 and as such he did not make any entry in the stock register Ext. P-37. Shri Keisam Kamal Singh who is found to have been examined on two occasions as PW-7 and PW-15 has deposed that he was working as Postmaster, Salungpham Branch Post Office from the year 1976 to 1996 and that he did not receive any furniture from the Head Office during that period and that accordingly he made no entry in the stock register Ext. P-42 which was maintained in the said Branch Post Office. Md. Janab Ali who was working as Sub-Postmaster in the Sub-Post Office at Pallel in the period from 1984 to August, 1986 has deposed as PW-17 that he did not receive any furniture for the said Sub-Post Office during his period and that he made no entry in the stock register Ext. P-43 of the said Sub-Post Office. Shri Th. Pasho Aimol has given his evidence as PW-18 that he was serving as Branch Postmaster, Kadomphai, Chandel during the year 1975 to 1986; that he received no furniture from the Head Office for the said Branch Post Office during the year 1984 and 1985; and that no entry was made in the stock register marked Ext. P-3 during his period.

Examined by me and attested to be true copy of the original.

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9. There is also evidence on record to show that some of the Postal Offices under Thoubal Sub-Division received some furniture during the year 1984-85. S.Bheigya Singh deposing as PW-3 has stated that while he was being posted as Sub-Postmaster of Sub-Post Office Wangjing during the year 1984-85 he received only one water filter in the year 1984 and received two armed plastic chairs along with one parcel box from the Director Postal Services, Imphal and he made necessary entry in the stock register marked Ext. P-3. Shri Binod Kumar Singh who was posted as Postal Assistant of Sub Post Office, Moreh during the year 1984-85 has deposed as PW-4 that during that period one wooden almirah and a wooden parcel box were received by K.C. Deb Burma, the then Sub-Postmaster, Moreh.



10. From the evidence of PW-8, PW-11, PW-14, PW-15, PW-17 and PW-18 it is seen that no furniture was supplied to the most of the Postal Offices under the Thoubal Sub-Division during the year 1984 and 1985. This fact however does not automatically lead us to a conclusion that the furniture for which sanctions were made by the Director, Postal Services, Manipur in the bills marked Ext. P-26 to Ext. P-39 were not actually procured during that period. Shri N.L. Bhattacharjee (PW-9) who inquired into the allegation against Shri C.S. Panchani, the then Director, Post Services, Manipur has clearly deposed that the Director, Postal Services was the sanctioning authority in respect of all kinds of payment and cash transactions of the department and that the Postmaster of Imphal Post Office was the Drawing and Disbursing Officer for all kinds of payment and cash transaction under the Manipur Division. For any irregularity and falsification in any cash transaction or cash payment of any Postal Offices in Manipur Division, it was the duty of the Postmaster to detect and refer the matter to the Director, Postal Services, Manipur. From this evidence it is made clear that the Postmaster, Imphal Post Office and the Director, Postal Services, Manipur are the best persons who could have given a clear picture on the factual position with regard to the supply of furniture made to the Postal Offices in the Division during the period in question. But the prosecution has failed to examine them as witnesses in the case without giving any explanation as to why they could not be examined. Withholding of such material witnesses leads to an adverse inference that their evidence if adduced would be unfavourable to the prosecution case.

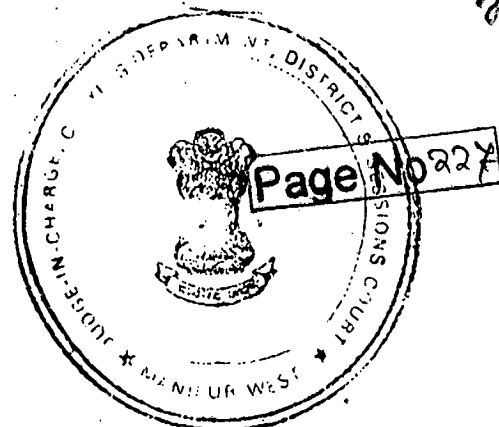
11. Further it is not the case of the prosecution that supply of furniture to the outlying Postal Offices were made by the authorised supplier by delivering the furniture directly at the concerned postal office. On the contrary the prosecution evidence

Examined by me and attested to be true copy of the original.

S. of checker.

ATTESTED

29/10/05
HSP



- 8 -

clearly reveals that the tender for supply of furniture for all the Postal Offices in Manipur Division was accepted by the Director Postal Services, Manipur and all furniture were supplied at the office of the Director, Postal Services at Imphal. In this regard Shri W. Ibomcha Singh has deposed as PW-5 that in the year 1984-85 he was a supplier of furniture to the Government in the name of his Firm M/S Manipur Furniture House and he submitted his tender for supply of furniture to the Director, Postal Service, Manipur and he supplied all the furniture only at the office of the Director of Postal Service at Imphal. His evidence is corroborated by the evidence of W. Labango Singh (PW-6) who has stated that in the year 1985-86 he also submitted tender for supply of furniture to the Director, Postal Services, Manipur at Imphal in the name of his registered Firm, M/S. Labango Carpentry Works Takhel Leikai. The evidence of these PWs thus show that the furniture for all the Postal Offices in Manipur including that of the outlying offices were supplied at the Head Office at Imphal and there was no practice of supplying furniture directly to the Postal Offices by the supplier. In this view of the matter it can not be validly inferred from the mere fact of non entry of furniture in the stock register of the concerned Postal Offices that the furniture in question was not actually received by the competent authority of the Postal Services, Manipur Division. Considering all the materials on the record I am of the view that the prosecution has failed to satisfactorily establish that the furniture included in the bills marked Ext. P-26 to Ext. P-29 and payment vouchers marked Ext. P-19 to Ext. P-25 were not actually supplied by the Supplier.

12. It is the case of the prosecution that the bills Ext. P-26 to Ext. P-39 were verified by the accused, S.B. Hazarika and that the payment vouchers marked Ext. P-19 to Ext. P-25 were countersigned by the accused, K.C. Deb Barma. In this regard the prosecution has sought to prove the writing and signatures of the accused persons appearing on the bills and the payment vouchers by means of Expert opinion. The I.O., Inspector, D.B. Singha has deposed as PW-33 that in the course of investigation of the case, he seized 50 documents including the bills and payment vouchers on production by N.L. Bhattacharjee, the Asstt. Superintendent of Vigilance of the Office of the P.M.G., North Eastern Circle at Shillong on 16-12-1986 by preparing a seizure memo marked Ext. P-18. He has further stated that on 25-6-1987 he also seized 5 numbers of katcha cash receipts marked Ext. P-13 to Ext. P-17 along with other documents on production by N.L. Bhattacharjee at the office of the P.M.G., North Eastern Circle, Shillong by preparing a seizure memo Ext. P-12. His evidence in this regard is corroborated by Shri N.L. Bhattacharjee who has given his evidence as PW-9. The I.O. (PW-23) has further stated in his evidence that he obtained the specimen writings and signatures of the accused S.B. Hazarika which are marked as Ext. P-57 to Ext. P-66. In this regard Shri Kantimoi Nath (PW-24) has corroborated the

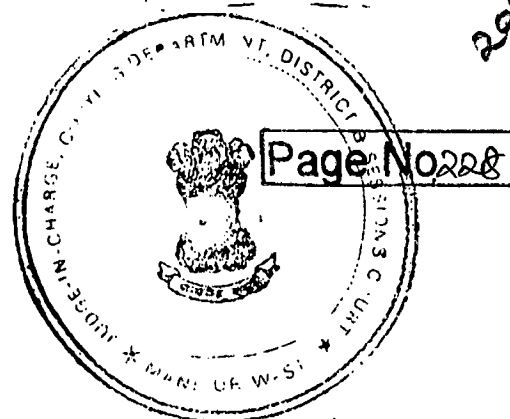
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Annexure A-33



- 19 -

evidence of the I.O. by deposing that one day in the month of June, 1987 while he was working as Post Assistant in the Office of the Superintendent of Post Office, Cachar Division at Shillong, a C.B.I. Officer obtained specimen writings and signatures of the accused S.B.Hazarika which are marked as Ext.P-58 to Ext.P-66 in his presence in the office of the C.B.I., Silchar and he also put his signatures marked as Ext. P-58/2, Ext.P-59/2, Ext.P-60/2, Ext.P-61/2, Ext.P-62/2, Ext.P-63/2, Ext.P-64/2, Ext. P-65/2 and Ext.P-66/2.

13. According to the I.O.(PW-23) the specimen writings and signatures of the accused along with the disputed writings and signatures of the accused appearing on the bills, payment vouchers and katcha cash receipts were sent to the Examiner of Questioned Documents, Calcutta and he obtained the Expert opinion marked Ext. P-48 through S.P., C.B.I. Silchar. This expert opinion marked as Ext.P-48 reveals that the Questioned documents were examined by Shri Santokh Singh, M.Sc.LL.B. Government Examiner of Questioned Documents and Shri D.D.Goel, M.Sc.Asstt. Government Examiner of Questioned Documents and they have given their opinion that the disputed writings and signatures made in the blue ink marked Q-11, Q-17, Q-23, Q-35, Q-41 and Q-47 appearing on the bills (Ext.P-27, Ext.P-29, Ext.P-31, Ext.P-33, Ext.P-35, Ext.P-37 and Ext.P-39) were written by the same person. i.e., the accused S.B.Hazarika who wrote his specimen writings marked S-9, S-17 before the I.O.(PW-23). The Examiners of the Questioned Documents have also given their opinion in their report Ext.P-48 that the writings and signatures marked Q/55, Q/55-A, Q/56, Q/56-A, Q/57, Q/57-A, Q/58, Q/58-A, Q/60, Q/60-A, Q/61, Q/61-A appearing on the payment vouchers marked Ext.P-19 to Ext.P-25 were written by the same person who wrote the admitted writings marked A/23 to A/37. It is the case of the prosecution that the Questioned writing marked Q/55 to Q/61 are the writings and signatures of the accused K.C.Deb Barma. But no evidence has been adduced to show that the admitted writings marked A/23 to A/37 were his writings. The said documents marked A/23 to A/37 which are said to be the admitted writings of the accused, K.C.Deb Barma are not found in the case record. In the absence of such material documents no conclusion can be drawn on the basis of the Expert opinion that the question writings and signatures appearing on the payment vouchers are the writings and signatures of the accused K.C.Deb Barma.

14. It is also important to point out at this stage that none of the Examiners of Questioned Documents who had submitted the report marked Ext.P-48 has been examined in this case. The veracity and credibility of the Expert report has not been

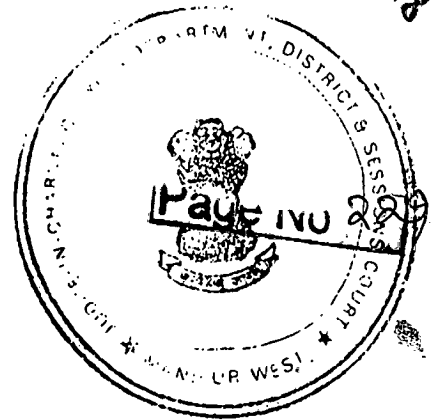
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Annexure A-22



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tested. The principle of law relating to admissibility and credibility of Expert opinion has been reiterated by the Apex Court in the State of Himachal Pradesh, appellant v. Jalal and other, respondents reported in 1999(8) Supreme Court 401 as under:

"17. Section 45 of the Evidence Act which makes opinion of experts admissible lays down that when the Court has to form an opinion upon a point of foreign law, or of science, or art, or as to identity of handwriting or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, science or art, or in questions as to identity of handwriting, or finger impressions are relevant facts. Therefore, in order to bring the evidence of a witness as that of an expert it has to be shown that he has made a special study of the subject or acquired a special experience therein or in other words that he is skilled and has adequate knowledge of the subject.

18. An expert is not a witness of fact. His evidence is really of an advisory character. The duty of an expert witness is to furnish the Judge with the necessary, scientific criteria for testing the accuracy of the conclusion so as to enable the Judge to form his independent judgment by the application of this criteria to the facts proved by the evidence of the case. The scientific opinion evidence, if intelligible, convincing and tested becomes a factor and often an important factor for consideration along with the other evidence of the case. The credibility of such a witness depends on, the reasons stated in support of his conclusions and the data and materials furnished which form the basis of his conclusions.

19. The report submitted by an expert does not go in evidence automatically. He is to be examined as a witness in court and has to face cross examination. The Court in the case of Hazi Mohammed Ikramou Haque v. State of West Bengal, concurred with the finding of the High Court in not placing any reliance upon the evidence of an expert witness on the ground that his evidence was merely an opinion unsupported by any reasons."

In the case at hand the Examiners of the Questioned Documents in their report Ext.P-48 have not disclosed about any specific experience, knowledge or skill

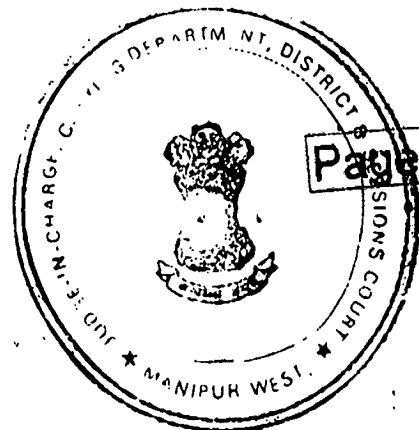
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Annexure A - 22



Page No. 280

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acquired by them on the subject. On going through their report it will be seen that no reason has been disclosed in support of the conclusion made in their report. The prosecution also has not adduced any substantive evidence to corroborate and support the finding of the expert witness. It is, therefore, unsafe to place any reliance on such opinion unsupported by any reasons and to base a conviction solely on such expert opinion without substantial corroboration.

15. Even assuming that the accused S.B. Hazarika verified the bills in question and that the accused K.C. Deb Barma had countersigned on the payment vouchers, there is no evidence on the record to show that the amount sanctioned and disbursed under the payment vouchers was received and misappropriated by the accused persons. The prosecution have not adduced any convincing evidence to show that the firm M/S Ch. Ibohal Singh, Wooden Workshop was a fictitious firm. There is also no evidence on record to show that the signature of Ch. Ibohal Singh who acknowledged the receipt of the amount indicated in the payment vouchers were forged by the accused persons and that the accused persons received the amount shown therein. It cannot, therefore, be said that the said amount disbursed under the said payment vouchers had been dishonestly converted by the accused persons for their own use.

16. The other charge against the accused S.B. Hazarika is that he took unauthorised advance from Moreh Sub-Post Office by executing Katcha receipts for a total sum of Rs. 4,900/- for his personal use and in conspiracy with the accused K.C. Deb Barma the amount was adjusted by way of showing payment against the supply of furniture by a fictitious firm. In this regard the prosecution has not adduced any direct evidence to substantiate the charge. The prosecution witness, Md. Janabuddin who was the Sub-Postmaster of Pallel Sub-Post Office from the year 1984 till the month of June, 1986 has deposed as PW-1 that he paid a sum of Rs. 4000/- to the accused H.B. Hazarika from his office fund. But on careful scrutiny it is found that his evidence has no bearing with the charge levelled against the accused persons. Further, his evidence has no credible value because he has made it clear in his cross-examination that he did not know the year and date on which he made the payment of the said amount to the accused and whether the accused had refunded the amount.

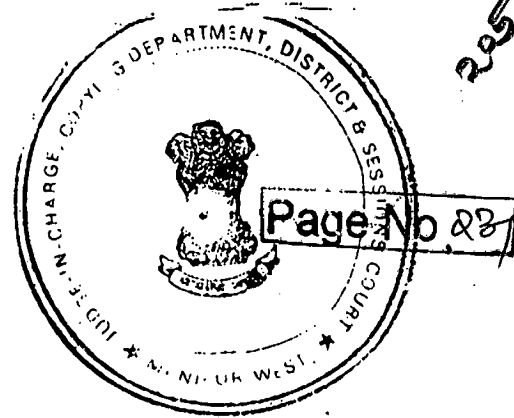
17. The prosecution has sought to substantiate the charge by establishing the fact that the Katcha Cash Receipts for a total sum of Rs. 4900/- were executed by the accused H.B. Hazarika in favour of the Sub-Postmaster, Moreh. In support of the prosecution case, the I.O. (PW-23) has given his evidence that he seized 5 numbers of katcha receipts marked Ext. P-13 to Ext. P-17 executed by the accused S.B. Hazarika for taking unauthorised advance of a sum of Rs. 4,900/- from the Sub-Postmaster of Moreh Sub-Post Office on production by N.L. Bhattacharjee (PW-9)

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at North Eastern Circle, Shillong by preparing a seizure mem. Ext. P-12. His further evidence is that the said katcha receipts The I.O. (PW-23) has given his evidence that he seized 5 numbers of katcha receipts marked Ext. P-13 to Ext. P-17 executed by the accused S.B. Hazarika for taking unauthorised advance of a sum of Rs. 4,900/- from the Sub-Postmaster of Moreh Sub-Post Office on production by N.L. Bhattacharjee (PW-9) at North Eastern Circle, Shillong by preparing a seizure mem. Ext. P-12. His further evidence is that the said katcha receipts were sent to the Examiners of Questioned Documents and he obtained the expert report marked Ext. P-48 from the Government Examiners of Questioned Documents. In the report marked Ext. P-48, the Examiners of Questioned Documents have given their opinion that the katcha receipts marked Q/50 to Q/54 were written by the same person who wrote the specimen writings marked S-8 to S-17 (Ext. P-57 to Ext. P-66). This specimen writings Ext. P-57 to Ext. P-66, according to PW-23 were obtained by him in the course of investigation from the accused K.C. Deb Barma. Except this Expert opinion no other evidence has been adduced to show that the katcha receipts were written by the accused S.B. Hazarika. It is also to be noted that as regards the seizure of katcha receipts the prosecution has not adduced any clear evidence as to how and from where the katcha receipts (Ext. P-13 to Ext. P-17) were brought to the Office of PMG, N.E. Circle, Shillong. Shri Kachari (PW-11) has deposed that he inquired into the affairs of the Director, Postal Services, Manipur and that in the course of his inquiry he collected several katcha receipts of different amount which were said to have been given by the accused S.B. Hazarika. But he could not identify any of those katcha receipts when they were shown to him at the time of his examination before the court. Thus there is no evidence to show that the katcha receipts marked Ext. P-13 to Ext. P-17 were the katcha receipts seized by him in course of his inquiry. It has also been found as discussed above that the expert opinion which is unsupported by any reasons or uncorroborated by any substantive evidence cannot be the valid basis for holding that the katcha receipts were executed by the accused S.B. Hazarika.

18. The prosecution has not adduced any evidence to establish that the accused S.B. Hazarika dishonestly induced the Sub-Postmaster, Moreh to deliver the said sum of Rs. 4,900/- by way of unauthorised advance. There is also no evidence on the record to show that the said amount was taken from the cash account of Moreh Sub-Post Officer. There is no admitted or established facts and circumstances from which a conclusion can be inferred or drawn that the accused persons entered into an agreement to take unauthorised advance from the government money to misappropriate it by preparing forged bills and by showing payment to a fictitious firm.

19. On careful scrutiny of all the evidence on the record in their entirety in the

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Annexure A-22



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light of the above discussion and findings I am of the view that the prosecution has utterly failed to establish the guilt of the accused persons for any of the offence levelled against them.

20. The defence counsel has also advanced his argument that no valid prosecution sanction has been obtained in the case. According to the Ld. Defence Counsel the Addl. Postmaster General, North Eastern Circle, Shillong is not a competent authority to remove the accused from their service at the relevant time and as such he was not competent to accord prosecution sanction. Section 6 of the P.C. Act, 1947 lays down the provision for obtaining prosecution sanction for the offence punishable under P.C. Act and it runs as follows:-

"6. Previous sanction necessary for prosecution.-

(1) No court shall take cognizance of an offence punishable under Section 6 or Sec. 164 or Sec. 165 of the Indian Penal Code (45 of 1860) or under sub-section (2) or sub-section (3-A) of Sec. 5 of this act, alleged to have been committed by a public servant except with the previous sanction,-

(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government of the Central Government;

(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government of the State Government;

(c) In the case of any other person, of the authority competent to remove from his office.

(2) Where for any reason whatsoever any doubt arises whether the previous sanction as required under sub-section (1) should be given by the Central or State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed."

21. On careful reading of the above provision it is found that Section 6(1)(c) contemplates that the sanctioning authority must be competent to remove the person concerned from his office. From the Postal Manual Volume-III containing Central

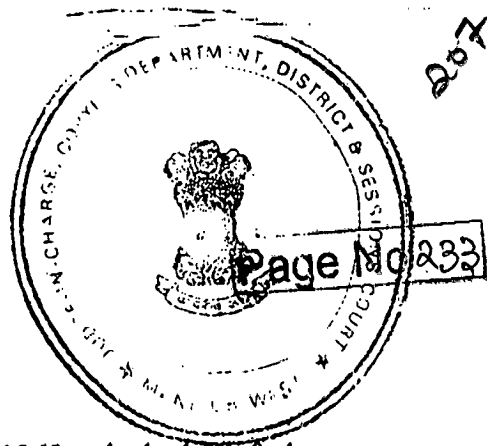
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Annexure A-23



- 14 -

Civil Services(Classification, Control and Appeal) Rules, 1965 and schedule of administrative powers of the officers of the department of Posts India corrected upto 1st July, 1986 it is seen that the appointing authority and the authority competent to remove in respect of the post of Inspector of Post Offices, Postmaster in higher and lower selection grade is the Director Postal Services and the appellate authority is the Post Master General /Member(P) Postal Board and in respect of the Postmaster in the time scale, the appointing authority and authority competent to impose penalty is Senior Superintendant and the appellate authority for such post is Director Postal Services. It is not disputed that the accused H.B. Hazarika was holding the post of the rank of Inspector of Post Offices and that the accused K.C. Deb Barma was holding the post of the Postmaster in the time scale at the relevant time. In the case at hand it is evident from the sanction order marked Ext. P-41 that Shri V.S. Sexena, Addl. Postmaster General, North Eastern Circle, Shillong has accorded the prosecution sanction on 9-11-1986 against the two accused persons. In his evidence Shri Sekxena as PW-10 has deposed that he being competent to remove the accused persons from their services in his capacity of Addl. Postmaster General, North Eastern Circle accorded the prosecution sanction against them. As per the designated authority under the Civil Services(Classification Central and Appeal) Rules 1965 the Addl. Postmaster General was not included as the competent authority to remove the accused persons from their service. The designated appellate authority in respect of the post held by the accused persons also does not include Addl. Postmaster General. It cannot therefore, be said the Addl. Postmaster General is competent to remove the accused persons from the post held by them at the relevant time. Therefore, the prosecution sanction accorded by him in the case is without jurisdiction and is consequently invalid. Such invalid sanction cannot confer jurisdiction upon the Court to try the case against the accused persons for the offence punishable under the Prevention of Corruption Act. On this ground alone the prosecution case must fail.

Examined by me and attested to be true copy of the original.

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In the result the accused persons are acquitted and are set at liberty forthwith and they are discharged from the liabilities of their bail bonds.

Sd/-(NGM.PHAZANG)
Special Judge, Manipur West.

Announced in the open Court on the 18th day of Oct., 2004.

(Certified to be photostat copy)

Sheristadar
District & Sessions Court
Manipur West.
Sheristadar
District & Sessions Court
Manipur West

Sd/-(NGM.PHAZANG)
Special Judge, Manipur West.

ATTESTED

29 NOV 2004

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

Memo No.B-580/Loose/III

Dated at Kohima the 06.04.05

Under this office Memo No. B-580/Loose/II dtd. 2.4.02 Shri S.B.Hazarika Ex- Complaint Inspector, Office of the DPS Kohima was placed under deemed suspension under sub-rule (2) of Rule 10 of the CCS (CCA) Rules 1965 by the Disciplinary authority in connection with the special trial no.3 of 1990 pending before the court of special judge, Manipur West Imphal as he was detained in custody for a period exceeding 48 hours. The said Shri S.B.Hazarika was acquitted from the charges levelled against him by the special judge Manipur West Imphal vide judgement order no. 3 of 1990 dtd. 18.10.04. hence the period of deemed suspension from 01.03.02 to 31.10.04 requires to be regularised as per directive of FR 54-B of FR&SR (Pt I) since the official was acquitted from the charges levelled against him by the Hon'ble court of special judge Manipur West Imphal in the special trial No. 3 of 1990 vide judgement order dtd. 18.10.04 above mentioned period of deemed suspension is deserved to be regularised as contemplated in FR 54-B.

ORDER

I Shri Rakesh Kumar, Director of Postal Services Nagaland Kohima therefore, in exercise of the power conferred by FR 54-B orders that the period of deemed suspension from 1.3.02 to 31.10.04 should be treated as duty for all purpose and he should be paid the full pay and allowances as admissible period to which he would have been entitled had he not been placed under suspension subject to the adjustment in respect of subsistence allowance already paid to him.

Rakesh Kr.
 (Rakesh Kumar)

Director of Postal Services
 Nagaland, Kohima-797001

Copy to :-

1. The Postmaster Kohima HO for information & necessary action. The amount may be sent through Service M.O on his home address.
2. The DA(P) Kolkata (through the Postmaster Kohima H.O).
3. Shri S.B.Hazarika for information. *Vell. Anandapara.*
4. office copy. *P.O. Sabroom, Tripura.*

Petn - 799145

Rakesh Kr.
 (Rakesh Kumar)

Director of Postal Services
 Nagaland, Kohima-797001

ATTESTED

29/4/05
[Signature]

**INSPECTION REPORT OF KOHIMA HO RECORDED BY
SHRI.F.P.SOLO, DPS, KOHIMA FROM 27.9.99 TO 30.9.99**

Took up the annual inspection of Kohima HO on 27.9.99 and completed it on 30.9.99. The office was last inspected by the undersigned from 28.7.98 to 31.7.98. The office was visited by Shri. S. Samant, Chief Postmaster General, on 16.8.99. The following officials worked as the Postmaster since last inspection:-

- i) Shri.S.C.Paul from 1.8.98 to 19.11.98
- ii) Shri.S.Boro from 20.11.98 to 21.2.99
- iii) Shri.A.K.Singh from 22.2.99 to 24.2.99
- iv) Shri.S.Boro from 25.2.99 to 27.6.99
- v) Shri.A.K.Singh from 28.6.99 to 22.7.99
- vi) Shri.S.Boro from 23.7.99 to 23.8.99
- vii) Shri. S.C.Paul from 24.8.99 to date.

2. The Establishment of the office consists of the following:-

i)	Postmaster HSG-II	-	1
ii)	Dy. Postmaster (LSG)	-	2
iii)	Asstt. Postmaster (LSG)	-	1
iv)	Asstt. Postmaster (A/C)	-	1
v)	PRI	-	1
vi)	Accountant	-	1
vii)	Postal Asstt. (Perm.)	-	19
viii)	Postal Asstt. (Temp.)	-	2
ix)	Postal Asstt. (LR)	-	5
x)	O/S Cash	-	1
xi)	Head Postmen	-	1
xii)	Sortg. Postmen	-	2
xiii)	Stamp Vendor	-	1
xiv)	Postmen	-	12
xv)	Postman (LR)	-	1
xvi)	Group 'D'	-	7
xvii)	Group 'D' (LR)	-	1
xviii)	ED Staff	-	4

Compliance report on the previous IR was submitted on 10.9.98. Postmaster Kohima HO was directed to submit final compliance report on 28.1.99. However, till date no action has been taken by the Postmaster Kohima HO to submit the final compliance report. IR branch, Divl. Office should pursue all the pending paras of all IRs.

CASH AND STAMPS

4.1 Verified cash and stamp balance of the office at the closing hours of 27.9.99 as below:-

i)	Cash	-	Rs. 2,64,583.65
ii)	International Reply Coupon	-	Rs. 4,134.00
iii)	Postage Stamp	-	Rs. 15,26,033.50
iv)	Revenue Stamp	-	Rs. 469.00
v)	Philatelic Stamp	-	Rs. 3,78,255.00
vi)	Services Stamp	-	Rs. 2,81,389.75
vii)	CRFS	-	Rs. 1,34,021.00

Total - Rs. 25,88,885.90

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29/10/99
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4.2 The following amounts were shown as part of cash:-

i) Cash taken by Shri. Khriengulie Angami	-	Rs. 5100.00
ii) Paid to Late Lakhinder Mahato as welfare assistance	-	Rs. 1000.00
ii) Advance taken for staff picnic	-	Rs. 1000.00
Total	-	Rs. 7100.00

My office will take action for adjustment of the amounts.

4.3 A sum of Rs. 55,000/- (Rupees fifty five thousand) was found short in cash balance during the time of inspection and the said amount has been charged as "Unclassified Payment". I was told by the Treasurer that an amount of Rs. 65,400/- was taken by Shri. S.B. Hazarika, Complaint Inspector, Divl. Office Kohima sometime in the month of July '99 by giving receipt. Out of Rs. 65,400/- a sum of Rs. 10,400/- was stated to have been returned to the treasurer today.

4.4 Allowing and taking of money from the treasury without any authority is highly irregular and amounts to temporary misappropriation. Explanation will be called from both the treasurer and Shri. Hazarika. Thereafter, appropriate disciplinary action may be initiated against them.

5. Checked the Treasury pass book with reference to memo of remittance, Treasurer's cash book and HO summary on the following dates with satisfactory results:-

13.1.99, 18.2.99, 6.4.99, 10.5.99, 8.6.99, 16.7.99, & 06.08.99.

6. Examined the register of Cheque received for the following dates selected at random with HO summary and Treasurer's cash book with satisfactory results:-

12.3.99, 7.5.99, 17.6.99, 12.8.99, 8.6.99.

7. Checked the credits in ACG-67. The following books were issued since last inspection:-

- Receipt No. 082 to 100 dtd. 1.8.98 to 25.8.98. Book no. SC - 416.
- Receipt No. 01 to 100 dtd. 26.8.99 to 24.2.99. Book No. SC - 430.
- Receipt No. 001 to 100 dtd. 1.3.99 to 20.4.99. Book No. SC - 414.
- Receipt No. 001 to 100 dtd. 20.4.99 to 4.6.99. Book No. SC - 2976.
- Receipt No. 001 to 100 dtd. 4.6.99 to 28.9.99. Book No. SC 2977.

8. Checked the credits in ACG-67 with reference to Treasurer's Cash book and HO summary on the following dates since last inspection with satisfactory results:-

7.1.99, 9.2.99, 15.3.99, 14.7.99, 12.8.99 & 4.9.99.

Examined the register of Post boxes. Out of 539 Post boxes, Post boxes no. 02, 04, 08, 09, 35, 36, 39, 45, 61, 74, 75, 77, 84, 89, 113, 120, 128, 136, 170, 183, 186, 200, 217, 218, 224, 240, 253, 262, 267, 282, 285, 295, 296, 304, 314, 316, 329, 330, 335, 336, 337, 338, 339, 343, 345, 346, 355, 356, 358, 363, 384, 385, 404, 409, 411, 412, 418, 429, 432, 434, 435, 436, 443 & 444, have not been renewed upto date.

Holders of these Post boxes may be asked to get their licences renewed within one month falling which these may be allotted to new applicants. Thereafter a new register for issuing Post boxes may be started.

10. Examined the treasurer's cash book with HO summary on the following dates selected at random since last inspection:-

4.2.99, 15.3.99, 27.7.99, 7.8.99, 21.8.99 & 10.9.99.

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22/10/99
HOB

- i) Maintaining/writing of HO summary is not satisfactory. Overwriting is a regular practice in HO summary and Treasurer's cash book.
- ii) Signature of Postmaster is not available in Treasurer's cash book from 24.8.99 to 2.9.99 and 24.9.99 to 27.9.99.
- iii) Signature of Postmaster is wanting in HO summary w.e.f 28.6.99 to 27.9.99. This omission should not be repeated in future.

11. Shri. Shivjee Choudhury, PA has been working as Treasurer since August '96. Security money is deposited regularly by the Treasurer and Asstt. treasurer.

12. Shri. Anil Kumar Burman has been working as Assistant Treasurer since last inspection. Invoices of stamps received from NESD during the year upto the date of inspection are noted in Annexure 'A'. Copy of the annexure should be forwarded to NESD for verification.

13. Examined the indents placed for supply of stamps from NESD. Altogether 22 indents have been made since last inspection. In most cases indent is made only once in a month whereas it should be made once in a fortnight. In some cases supply is not made immediately and the Postmaster had to send savingram. The Postmaster will please make proper assessment of the requirement of the stamps and place indent regularly to NESD.

14.1 Stamp balances for Postage stamps, Service stamps, and Philatelic stamps are maintained separately. However, it is seen that stamp balance is not written daily and Asstt. treasurer is not handing over the cash to treasurer daily. Proceeds from the sale of stamps should be handed over to the treasurer daily.

14.2 Overwritings are noticed in the stamp balance register. Asstt. treasurer has been instructed to avoid overwritings.

14.3 Initials of Asstt. treasurer and Postmaster are not available in the stamp balance register. This should be rectified immediately.

14.4 Details of the balances of Postage stamps, Service stamps and Philatelic stamps of the office as on 27.9.99 are shown in annexure 'B', 'C', 'D', 'E', & 'F' respectively.

14.5 Stamp balance register of Philatelic stamps is not being maintained properly and regularly. The balance was last written on 22.9.99 and thereafter on 27.9.99.

15. Philatelic stamps are sold through stamp counter. One separate PA should be entrusted with Philatelic stamp. Philatelic counter should be reopened as mentioned in the last IR.

16. There are one Deptl. stamp vendor and one ED stamp vendor at Kohima HO. For selling stamps one separate counter is provided which is situated at one corner of the public hall. Verified the stamps and cash balances of both the stamp vendors and found correct. Accounts are being maintained but not in proper way. Both the stamp vendors have been suitably instructed to maintain the accounts daily. It is seen that the stamp vendor -I is selling less stamps than the ED stamp vendor. Regular stamp vendor should sell stamps from 0900 hrs to 1500 hrs and ED stamp vendor from 0900 hrs to 1300 hrs. Postmaster Kohima will see that stamp vendors perform their duties properly.

The stamp counter advance of both the vendors is Rs.3500/- which is found satisfactory. No revision is required at present.

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SB & CERTIFICATES

17. Physically verified the stock of NSC VIII issue with reference to stock register as on 28.9.99 with the following balances:-

Deno.	SL. NO.	T/Nos.
i) Rs.100/-	09 AA 408401 - 409000	- 600 Nos.
Rs.100/-	09 AA 408319 - 400	- 82 Nos.
	Total-	682 Nos.
ii) Rs.500/-	01 BB 409001 - 410000	- 1000 Nos.
	01 BB 410001 - 411000	- 1000 Nos.
	01 BB 411001 - 412000	- 1000 Nos.
	01 BB 408701 - 9000	- 300 Nos.
	01 BB 408485 - 8500	- 16 Nos.
	Total-	3316 Nos.
iii) Rs.1000/-	13 CC 822051 - 100	- 50 Nos.
	13 CC 822101 - 3000	- 900 Nos.
	13 CC 823919 - 4000	- 82 Nos.
	Total-	1032 Nos.
iv) Rs.5000/-	09 DD 402601 - 3000	- 400 Nos.
	09 DD 404001 - 5000	- 1000 Nos.
	09 DD 402168 - 200	- 33 Nos.
	09 DD 402201 - 300	- 100 Nos.
	Total -	1533 Nos.
v) Rs.10,000/-	13 EE 916001 - 7000	- 1000 Nos.
	13 EE 915601 - 6000	- 400 Nos.
	13 EE 915563 - 600	- 38 Nos.
	Total -	1438 Nos.

No fresh stock has been received since last inspection.

18. Physically verified the KVP with reference to stock register with the following balances:-

Deno	SL.No.	T/Nos.
i) Rs.100/-	00 FF 188701 - 9000	- 300 Nos.
	04 FF 008001 - 9000	- 1000 Nos.
	00 FF 188611 - 700	- 90 Nos.
	Total -	1390 Nos.
ii) Rs.500/-	04 EE 760101 - 1000	- 900 Nos.
	04 EE 760020 - 100	- 81 Nos.
	Total -	981 Nos.
iii) Rs.1000/-	57 AA 558001 - 9000	- 1000 Nos.
	BC 516201 - 7000	- 800 Nos.
	1	
	57 AA 557616 - 700	- 85 Nos.
	Total -	1885 Nos.

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iv) Rs.5000/-	31 BB 368101 - 200	-	100 Nos.
	31 BB 369201 - 70000	-	800 Nos.
	31 BB 366111 - 200	-	90 Nos.
	31 BB 366201 - 7000	-	800 Nos.
	31 BB 367001 - 8000	-	1000 Nos.
	31 BB 368201 - 9000	-	800 Nos.
	31 BB 368088 - 100	-	13 Nos.
	Total -		3603 Nos.
v) Rs.10000/-	46 CC 385001 - 6000	-	1000 Nos.
	46 CC 386001 - 7000	-	1000 Nos.
	46 CC 387201 - 7800	-	600 Nos.
	46 CC 387184 - 200	-	17 Nos.
	Total -		2617 Nos.

Last invoice no. 2 dtd. 18.6.99.

I

19. Physically verified the unsold stock of IVP with reference to stock register with the following balances:-

Deno	Sl.no.		T/Nos.
i) Rs.200/-	<u>D</u> 447601	- 8000	- 400 Nos.
	<u>0</u>		
	<u>D</u> 448001	- 9000	- 1000 Nos.
	<u>0</u>		
	<u>D</u> 449001	- 50000	- 1000 Nos.
	<u>0</u>		
	<u>D</u> 450001	- 51000	- 1000 Nos.
	<u>0</u>		
	<u>D</u> 451001	- 2000	- 1000 Nos.
	<u>0</u>		
	<u>D</u> 447549	- 600	- 52 Nos.
	<u>0</u>		
	Total -		4452 Nos.
ii) Rs.500/-	<u>A</u> 762001	- 3000	- 1000 Nos.
	<u>1</u>		
	<u>A</u> 662001	- 3000	- 1000 Nos.
	<u>2</u>		
	<u>A</u> 663001	- 4000	- 1000 Nos.
	<u>2</u>		
	<u>A</u> 664001	- 5000	- 1000 Nos.
	<u>2</u>		
	<u>A</u> 678628	- 700	- 73 Nos.
	<u>2</u>		
	<u>A</u> 678701	- 9000	- 300 Nos.
	<u>2</u>		
	Total -		4373 Nos.

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AGP

iii)	Rs. 7000/-	65 B 516001	-	7000	-	1000 Nos.
		B 975001	-	6000	-	1000 Nos.
		<u>7</u>				
		B 976001	-	7000	-	1000 Nos.
		<u>7</u>				
		65 B 512901	-	3000	-	100 Nos.
		65 B 513501	-	4000	-	500 Nos.
		65 B 512891	-	900	-	10 Nos.
		<u>Total</u>				<u>3610 Nos.</u>
iv)	Rs. 5000/-	71C 330001	-	31000	-	1000 Nos.
		71C 331001	-	32000	-	1000 Nos.
		71C 332001	-	33000	-	1000 Nos.
		71C 333001	-	3400	-	1000 Nos.
		50C 321187	-	200	-	14 Nos.
		<u>Total</u>				<u>4014 Nos.</u>

Invoice no. 3 dtd. 25.3.99 was last received. Since IVP has been discontinued from July '99, the unsold stock may be returned to NESD, Guwahati.

20. Nomination registers of NSC and KVP have been properly maintained upto date.

21. Examined the sold applications of KVP & NSC which are found serially maintained in Guard file.

22. Examined the credit of the sale of KVP for the following 4 dates with satisfactory results:-

2.8.99	-	Rs. 25,000/-
22.7.99	-	Rs. 45,000/-
4.9.99	-	Rs. 23,000/-
27.9.99	-	Rs. 1,10,000/-

23.1 Examined the sale of NSC for the following selected dates w.r.to his the transactions list:-

13.7.99	-	Rs. 2,000/-
25.8.99	-	Rs. 10,000/-
6.9.99	-	Rs. 25,000/-
27.9.99	-	Rs. 80,000/-

23.2 The monthly due returns of IVP, KVP and NSC issue and discharge have been submitted to DA (P) Calcutta only upto March '98 as on 2.9.98. Postmaster, Kohima will please ensure the submission of the pending returns to the Audit office within 15 days and report compliance.

24. Physically verified the unsold stock of IPO with reference to stock register with the following balances:-

<u>Deno</u>	<u>T/Nos.</u>
Rs. 1/-	1600 Nos.
Rs. 2/-	1100 Nos.
Rs. 5/-	3200 Nos.
Rs. 10/-	4500 Nos.
Rs. 20/-	3150 Nos.
Rs. 50/-	2700 Nos.
Rs. 100/-	1200 Nos.

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ABG

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It is seen that IPO sold returns upto Oct'98 and paid returns upto Oct' 96 and BPO upto Oct'98 have only been submitted to DA (P) Calcutta. Postmaster, Kohima will ensure submission of pending due returns within a fortnight and report compliance.

26. Examined the S/S books in r/o SB and R/D a/c. Most of the s/slips are available in the S/S books. However, there are no remarks against accounts transferred to other SOs & HOs in S/S books. This omission should be rectified in future.

27. The index register of SB and RD a/cs is being maintained upto-date.

28. Specimen signature cards SB 103 in r/o the SOs are kept in cabin office-wise bundle.

29. Examined the A/T register in respect of out going and incoming accounts with the following results:-

i) Out going A/T register in r/o SB, SD, NSS and MIS A/cs is being maintained is one register upto 23.9.99. The last A/T no.27 for Home circle and A/T no.45 for outside home circle were issued. Out going A/T register of RD accounts are maintained upto 23.9.99 and last A/T no.69.

ii) The A/T register for outside circle is not being maintained separately.

iii) Incoming A/T register in r/o SB, R/D and NSS is also being maintained in a single register upto 29.9.99. Separate registers for separate accounts should be maintained henceforth. Late A/T no.7369 was issued.

30. Nomination register of SB and RD accounts in r/o SOs is being maintained in one register. Separate registers for different types of a/cs should be maintained.

31. Examined stock of unused pass books as per register and found following balances:-

i) SB - 280 Nos.

ii) RD - 269 Nos.

iii) NSS - 13 Nos.

iv) MIS - 283 Nos.

The stock register is not maintained upto-date. The register may please be updated.

32. Examined the register of undelivered pass books. The following pass books were found in deposit:-

i) Medziphema, SB A/c No. 240748

ii) N.Mora, SB A/c No. 170779

iii) Medziphema, SB A/c No. 240554

Kohima, SB A/c No. 110630

Kohima, SB A/c No. 113048

Kohima, SB A/c No. 112727

Kohima, SB A/c No. 112326

N.Mora CTD A/c No. 626023

Kohima, SB A/c No. 110593

As the pass books have been lying undelivered for a considerable period, they may be handed over to SBCO for safe custody and compliance reported.

33. Examined the register for clearance of both local and outstation cheques/ bank draft. No cheque or bankdraft is found pending for clearance.

ATTESTED

22/10/08
for

34. It is seen that lists of withdrawal of Rs.2500/- or above made by Single handed SOs are not being prepared and submitted to the respective Sub-Divl. Inspectors and ASPOs for verification. This is a serious lapse on the part of Kohima HO. Henceforth, the lists should be prepared and sent to concerned Sub-Divl. head for verification without fail.

35. Examined the SB and RD long books. It is noticed that the amounts of deposits and withdrawals are not written in words and figures under the dated signature of DPM. This irregularity should be rectified in future.

36. Checked the SB transactions for the following 4 selected dates and credit thereof w.r.t the SB long book and SO summary:-

Date	Deposit	Withdrawal
30.6.99	Rs.101,790/-	Rs.147,900/-
16.7.99	Rs. 40,975/-	Rs. 80,000/-
26.8.99	Rs. 93,500/-	Rs. 38,400/-
13.9.99	Rs. 56,281/-	Rs. 85,415/-

37. Checked the RD transactions for the following 4 selected dates and credit thereof w.r.t the RD long book and SO summary:-

Date	Deposit	Withdrawal
21.1.99	Rs.15,700/-	Rs.11,392/-
6.3.99	Rs.25,385/-	Rs. 600/-
15.6.99	Rs. 6,400/-	Rs.16,668/-
13.9.99	Rs.24,350/-	

38. Examined the register of death claim cases. The register is found maintained properly. No claim case is pending with the SO.

MO ISSUE & PAID

39. MOs booking is done by Multipurpose Counter Machine and manually when there is no electricity line. Examined the MO issue journal of Multipurpose Counter for the following five dates selected at random.

Date	Amounts
6.1.99	1,35,984/-
11.2.99	1,39,656/-
4.3.99	2,24,815/-
16.4.99	95,685/-
7.6.99	1,30,839/-

40. High value lists were found prepared for HVMOs and kept properly in book form.

41. Examined the TMO advice book and found that the following TMOs issued are not adjusted and dates of payment not yet confirmed. APM will take up the matter with concerned office of payment by issuing 'ERUPTA' call or issue of DTMO:-

- Kohima MO No. CA 2963 for Rs.1200/- dtd. 25.2.99
- Kohima MO No. CA 3183 for Rs.2000/- dtd. 2.3.99
- Kohima MO No. CA 918 for Rs.2000/- dtd. 24.3.99
- Kohima MO No. CA 2021 for Rs.4000/- dtd. 15.5.99
- Kohima MO No. CA 2433 for Rs.1500/- dtd. 24.5.99
- Kohima MO No. CA 2676 for Rs.1000/- dtd. 28.5.99
- Kohima MO No. CA 3006 for Rs.4000/- dtd. 2.6.99
- Kohima MO No. CA 3001 for Rs. 500/- dtd. 2.6.99
- Kohima MO No. CA 3231 for Rs.1000/- dtd. 4.6.99
- Kohima MO No. CA 2352 for Rs. 500/- dtd. 22.5.99

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29/4/05

ABP

42. Examined the stock of MO receipt book of HO and SOs and found the following balances as on 30.9.99:-

HO Part - I to XX - 243 Nos.
SOs Part - 1 to XX - 58 Nos.

43. Checked the stock of BO receipt books and found a balance of 14 receipt books as on 30.9.99.

Done 44. It is seen that MO issue receipt book supplied to SOs are not being checked and certified by the supervisor. Henceforth, it should be done before issue.

45. MO issue returns upto 1st and 2nd period of August '99 have been submitted to DA (P) Calcutta.

46. Checked the TRC branch. The TRC booking is done by Multipurpose Counter Machine. Checked the credits for following five days selected at random with satisfactory results:-

6.4.99	-	Rs.1,50,193/-
24.5.99	-	Rs. 47,306/-
17.2.99	-	Rs.1,20,225/-
12.1.99	-	Rs. 62,006/-
24.3.99	-	Rs.2,71,488/-

47. Examined the MO paid register with the following observations:-

all the 22 MOs were found in deposit. The MO paid clerk and the APM will please ensure early disposal of the MOs and report compliance.

ii) It is also seen that 9 MO received on 29.9.99 and entered in the register were only given out for delivery on 30.9.99. This is highly irregular. MOs received should be given out to the Postman on the same day of receipt.

iii) Date of payment is not written against the entries. Date of payment should invariably be noted against the entry in the register. Reason for nonpayment alongwith date of return should also be noted.

48. Redirected MO register is being maintained but to which place an MO has been redirected has not been noted in the register. This shortcoming should be rectified in future.

49. Examined the MO paid register for BOs and found that 18 MOs are lying unpaid with Postmaster will please instruct the BPMs through BO slips to dispose the MOs immediately and report compliance.

50. The MO paid return for the 2nd period of July'99 has been submitted. Postmaster, Kohima will please ensure submission of pending returns within 15 days and report compliance.

51. It is seen that Ranikhat MO 16675, dtd. 7.8.98 for Rs. 500/- sent to Viswema BO in with Kohima HIO was paid on 18.11.98. Again DMO in r/o the said MO was issued and paid on 9.9.99 causing double payment. Again Ranikhat MO no.12330, dtd. 8.7.98 sent to the above BO on 5.8.98 was paid on 22.8.98. But the DMO in r/o above MO was issued and paid at the BO on 9.9.99. These two MOs were not received through HIO. DO will take immediate action to inquire into the matter. 11/2/05

52. Examined the TMO paid register. No TMO was found in deposit for payment.

53. The TMO guard file is being maintained. No PC is wanting. APM will please issue notices and obtain the PC wherever it is not received within reasonable time.

ATTESTED

29/10/05
AOP

SUB ACCOUNTS BRANCH

54. There are 14 BOs in account with Kohima HO. The BO summary is found maintained upto date.

55. Examined the remittance made to the BOs for the following dates w.r.to the BO slips and BO summary:-

Date	Cash	BOs
1.10.99	Rs.3000/-	to Jakhama
4.10.99	Rs.5200/- cash	to Nehu
8.9.99	Rs.105/- stamp	
13.9.99	Rs.3500/-	to Zubza
	Rs.3050/-	to Thenyizumi

Treasurer's signature and weight against the remittance are wanting. It is also learned from the subaccount clerk that the BPMs used to take the remittance from treasury loose and no LC bag is closed. This irregular practise should be stopped immediately and LC bag used henceforth.

56. There are 40 SOs in account with Kohima HO. Examined the cash and stamp remittance made to SOs w.r.t the SO slips and SO summary for the following dates selected at random:-

Date	SO
3.1.99	Rs.126100/- Stamp to Dimapur SO
23.9.99	Rs. 8650/- Stamp to Peren SO
14.8.99	Rs. 28250/- Stamp to Mokokchung SO
13.8.99	Rs. 1000/- Stamp to KPWD SO

Postmaster, Kohima will please confirm the above remittance made and report compliance.

57. On examination of the SO D/a, it is seen that the SPMs are not submitting the annexures along with the D/a. Postmaster, Kohima will please instruct the SPMs through the SO slips to submit annexure of BOs in a/c with the SOs.

58. Examined the SO daily a/c for the following dates 8.9.99, 10.9.99, 11.9.99, 13.9.99,, 14.9.99. Postmaster's signature is wanting in all the SO D/As. It is obvious that the Postmaster is not checking the SO daily a/c which is highly irregular.

59. Many of the SPMs are in the habit of retaining excess cash without showing details of liabilities. The Postmaster, Kohima HO will please keep personal watch on the excess retention of cash by the SPMs and report to DO all instances of retention of excess cash by the SOs.

ACCOUNTS BRANCH

60. Cash account upto August '99 have been submitted to DA (P) Calcutta. It is noticed that cash account for the months of March '99, June '99 and July'99 were despatched on 19.4.99, 10.7.99 and 7.9.99 respectively. Postmaster, Kohima should ensure that cash account is sent to DA (P) Calcutta by the 5th of every month.

61. Examined the cash book and found written upto 28.9.99. There are corrections and overwritings in some pages of the cash book. This was pointed out in the last IR also. The APM (A/Cs) has been instructed to maintain the cash book neatly without over writings/ corrections.

ATTESTED

29/10/05
AOP

62. Checked the GPF ledger of Group 'D' officials maintained in SB-78 with the following observations.

improper
i) Voucher number of advances/withdrawals taken by the officials are not recorded.

not
ii) Contribution/recovery made from 4/99 have not yet been entered in the ledger. In some cases it is seen that monthly recovery is not made which is very irregular.

Do
iii) GPF ledger cards neither bear the signature/initial of APM (A/Cs) nor the Postmaster. Initial should be given as a token of having checked/entered in the ledger cards.

Do
63. Returns of account of establishment Pay bill upto 2nd period of August '99 in respect of all heads have been submitted to DA(P) Calcutta.

64. PLI schedule for the month of July '99 was submitted on 22.9.99. The PLI schedule for the month of August '99 is yet to be submitted to DA (P) Calcutta. Postmaster, Kohima will ensure timely submission of this return in future.

65. Register of increment of the staff is found maintained category-wise and properly.

not
66. Maintenance of establishment register is not upto the mark. It is seen from different registers that sanctioned establishment is not written, upto date information and particulars are not noted. This was mentioned in the last IR also. Postmaster, Kohima will ensure that the establishment register is properly maintained and updated immediately.

67. CGEGIS register for ED employees is being maintained upto date.

collected
68. Checked the register of CGEGIS and found that entry is made upto date in r/o B2 bills. But for B1 bills entry is still not yet completed. Postmaster will please complete the same immediately.

69. CEA and tuition fee registers are available and found maintained upto date.

70. Recovery register for cycle advance, festival advance, motor cycle advance. HBA advance etc. are found maintained separately. Particulars of outstanding LTC and TA and medical advances are given in annexure- G, H & I respectively. My office will take early action to adjust the outstanding advances.

71. No motor cycle, house building, cycle advances are pending for recovery. The advances taken are found regularly deducted from the pay of the concerned officials.

72. GPF schedule is submitted regularly and the register is being maintained with upto date informations.

73. Statements on recoverable advances are submitted to DA(P) Calcutta regularly.

74. Void MO, TRC, MC, UCP/UCR returns are being submitted regularly.

75. GPF account number is allotted in respect of all officials except these who have not completed one year of service.

76. One security bond register is available for ED staff and single handed SPMs. Deduction of security bond premia is found upto date.

77. Register of pensioners and family pensioners is being maintained upto date. Payment schedules is submitted to DA (P) Calcutta along with the account returns.

ATTESTED

Signature
27/10/99
APR

78.1 Examined the service books of the following officials selected at random:-

<u>Name of the official</u>	<u>Documents wanting.</u>
i) Shri. John Angami	Attestation, Nomination, Bio-data page is blank.
ii) Shri. J.K. Singh	Signature of Postmaster in Bio-data page is wanting.
iii) Shri. K. Joseph	Photograph, Nomination, attestation, signature of official.
iv) Mrs. K. Z. Dolf	Photograph, Nomination, attestation, Signature of official.

78.2 Photographs are not available on many service books.

78.3 Many of the service books are not attested. This should be rectified immediately. The APM (A/Cs) will please check all the service books and obtain the wanting documents within month.

79. Register of bank reconciliation for remittance by SO's and HO to SBI is being maintained in separate registers. But bank scroll received from the Bank has not been noted against the remittance made by SOs since 98. This should be pulled up and made upto date within 15 days.

MAILS

80. Mail Branch is functioning under the supervision of one APM (Mails) who is assisted by one mail clerk. Due mail and sorting list as corrected upto 5.12.97 is available. Some changes have been made subsequently. Postmaster, Kohima HO will please prepare draft due and sorting list incorporating all the changes made and submit it to DO for approval.

81. Mails between Dimapur and Kohima are carried by Departmental MMS Van which is now plying upto Mao. As per latest revised schedule the Mail Van is due to reach Kohima HO so that mails are sorted and given for delivery on the same day of receipt. However, due to a heavy landslide some 12 KMs before Kohima Mail Van is not arriving on time during the period of inspection. Once the landslide is cleared Postmaster Kohima will please keep watch on timely plying of the Mail Van and delivery of mails on the same day of receipt.

82. Mails on Kohima-Chiechama-Tsemenyu-Wokha route are now being carried by a private MMC from 15.9.99. The mails on the route are regular now. However, mails on other routes like Pfutsero, Phlek Meluri, Kiphire, Chazouba and Zunheboto are carried by NST buses which are sometimes not regular. My office will explore engaging private MMC on routes where private buses are plying regularly.

83. Examined the sorting case and sorting diagram. The work of sorting is done by sorting postmen, Group 'D' and even ED officials. The APM (Mails) should periodically supervise and guide the sorting staff.

84. Justified letter bundles are being prepared and despatched. The APM (Mails) will please collect statistics for a fortnight and send the figures to my office for examining whether more direct bags can be introduced for important stations. The ASPOs Kohima Sub-Divn. will guide the APM (Mails) in collecting accurate figures.

ATTESTED

[Signature]
27/10/98
ABP

85. Book of Postmarks is being maintained. Some impressions are clear while many are not so clear. It is noticed that defacing is done at the centre of the Postage stamps. Defacing should be done at some corner of the stamps as instructed on the spot. The APM (Mails) will please see that all seals and stamps are periodically cleaned thoroughly with Kerosene and brush and ensure that the impressions on articles are distinct. DO will take immediate action to replace the defective stamps/seals as noted in the last IR also.

86. The unpaid and insufficiently paid register is being maintained daily. The rate of realisation of cash on unpaid or insufficiently paid articles is not so good. The monthly average realisation has also come down from Rs.700 in the previous year to Rs.500 - Rs.600 at present. The APM (Mails) will please maintain the account properly and keep close watch on the number of articles returned by Postmen.

87. Bag balance register is being maintained. It should be ensured that empty bags in excess of authorized balances are not retained and that excess empty bags are periodically despatched to Dimapur RMS.

88. An error book for noting the periodical irregularities is being maintained. Subsequent rectification of a particular irregularity is required to be noted in the margin in red ink by the supervisor.

89.1 Forty-three letter boxes under the jurisdiction of Kohima HO are cleared by one LB peon and one EDLB peon. Latest statement of letter boxes is sated to have been submitted to Divl. Office.

89.2 The Postmaster, Kohima HO will depute the PRI to see the conditions of every letter box and submit a report to me for replacement of defective ones and repainting. Divl. Office will then tender nothing rates for the replacement and for painting also.

90.1 The delivery works of Kohima HO are performed by (12 + 1) Postmen through one combined delivery. After diversion of one Postman to Kohima Village SO and opening of New Sectt. Complex SO, the delivery beats are required to be readjusted. Several times I had reminded the APM (Mails) to examine restructuring the beats of Postmen with the help of sorting Postmen. - I had also asked the ASPOs, Kohima Sub-Divn. to collect statistics and help

master, Kohima will please see that draft is submitted to Divl. Office within 2 months positively.

90.2 After restructuring of delivery works, beat map of the Postmen should be prepared afresh and copy sent to DO for approval.

91. Examined the Book of Postmen. The book is not examined by the APM (Mails) and the mail clerk who should sign it daily henceforth.

92. The book of addressees instructions is being maintained. However, there are not many entries. The APM (Mails) will please note the entries carefully and instruct the concerned Postman properly.

93. Examined the VP articles in deposit and found that altogether 64 (sixty four) Regd. Parcel articles (Six insured and fifty eight only) are in deposit. Some of the articles are detained beyond the prescribed period and without remarks on them. These should be disposed of immediately and the Postmaster should personally see that the articles are not retained beyond the prescribed period henceforth.

ATTESTED

29/10/05
APP

Not being signed
by APM (Mails)
Presented for

94. Checked the parcel lists. The list is being maintained properly. The Postmaster should see that the lists are periodically checked in accordance with clauses 34 and 35 of Rules 239 of Manual Vol. VIII.

95. Checked the delivery of few articles on the following four different dates since last inspection as per the parcel lists with satisfactory results:-

<u>Date of receipt</u>	<u>Class of</u>	<u>Office of Posting</u>	<u>Date of delivery</u>
2.8.99	RP 2732	Patiala	3.8.99
	RP 2733	Patiala	3.8.99
19.8.99	RP 9766	Shillong	21.8.99
28.5.99	RP 5018	Guwahati	29.5.99
1.5.99	RP 218	Chennai	4.5.99

96.1 Examined the register of VP articles received. It is seen that though it is maintained properly, the number of articles in deposit is not noted in the prescribed manner daily. This should be rectified by the Postmaster immediately.

96.2 Checked the particulars of VP MOs issued in lieu of articles delivered and found that these are noted properly.

96.3 It is seen that as many as 54 (fifty-four) VP articles were in deposit. No demurrage charges with the request application of the addressee are recovered. The Postmaster should dispose off the articles immediately and no articles without application and demurrage charges be detained henceforth.

96.4 Test checked few VPMOs issued in lieu of articles delivered on four different dates selected at random since the last inspection with satisfactory results:-

97. The register of custom duty realised on foreign parcels has not been maintained. It is highly irregular. However one sample register was supplied with the prescribed proforma and the Postmaster should personally check this daily henceforth.

98. Examined the entries on some of the VP articles for despatch. They tally with the entries in the VPMO form and V.P Journals. No articles are also found detained after booking.

99. Examined issue of Registered articles of Postage for the month of April 1999. The articles selected at random and found that articles were duly disposed off without detention. Booking of registered and insured articles are done through Multipurpose Counter Machine.

100. Checked the VPL (issue) journal with satisfactory results. A good number of cases for adjustment of VPL articles is pending. APM incharge should supervise the branch properly and make upto date by issuing VP calls in case of nonreceipt of VPMOs.

101. Examined the VPL register. It is found that 203 VPL articles were actually found against 203 VPL articles shown in the VPL register. The VPL register is maintained properly and the dealing assistant could not explain the reason for the difference of the VPL articles as shown in the VPP register and those found on physical counting.

102. While examining the branch, it is noticed that many VPL articles are kept beyond the prescribed period. This should not be repeated in future.

103. The book of intimations served to the addressees is maintained. No remarks of delivery of intimation to the addressee is noted on the VPL forms. This should be done henceforth. This point was also reflected in the last IR.

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104. It is also seen that in respect of VPL articles detained beyond the prescribed limit demurrage fee is not realised. The supervisor/incharge should see that correct demurrage charge is realised in future.

SPEED POST

105. Kohima Speed Post Centre was opened on 1.4.99 and is functioning at one counter of Kohima HO. The accommodation is not adequate. Divl. Office will take up with Circle Office for provision of separate accommodation for SPC in the proposed additional Kohima HO building.

106. Shri. Tali Ao has been trained as marketing executive for SPC Kohima. However, Miss. M. Lucy has taken over the charge of SPC Kohima w.e.f 28.7.99. Divl. Office will depute her for training on SPC at the earliest opportunity.

107.1 The revenue target for SPC Kohima is Rs.75000/- per month. The revenue realised during the 1st six months are as follows:-

<u>Month</u>	<u>Revenue</u>
April	48,655
May	49,430
June	45,500
July	58,481
August	58,608
September	64,304

107.2 The average monthly revenue is short of the target. Concerted efforts will be made by all to achieve the target.

108. One MPCM has being diverted from Kohima HO and is being used for booking of Speed Post articles. Divl. Office will take up with Circle Office for supply of a separate MPCM for SPC Kohima. On perusal of the issue journal of Speed Post articles, for a few days, selected at random, it is seen that correct charges are made according to the weight and distance of the articles. The revenue realised is handed over to the treasurer daily. I have instructed the incharge SPC to maintain a separate register for recording the amount of money handed over to the treasurer and obtain the initial of the treasurer in the register.

109. At present there is no contract customers for availing "Book Now Pay Later" scheme. However, this scheme can be made available to regular customers.

110. At present articles are not accepted after cut off timings. However, if customers come with articles after the cut off time which is 13:30 hrs, the article may be accepted and impressed with rubber stamp of "Two Late For Next Day Delivery".

111. Speed Post bags between Kohima and Guwahati are carried by Manipur Golden Travels. SPC bags are received at 08:30 hrs and despatched at 14:00 hrs. to Manipur Golden Travels Office through one ED Staff. The arrangement is by and large satisfactory.

112. SPC Kohima also receives SP articles from State Speed Post Centres like, Wokha, Phek, & Zunheboto. From the time bill maintained it is seen that most of the SPC bags from Speed Post Centres are normally received between 08:30 hrs to 11:30 hrs. It should be ensured that articles received for other SPC are despatched on the same day of receipt.

113. Register for receipt of Speed Post articles is being maintained properly. From the register it is seen that during the month of September '99 almost all the articles are delivered on the same day of receipt.

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114. 72 pigeon hole sorting cases has been provided to SPC. As there are more than 72 SP centres in India a small sorting case may be prepared and provided to SPC Kohima.

115. There is no rubber stamps for Manager, SPC Kohima. Rubber stamps for Manager and 'Too Late For Next Day Delivery' may be prepared and brought into use.

116. The functioning of SPC Kohima is quite satisfactory. Henceforth, the incharge SPC Kohima will be designated as Manager, Speed Post Centre, Kohima.

VSAT

117. Kohima VSAT station was opened on 1.1.96 with ESMO units at Dimapur SO and Imphal HO. The station functions from 08:00 hrs to 19:00 hrs. Kohima VSAT does not function at night, on holidays and Sundays.

118. Shri.A.K.Singh, an LSG official has been working as supervisor since the installation of VSAT at Kohima. Miss. M.Lucy worked as an operator from Jan'96 to July'99. Shri.V.Khazo has been working as the operator since July'99.

119. At present only Dimapur ESMO is functioning. ESMO at Imphal is not functioning since September 98. The matter has been taken up with DPS Imphal for rectification. However, till date the defective ESMO has not been rectified.

120. There has been no breakdown in the operation of Kohima VSAT during the last 3 months. Dimapur ESMO was not operational from April 1999 due to hard disk problem of the P.C. The problem was identified and rectified subsequently. The ESMO has been functioning satisfactorily since 24.8.99. The Annual Maintenance Contract for ESMO at Dimapur has been made and will remain in force upto March 2000. One MPCM has been diverted for use at ESMO at Dimapur. Divl. Office will take up with C.O for provision of a separate P.C for ESMO at Dimapur.

121. The working hrs. of ESMO Dimapur are from 09:00 hrs to 17:00 hrs. However, it is stated that the MOs booked on a particular day are transmitted to Kohima on the same day. As such it is not considered necessary to extend the working hrs. of Dimapur ESMOs at present.

122.1 The total number of MOs transmitted through Kohima VSAT since April '99 are as follows:-

Month	No. of MOs booked	No. of MOs transmitted
April '99	1024	1008
May '99	1587	1572
June '99	1695	1687
July '99	697	690
August '99	1488	1451
September '99	2184	2147

122.2 The monthly average traffic has come down considerably in the last few months of the year. The supervisor stated that the low traffic is due to erratic power supply from the Power Department. While adequate and regular supply of power will be taken up by Divl. Office, the supervisor and the operator will please make concerted efforts to increase the traffic. Under any circumstances the total number of MOs transmitted through VSAT should not be less than 3000 MOs per month.

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123. The incoming traffic during the last six months is as follows:-

<u>Month</u>	<u>No. of MOs Received</u>
April 99	532
May 99	767
June 99	862
July 99	765
August 99	792
September 99	820

As the incoming traffic is not much it is not considered necessary to provide faster printer. It was stated by the supervisor that 75% of the incoming MOs for payment are meant for Imphal. However, since ESMO Imphal has not been working for last one year the MOs are sent to Imphal by surface route after taking out the prints from Kohima VSAT. This not only causes delay but also creates additional workload at Kohima VSAT.

124.1 The UPS meant for VSAT was not working for long time. After repeated request the representative of the AMC came and repaired the UPS sometime in the month of July 99. However, the UPS remained in working condition only for about a week. My office will take up with the AMC for early rectification of the UPS by the AMC.

124.2 A 5 KVA generator has been installed at Kohima HO. However, the whole building vibrates when the generator is put on. Therefore, construction of a separate shed for generator has been taken up with Circle Office but till date there is no response from C.O. My office will pursue the matter with C.O.

125. The position of MOs booked and transmitted on 4 dates selected at random during the month of September 99 is as follows:-

<u>Date</u>	<u>No. of MOs booked</u>	<u>No. of MOs transmitted on the same day.</u>
6.9.99	86	21
9.9.99	88	20
13.9.99	55	55
17.9.99	45	39

It is seen that many MOs are not transmitted on the same date of booking. In some cases it is seen that some MOs booked on 11.9.99 were transmitted only on the 17.9.99. There was undue delay in transmission. The supervisor was not able to explain the delay as he was on training/leave during the period. The delay is unacceptable. The supervisor and the operator will make all efforts to ensure that MOs are transmitted on the next day positively if not on the same date of booking.

126.1 Examined the receipt of MOs on the following 4 days selected at random during the month of September 99.

<u>Date</u>	<u>No. of MOs received.</u>
4.9.99	11
8.9.99	46
10.9.99	08
11.9.99	49

126.2 It is seen that most of the MOs received for payment are meant for Manipur Division. Since Imphal ESMO has not been functioning for the last one year the MOs are printed from Kohima VSAT and sent to Imphal.

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126.3 In respect of MOs received for payment it is also seen that there is undue delay in receiving the MOs from other stations in some cases.

127. One reason for the delay in transmission as well as receipt of MOs could be due to non-switching of Kohima VSAT at night. The supervisor will please examine if the VSAT Unit can be kept switched on during the whole night.

128. The MOs received for payment are sent to the office of payment and record is being maintained daily. However, there is no mechanism to check the date of payment by the office of payment.

129. MOs booked from Kohima HO, TSOs and FPOs are being sent to VSAT for transmission, without the intervention of the RMS. My office will examine if MOs booked from nearby Sub Offices can also be sent to VSAT for transmission, so that the traffic can be increased.

130. The functioning of Kohima VSAT is by and large satisfactory. Both the supervisor and the operator are taking keen interest in the work. They will however, make more efforts to increase the traffic and also speed up the transmission of MOs after booking.

GENERAL

131. The CRs of the following Postmen and Sorting Postmen have been found written upto date:-

- i) Shri. Y.T.Sema, Postman
- ii) Shri. Umesh Mahato, Postman
- iii) Shri. Ketounei Angami, Postman
- iv) Shri. K.C.John, Postman
- v) Shri. Golap Duarah, Postman
- vi) Shri. N.C.Sharma, Postman
- vii) Smt. K.Catherine, Postman
- viii) Shri. Zupithong Kath, Postman
- ix) Shri. Chittaranjan Kumar, Postman
- x) Shri. Chandra Bahadur Yogi, Sortg. Postman.

132. Gradation lists of Postmen, Group 'D' & ED staff as corrected on 31.5.98 are available on record. However, since there are some changes the lists may kindly be updated.

133. The draft gradation list of all the staff of Nagaland Divn. as corrected upto 31.7.99 has been supplied to the Postmaster. The list may be seen by all the staff of Kohima HO and resubmitted to Divl. Office for preparation of the final list within the stipulated time.

134. Order book and OT register is being maintained in the same book. Against the sanctioned strength of 26 PA s only 20 are in position. OT is being resorted to for pulling up the works due to shortage of staff.

135. The Postmaster, Kohima has not carried out any internal inspections since the last inspection. He has been instructed to carry out internal check in every branch of his office in every quarter and sent his remarks to Divl. Office.

136. Nominal Roll cum Attendance register is being maintained upto date.

137. Stock register is being maintained. However, all the items of furniture and articles have not yet been noted in the register. The Postmaster, will please physically verify the stock of all the articles and incorporate them in the stock register.

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138. 6 MPCMs have been supplied to Kohima HO. Out of 2 MPCMs supplied by M/S Manak, one has not been working from the day of installation. One 486 based machine has become unserviceable and two 386 machines are to be condemned. One machine each has been diverted for Speed Post Centre, Kohima and New Sectt. Complex SO. Action has already been taken for repairing/rectifying the machines supplied by M/S Manak and also for condemning the unserviceable/obsolete machines by D.O.

139. Equipment for SB LAN has been supplied and installed sometime back. Training for supervisor and the operator has also been imparted. Data entry of SB and MIS accounts of Kohima HO has also been completed. However, due to nonreceipt of some CD, on line operation has not yet been started at Kohima HO. Divl. Office will take up with concerned authorities for early supply of necessary software.

140. Besides MPCMs and SB LAN, PCs for SBCO, PRSS accounts, Mail net, Philatelic Bureau have been supplied. However, history sheets of the machines are not being maintained. Divl. Office will supply the format and the Postmaster will please ensure that history sheet for each machine is maintained properly.

CONCLUSION.

141. The functioning of Kohima HO since last inspection is more or less satisfactory. The traffic of Speed Post as well as the revenue have considerably increased compared to the corresponding figures in the previous year. However, overall functioning of the office needs improvement. The Postmaster needs to pay more attention and carry out prescribed checks on the working of different branches of the office. He should also ensure that proper follow up actions on the IR are taken by the supervisors and the concerned Postal Assistants. Do should also see that necessary follow-up actions are taken by all concerned.

142. Some omissions which should be rectified immediately are noted below:-

i) Divl. Office:-

a) Extracts of the previous IR were circulated to all concerned for taking follow up actions by the IR branch, but most of the O/As of Divl. Office did not give compliance reports and the IR branch never reminded the O/As.

b) Compliance report was submitted to Circle Office without perusal of the undersigned.

c) Final Compliance report was called from the Postmaster on 20.1.99. No reminder was issued even though no further report was received from Kohima HO.

d) The IR should have been reviewed periodically.

ii) Kohima HO:-

a) None of the shortcomings noted in the last IR was rectified even though they were stated to have been rectified.

b) It appears that compliance report was written by the Postmaster, without taking follow up actions.

c) The internal checks have never been carried out in any of the branches by the Postmaster.

d) The supervisors of different branches have also not been keeping close watch on the works of the PAs under them.

e) Improvement and restructuring of the delivery branch of Kohima HO are to be attended to urgently.

f) Periodical returns are not submitted to DA (P) Calcutta on time.

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27/1/99
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143. DO, Postmaster, Supervisor and concerned PAs of Kohima HO will please ensure that the shortcomings/irregularities pointed out in the IR are rectified and proper follow up actions taken for overall improvement in the working of Kohima HO. A compliance report on this IR may kindly be sent to Divl. Office within one month.

(F.P.Solo)

Director of Postal Services
Nagaland, Kohima-797001

NO.DPS/IR/Kohima HO/99

Dated at Kohima the 12.10.99

Copy to:-

1. The Chief PMG, N.E.Circle, Shillong-793001
2. The Postmaster, Kohima HO.
- 3.-4. IR Branch, Divl. Office, Kohima
5. Spare.

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29/10/99
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Annexure A-27

P.D-16
24-1-02

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

No.F3/VII-01/99-2000
Dtd, Kohima the

14.3.2000

Circle Level Inquiry Report

COs File No. INV/X/GM-1/99-2000.

Sub:- Alleged M/A of Govt. Money by Shri.S.B.Hazarika CI Divl. Office Kohima

1. Nature of irregularity:-

Shri.S.B.Hazarika while functioning as compliant Inspector Divl.office Kohima during the period from 3.2.99 to 7.11.99 took a sum of Rs.65400/- from the treasury of Kohima on 29.7.99, a sum of Rs. 7000/- on 29.7.99 from the office cash of Wokha SO through the SPM and a sum of Rs. 3000/- on 22.9.99. from the office cash of Doyang SO from the SPM by using his official influence unauthorisedly for his personal use without the knowledge of the competent authority.

2. How the case came to light :-

The taking of office cash from the treasury of Kohima HO by Shri. S.B.Hazarika was detected during the verification of cash and stamp balances of Kohima by the undersigned 30.9.99. On detection of shortage of Govt cash Shri. Hazarika was asked to credit the entire amount to the Govt a/c Shri.Hazarika deposited only a sum of Rs.10,400/- on 30.9.99. The remaining amount of Rs.55000/- was charged as UCP in Kohima HO on 30.9.99.

3. Assessment and adjustment of loss :-

Out of the net loss of Rs.77400/-, a sum of Rs.10400/- has been credited in the Govt. account by Shri. Hazarika on 30.9.99. The remaining amount is yet to be adjusted. Shri. Hazarika gave a written statement that the amount would be refunded within 31.3.2000.

4. Police investigation:-

The case was reported to Police and the case stands registered under North P/S case No.198/99 U/S 420 IPC. He was arrested on 8.11.99 and kept under judicial custody till 2.12.99. Shri.Hazarika was released on bail on 3.12.99 and his case is under trial in the Court of D.C, Kohima.

5. Principal offender :-

Shri S.B.Hazarika C.I Divl office, Kohima by using his official influence took the entire amount from the treasury & the SPMs without any authority.

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6. Subsidiary offenders :- The subsidiary offenders in this instant case are :-

i) Shri. Shivji Choudhury T/R Kohima HO :-

He made the payment without any prior sanction and failed to report the matter to the higher authority immediately.

ii) Shri. S. Boro (Dy. PM) :-

He was holding the charge of Postmaster Kohima HO from 25.2.99 to 23.8.99, but he failed to detect the irregularity that was committed by said Shri. S. B. Hazarika.

iii) Shri. S. C. Paul P/M Kohima HO :-

While taking the charge of Postmaster w.e.f. 24.8.99, he failed to detect the irregular payment that was made during the time of Shri. S. Boro.

As per rule, necessary action will be initiated against them, and will be intimated to CO.

7. Inspectorial lapse :- No inspectorial lapses were noticed on the part of the inspecting officers. The case was detected during the annual inspection of Kohima HO by the u/s on 30.9.99.

8. Disciplinary action against the offenders :-

The Principal offender, Shri. S. B. Hazarika was placed under suspension w.e.f. 8.11.99 vide this office letter of even No. Dtd. 11.11.99. He has been chargesheeted under Rule 14 of the CCS (CCA) Rule 1965 on 6.1.2000. As the charged official expressed his desire to be heard in person, CO has been requested to nominate a suitable Officer for the appointment of IO. Disciplinary action against the subsidiary offenders are yet to be initiated.

9. Lacunae in the rules and procedures :-

There is no Lacunae in the relevant rules and procedure. Shri. S. B. Hazarika without observing any rule or procedure unauthorisedly took money from the Treasurer, Kohima HO and the SPMs of Wokha and Doyang SO.

10. Pending aspects :-

(i) Police / Court Case.

(ii) Disciplinary action against the Principal and Subsidiary Offenders.

(iii) Adjustment of loss.

(F.P. Solo)

Director of Postal Services
Nagaland : Kohima-797001.

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DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E. CIRCLE:
SHILLONG 793001

Page No 260

Memo No. Staff/109-15/2001

22 November, 2001

This is regarding the appeal of Shri S.C. Paul, O.A. Divisional Office, Kohima dated 24.8.2001 against the order of DPS Kohima imposing a punishment of recovery of Rs.5500/- under his memo No. F-3/VII-01/99-2000/II dated 28.6.2001.

The case in brief is that the Treasurer, Kohima HO made an unauthorized payment of Rs.65500/- to Shri S.B. Hazarika, C.I. Kohima on 29.7.99 without the knowledge of the Postmaster. Shri S.C. Paul, who was on leave on that day, joined on expiry of leave on 24.8.99 but could not detect the shortage of cash caused by the said unauthorized payment by the treasurer. He was, therefore, charged under Rule 16 of CCS(CCA) Rules, 1965 for violation of Rule 58 of FHB Vol.I. On finalization of the disciplinary case, he was held responsible for the loss caused by the irregular transaction as he failed to detect the same on the day of his taking over charge on return from leave and a punishment of recovery of Rs.5500/- in 10 instalments was imposed on him vide DPS Kohima's memo no. F-3/VII-01/99-2000/II dated 28.6.2001. Hence the appeal.

Shri Paul in his appeal denied his involvement in the case mainly on the following grounds.

1. On the day of the alleged irregular transaction i.e. on 29.7.2001, one Shri Senapati Boro was the Postmaster not Shri S.C. Paul.
2. That nowhere it was written that there was a shortage of cash since 29.7.99.
3. That on the day of his taking over charge on 24.8.99, he got the cash and stamps correct.

I have gone through the appeal along with all relevant documents including the parawise comments of the DPS Kohima in this case. As I find, the alleged irregular transaction took place on 29.7.99 when the appellant was not holding the charge of the office. He took over the charge on 24.8.99 i.e. after about 4 weeks from the date of the incident. As such it cannot be held that has contributed to the loss in any way in terms of Rule 58 of FHB Vol.I.

Secondly, the appellant took charge on 24.8.99. He was supposed to verify the cash and stamp with reference to the verified cash and stamp balances of previous working day. As indicated in the report of DPS, the payment was made obtaining a receipt. As such there was no scope for him to detect a case, which

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D.A. S. P. O. (H.O.)
22/10/01

took place about 4 weeks ago. The lapse on the part of the appellant, however, I find, was that he failed to check the money receipts properly to see if they were duly countersigned by the competent authority. Had he done it, the fact could have been detected a little earlier. However, even if the irregularity could have been detected and reported on 24.8.99, it would not have prevented the loss as it had already taken place about 4 weeks before the date of his taking over charge.

Thus, it is clear that the charge brought against Shri S.C. Paul for violation of Rule 58 of FHB Vol.I does not hold good and he cannot be held responsible for the loss caused by the irregular transaction. I, therefore, set aside the punishment of recovery of Rs.5500/- imposed upon Shri S.C. Paul under DPS Kohima's memo no. F3/VII-01/99-2000/II dated 28.6.2001 and let off Shri Paul with Censure only.



(Vijay Chitale)
Chief Postmaster General
N.E. Circle, Shillong 793001
&
Appellate Authority

Copy to:

1. Director of Postal Services, Nagaland Division, Kohima 797001.
2. Director of A/cs(P), 36 C.R. Avenue, Yogayog Bhavan, Calcutta 700012
3. Postmaster, Kohima HIO
4. Shri S.C. Paul, OA, o/o DPS Kohima. (Through DPS Kohima)
5. PF of the official
6. Spare

26/11/01

CH/ Faced.

(Vijay Chitale)
Chief Postmaster General
N.E. Circle, Shillong 793001

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29/11/01

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Annexure A-39

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

D.D. Addl. - 3
Page No 262
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No. F3/VII-01/99-2000/II

Dated Kohima the 28-06-2001

In this office memo of even No. Dtd. 22-5-2001, it was proposed to hold an inquiry under Rule 16 of the CCS (CCA) Rule 1965 against Shri. S.Boro the then Postmaster Kohima H.O. The statement of imputation of misconduct and misbehaviour framed against Shri. S.Boro is reproduced below :-

"That the said Shri.S.Boro while functioning as the Postmaster (HSG-II) Kohima H.O. during the period from 25-2-99 to 23-8-99 failed to to exercise proper supervision over the day to day functioning of Kohima H.O. A Sum of Rs. 64,500/- was unauthorisedly paid to Shri. S.B.Hazarika Ex-C.I.Divisional Office Kohima by the Treasurer Kohima H.O. on 29-7-1999 without prior sanction and knowledge of the Competent Authority. But the said Shri. S.Boro failed to detect the irregular payment that was made and thereby the Govt. sustained a loss of huge amount of money.

Had the said Shri.S.Boro been more vigilant in performing his duty and had physically verified the cash balances of Kohima H.O, the irregularity could have been detected earlier and the amount of loss sustained by the department recovered from the Official at fault.

Thus by the above the said Shri.S.Boro has violated Rule 58 of the P & T Financial Handbook Vol-I and thereby infringed the provisions of Rule 3 (1) (ii) & (iii) of the CCS (Conduct) Rules 1964".

Shri. S.Boro was given an opportunity to submit within 10 days of the receipt of this memo, a written statement of defence against the proposal. The written statement of Shri. S.Boro is reproduced below :-

Sir,

" In acknowledging your memo No. F3/VII-01/99-2000 Dtd. 22-5-01, I have the honour to submit my defence statement for favour of your kind consideration and favourable order. That Sir, during the period from 25/2/99 to 23/8/99 while I was working as the Postmaster Kohima H.O the sum of Rs.64,500/- paid to Shri. S.B.Hazarika the then C.I.Divisional Office had never been brought to my knowledge by the Treasurer Kohima H.O and I am quite innocent in this regard.

[Signature]
30-1-04
P.O. 28 Spas (H.O.)
28 Jul 2001
ATTESTED
[Signature]
28/07/01

Besides the cash and stamps were found correct at the time of closing of the account

It is however, I do pray your kindness to consider my case sympathetically and assure you that not to commit such type irregularities in future".

Yours faithfully

Sd/-

(S.Boro)

SPM (HSG-II) Dimapur

I have gone through the Rule 16 chargesheets against Shri. SBoro as well as the representation submitted by the charged official.

Shri.S.Boro, while functioning as Postmaster (HSG-II), Kohima HO from 25.2.99 to 23.8.99 was charged of having failed to exercise proper supervision over the functioning of Kohima HO and by negligence causing loss to the Government a sum of Rs.64,500/- which was unauthorisedly paid to Shri.S.B.Hazarika, CI (u/s), Divisional Office, Kohima by the treasurer Kohima HO on 29.7.99. In his defence statement dtd. nil Shri.Boro stated that the fact that a sum of Rs.64,500/- was paid to Shri.Hazarika was never brought to his notice by the treasurer and he was innocent. He also stated that the cash and stamps were found correct at the time of closing the account. Shri.S.Boro cannot plead ignorance as it was his duty as the joint custodian to physically count the cash before it was kept in the iron chest. Had Shri.Boro counted the cash as required under the rule on the day of occurrence the loss could have been detected there and then and the amount recovered from the official at fault. In the course of investigation it has transpired that the amount was advanced to Shri.S.B.Hazarika, by the treasurer on 29.7.99 as temporary loan and the amount was promised to be returned within a week by Shri.Hazarika.

As the amount was huge it is unlikely that it was paid to Shri.Hazarika without the knowledge and consent of the Postmaster, Shri. S.Boro. Moreover, when a huge amount of cash was running short in the office balance, the submission of Boro that the cash and stamps were found correct at the time of closing of the account cannot be accepted. Had Shri.Boro physically carried out verification of the office cash and stamp balances daily as required under the rule, the shortage of cash could have been detected and the amount recovered from the official at fault. But due to negligence and contributory lapses on the part of Shri.S.Boro loss of a huge sum of money has been caused to the Government. After refund of some amount by Shri.Hazarika the net loss caused to the Government stands at Rs. 55,000/-. Thus the charges brought against Shri.S.Boro under Rule 58 of P & T FHB Vol-I stands proved. This also attracted the provisions of Rule 3 (1) (ii) and (iii) of CCS (Conduct) Rules 1964. In view of the gross negligence on the part of Shri.S.Boro, it is felt that the ends of justice be met if 10% of the loss is recovered from Shri.S.Boro.

ATTESTED

-CO-

Annexure A-39
ORDER

Page No 263

I Shri. F.P.Solo, Director of Postal Services, Nagaland, Kohima and the disciplinary authority in this case orders that the amount of Rs. 5,500/- (Rupees Five thousand five hundred) only be recovered from the pay and allowances of Shri. S.Boro @ Rs. 550/- (Rupees Five hundred fifty) only, in 10 instalments from the pay of July, 2001.

(F.P.Solo)

Director of Postal Services
Nagaland : Kohima-797001

Copy to:-

- 1) The Postmaster, Kohima HO for information and necessary action.
- 2) The DA (P) Kolkata (Through the Postmaster, Kohima HO).
- 3) Shri.S.Boro, SPM (HSG-II) Dimapur S.O.
- 4) PF of the Official.
- 5) CR of the Official.
- 6) Office copy.

(F.P.Solo)

Director of Postal Services
Nagaland : Kohima -797 001

ATTESTED

29/7/05
H.P.

ofc

Annexure A-40

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

B.D. Addl-40236
Page No 284
S's copy

No. F3/VII-01/99-2000(1.nose)

Dated Kohima the 13-2-2001

In this office memo of even No. Dtd. 2-1-2001, it was proposed to hold an inquiry under Rule 16 of the CCS (CCA) Rule 1965 against Shri. Shivji Choudhury Treasurer Kohima H.O. The statement of imputation of misconduct and misbehaviour framed against Shri. Shivji Choudhury is reproduced below :-

That the said Shri. Shivji Choudhury while functioning as Treasurer Kohima H.O from 17-8-96 to date unauthorisedly paid a sum of Rs. 65,400/- (Rupees Sixty five thousand four hundred) only to Shri. S.B. Hazarika C.I. Divisional Office Kohima on 29-7-99 without the knowledge of the Postmaster Kohima H.O. The amount was paid to Shri. S.B. Hazarika without any authority from the Competent authority and enabled Shri. S.B. Hazarika to misappropriate Govt. money and caused corresponding loss to the Government. The irregular payment of Rs. 65,400/- to Shri. S.B. Hazarika by Shri. Shivji Choudhury was detected during the verification of cash and stamp balance of Kohima H.O by the Director of Postal Services, Nagaland on 30.9.1999. When asked to credit the entire amount to the Govt. account, Shri. S.B. Hazarika deposited only a sum of Rs. 10,400/- (Rupees Ten thousand four hundred) on 30-9-99. The remaining amount of Rs. 55,000/- (Rupees Fifty five thousand) was charged as UCP in Kohima H.O on 30-9-99.

Had the said Shri. Shivji Choudhury been more cautious and had sought formal sanction from the competent authority before effecting the payment, the irregularity could have been checked and the loss sustained by the Department averted.

Thus, by the above act, the said Shri. Shivji Choudhury violated the provision of Rule 58 of the P & T Financial Hand Book Vol-I and thereby infringed Rule 3 (1) (i) (ii) & (iii) of the CCS (Conduct) Rules 1964.

Shri. Shivji Choudhury was given an opportunity to submit within 10 days of the receipt of this memo, a written statement of defence against the proposal.

I have gone through the case carefully. Shri. Shivji Choudhury, Treasurer Kohima H.O is charged of having unauthorisedly paid a sum of Rs. 65,400/- to Shri. S.B. Hazarika C.I. Divisional Office Kohima on 29-7-99 and caused corresponding loss to the Govt. Shri. Shivji Choudhury in his defence statement Dtd. 19-1-2001 while admitting the charge, narrated the circumstances under which he was compelled to pay the money to Shri. Hazarika from Government cash and prayed for pardon.

Seen
Dtd. 2-1-2001
28/01/04

ATTESTED

2/1/01
P.O. 2
A.S. 95 (A.S.)
Jub

Even though pressure from a senior official may be applied, Shri. Shivji Choudhury being the joint custodian of Govt. money should not have parted with the Government money without proper authority. But Shri. Shivji Choudhury without sanction of Competent Authority unauthorisedly paid a sum of Rs. 65,400/- to Shri. S.B. Hazarika on 29-7-99 and caused corresponding loss to the Govt. Had Shri. Shivji Choudhury been more diligent and prudent in the discharge of his duties as Treasurer, Kohima H.O the loss to the Government could have been avoided.

The said official committed a grave misconduct warranting a deterrent punishment. But considering the facts and circumstances of the case I am of the view that the ends of justice would be met if a part of loss is recovered from the pay of Shri. Shivji Choudhury.

ORDER

Now, therefore I Shri. F.P. Solo, Director of Postal Services, Nagaland : Kohima and the disciplinary Authority in this case orders that an amount of Rs. 9000/- (Rupees Nine thousand) only be recovered from the pay and allowances of Shri. Shivji Choudhury in not more than 36 instalment.

(F.P. Solo)
Director of Postal Services
Nagaland : Kohima - 797 001

Copy to:-

- 1) The Postmaster, Kohima H.O for information and necessary action.
- 2) The DA (P) Calcutta (Through the Postmaster, Kohima H.O).
- 3) Shri. Shivji Choudhury, Treasurer Kohima H.O, Kohima, Nagaland-797 001
- 4) PF of the Official.
- 5) CR of the Official.
- 6) Office copy.

(F.P. Solo)
Director of Postal Services
Nagaland : Kohima - 797 001

o/c

ATTESTED

29/11/05
AOP

P.D-3
23-1-2002

23/1/2002
Dg P.O. 1

Annexure A-41

Page No 266

Received Rs 65,000/- Rupees Sixty five thousand and four hundred and 00/100 from the Treasurer of Kohima N.P.

Attested -

(K.R. Das)
Supdt. of Post Offices (HO)
For Director of Postal Services
Nagaland, Kohima-757001

[Signature]

29/7/82

(R.B. NAXALWA)
C/Kohima,

Sent *[Signature]*
28/01/04
S.S.

Recd
30-1-04
P.O.
Aspd
Inphel

ATTESTED

[Signature]
29/1/05
ABB

[Signature]
28/1/04
10.8
S.P./BD/Sec.

Annexure A-42

P.D-7
23-1-02

23/1/02
D.P.O. 8
D.P.O. 8

Page No 267

Statement in connection with shortage of cash taken by Shri S B Hazarika C I Divisional office Kohima

I Shri Shivjee Choudhury, working as Treasurer Kohima HO since August '96 hereby state that inspite of repeated refusal from my side, Shri S B Hazarika C I of the office of the D P S Nagaland Kohima by applying his influence, giving false assurance regarding payment of his house building advance within a week and pressing hard could be able to take payment of RS 65400/(Sixtyfive thousand four hundred) only on 29-07-99 for which a receipt was granted by him.-----Marked (Annexure-"A")

Since he is the senior most Inspector posted in this division working in the capacity of complaint inspector in the o/o the D P S and was pressing regularly in presence of the asstt treasurer and the o/s cash by telling that it is refundable within a week without fail, the amount was paid to him having got no alternate.

Further, it is stated that I would not have paid the amount in any circumstances if the real fact of the HBA could have been known to me before payment.

It is also added here that out of the shortage of RS 65400/, RS 10400/(Ten thousand four hundred) only has been deposited by him on 30-09-99. The balance of RS 55000/(Fiftyfive thousand) is still due with him.

This statement is given by me in sound health and sane mind.

Enclosed:- (Annexure- 'A')

Witness

① A.K. Dorman - Asstt. T.R.

② N. Ansari o/s cash

S. Shivjee Choudhury
Shivjee Choudhury 28/9/99
Treasurer
Kohima HO-797001

Attested

(R.R. Das)
Super. of Post Offices (H.O.)
Post Office of Postal Services
Kohima, Nagaland-797001

ATTESTED

B

2/10/05
APR

Sen
28/10/04
SP/PSD/se
20/10/04
BS

Annexure A-43

P.D.-8
22-1-02

Page No. 88

ON 22/1/02
Dy. S. Post

To

The Director of Social Services,
Nagaland Divn, Kohima-797001.

Sub:- Written statement in proof of advance
of Rs. 65,400/- from the Treasury of Kohima Ho.
on 22.7.99.

Sir,

I beg to state on the above subject that
the amount was actually received by me from
the Kohima Ho. Treasury as my uncle was
to undergo a major life saving operation at
Assam Medical College, Dibrugarh for which about
Rs. 80,000/- was required. As the amount could not
be arranged from any other source hence the said
amount was taken from Kohima Ho. Treasury
under compelling circumstances to save his life.

As I have made a clean breast
of the irregularity requiring an investigation
I may hereby be spared of any disconcertance
that the amount of outstanding of Rs. 55,000/-
will be refunded by me within 31.3.2000
as by that time I will be well in a position
to refund the same and for this act of yours
kindness I shall ever pray.

22/1/04
10
SP/AD/Sec.

20/1/04
88

30-1-04
P.O. 24505
D. Phelan

22/1/02
22/1/02
22/1/02
22/1/02

ATTESTED

22/1/02
HOB

Yours faithfully,

22/1/02
(CB NARAIK)

Extension Schedule of Administrative Powers of Postal officers.

भाग-II—केन्द्रीय सिविल सेवाएं, द्वितीय श्रेणी

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

सेवा का विवरण	नियुक्ति प्राधिकारी	प्राधिकारी	दण्ड
1	2	3	4
ग्रुप 'क' स्तर के अनुभाग अधिकारियों को छोड़कर केन्द्रीय सचिवालय सेवा का अनुभाग अधिकारी 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 सचिव (i)	सभी

198

Part II—Central Civil Services, Class II

Description of service	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in rule 11).	
		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) (i)

198

ATTESTED

29/4/05

Annexure A-42p

Extracts from The Schedule of Administrative Posts of Postal officers,
भाग—VI सामान्य केन्द्रीय 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 संदर्भ में)	अपीलीय प्राधिकारी
1	2	3	4
डाक महानिदेशक का कार्यालय : सभी पद	सचिव डाक बोर्ड	सचिव डाक बोर्ड	सभी
		सहायक महानिदेशक (प्रशासन) गैर सचिवालय पदों के सम्बन्ध में जिनका अधिकतम वेतन 560 रु० 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
		निदेशक, डाक सेवा,	(i) से (iv) तक

217

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 19)	Appellate authority
1	2	3	4
Office of the Director-General Posts All Posts	Secretary, Postal.	Secretary Postal Board. Assistant-Director-General Administration (in respect of non-Secretariat Posts maximum of which does not exceed Rs. 560-)	Member (P) Postal Board. 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. Director of Postal, Services.	Member (P) (Postal Board) Head of Circle.

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ATTESTED

29/4/05
ABP

Extracts from the Schedule of Administrative Powers of Postal officers.

1	2	3	4	5
कार्यालय वरिष्ठ वास्तुविद् सिविल इंजीनियरी विंग तथा उत्तरे अधीन अन्य कार्यालय :	कनिष्ठ वास्तुविद् सहायक वास्तुविद् वरिष्ठ वास्तुविद्	कनिष्ठ वास्तुविद्; सहायक वास्तुविद् वरिष्ठ वास्तुविद्	सभी सभी सभी	वरिष्ठ वास्तुविद् डाक-बोर्ड सदस्य (प्रशासन) डाक-बोर्ड
लाह-मुद्रक; निम्न श्रेणी कलक अन्य सभी पद				
डाक तथा रेल डाक सेवा के मण्डल तथा उपमण्डल कार्यालय :	निदेशक डाक सेवा	निदेशक डाक सेवा;	सभी	पोस्टमास्टर जनरल सदस्य (प्रशासन) डाक-सेवा बोर्ड
डाकघर निरीक्षक; रेल डाक निरीक्षक; उच्च तथा निम्न प्रवृत्त श्रेणी के कर्मचारी		वरिष्ठ अधीक्षक अधीक्षक	(i) से (iv) तक निदेशक; डाक-सेवा (i) से (iv) तक निदेशक; डाक-सेवा उप-निदेशक	

228

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; Director of Postal Services;	Director of Postal Services;	Director of Postal Services;	All	Postmaster-General; Member (P) Postal Board.
Inspector of Railway Mail Service; Ministerial staff in Higher and Lower Selection Grades.		Senior Superintendent.	(i) to (iv)	Director of Postal Services.
		Superintendent	(i) to (iv)	Director of Postal Services.

228

ATTESTED

[Signature]
[Signature]
 ABB

244

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)

ATTESTED

[Handwritten signature]
27/5/05
for

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

Dak Bhavan,
Sansad Marg,
New Delhi-110001
Dt. 27.8.1990.

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/disciplinary/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/disciplinary/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. 12/6/87-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 come to the notice of concerned authorities immediately after its publication. This is for your information and necessary action please.

Yours faithfully,

(ARUN KUMAR)
Director (Vig.P)
Tele No. 3032814.

Copy forwarded to:-

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

(ARUN KUMAR)
Director (Vig.P)
Tele.No. 3032814.

ATTESTED

Director Postal Services
Tour Division, Imphal-795001.

Ministry of Communications
(Department of Posts)

New Delhi, the 17 July, 1990.

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, 1955 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.

ATTESTED

Annexure A 4/8

Page No. 277

SCHEDULE

PART I - GENERAL CENTRAL SERVICES, GROUP 'B'

Description of Post	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in rule 11).	
		Authority	Penalties
1	2	3	4
<u>DEPARTMENT OF POSTS</u>			
All Posts	Director General, (Posts)	Director General, (Posts) Member (Personnel), Postal Services Board/ Head of Circle	All (i) to (iv)

ATTESTED

22/10/05
AGP

Annexure A-4A

Page No 285

2/4/06

PART II - GENERAL GENERAL 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	

Office of the
Director General
(Posts)

1. All Posts,
Group 'C'

Secretary, Postal
Services Board

Secretary, Postal
Services Board

All

Member (Personnel),
Postal Services Board

Assistant Director General (Adminis-
tration) (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 (Adminis-
tration)

All

Secretary,
Postal Services Board

ATTESTED

Signature

Annexure A-46

Page No 276

PART II - GENERAL GENERAL 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 11)		Appellate Authority
		Authority	Penalties	
1	2	3	4	5
Office of the Director General (Posts)				
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
	Assistant Director General (Administration)	Assistant Director General (Administration)	All	Secretary, Postal Services Board
2. All Posts, Group 'D'				

Annexure A-14b

Page No 277

ATTESTED

29/1/05
JEL

3 —
 CLE AND REGIONAL OFFICES INCLUDING POSTAL ACCOUNTS, RETURNED LETTER OFFICE, DISPENSARIES,
 PRINTING PRESS AND POSTAL STAFF COLLEGE OF INDIA.

1	2	3	4	5
1. Office Superintendent, Junior Accounts Officer (Group 'C')	Head of Circle	Head of Circle	All (1) to (iv)	Member (Personnel), Postal Services Board Head of Circle
		Director Postal Services/Director Accounts (Postal)/ Deputy Director Accounts (Postal)/ Joint Director, Postal Staff College of India		
2. Staff in higher selection grade, Assistant Superin- tendent Post Offices/ Assistant Superin- tendent Railway Mail Services/Inspector of Post Offices/ Inspector of Railway Mail Services, Senior and Junior Accountants, Photosetter, Operator, Senior Artist, Artist Retoucher, Assistant Artist Retoucher, Junior Artist, Key Board Operator, Cameraman, Machineman Grade I, Section holder, Foreman, General Store Keeper, Head Computer and Staff of identical scale of pay (Group C)	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 General/Deputy Direc- tor/Assistant Director/ Manager Printing Press/ Accounts Officer	(1) to (iv)	Postmaster General/ Director/Director of Accounts

ATTESTED

Annexure A-46

Page No 248

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OFFICE OF SUPERINTENDENT, POSTAL SERVICES AND REGIONAL WORKSHOPS FOR POSTAL ADMINISTRATION.

1.	2.	3.	4.	5.
Junior Accounts Officer (Group 'C')	Head of Circle	Head of Circle	All	Member (Finance/Member Personnel), Postal Service Board.
2. Posts in Higher and Lower Selection Grades, Assistant 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 Services	All	Head of Circle.
3. All other Posts (Group 'C')	Superintendent	Superintendent	All	Head of Circle/Member (Personnel), Postal Service Board.
All posts (Group 'D')	Superintendent	Superintendent	All	Postmaster General/Director of Postal Services.
				Postmaster General/Director of Postal Services.
				Assistant Postmaster General.

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

1. Staff on deputation in Mail Motor Service, Regional Workshops (Group 'C')	Appropriate Appointing Authority in parent office	Appropriate disciplinary Authority in parent office	All	Appropriate Appellate Authority in parent office
2. Staff in Selection Grade Inspector, Mail Motor Service and Garage Foreman (Group 'C')	Chief Postmaster General/Postmaster General/Director of Postal Services.	Chief Postmaster General/Postmaster General/Director of Postal Services	All	Chief Postmaster General/Postmaster General/Director of Postal Services.
				Member (Personnel)/Chief Postmaster General/Postmaster General.
				Director of Postal Services.

ATTESTED

Annexure A

Page No. 282

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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. Deputy Manager	All (i) to (iv)	Director of Postal Services Senior Manager/Manager
4. All Posts (Group 'D')	Senior Manager/Manager/Deputy Manager	Senior Manager/Manager/Deputy Manager.	All	Director Postal Services/ Senior Manager/Manager.

POSTAL TRAINING CENTRES

1.	2.	3.	4.	5.
1. Ministerial Staff in Higher Selection Grade, Instructor in the cadre of Assistant Superintendent of Post offices/Assistant Superintendent 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 Administrative Officer Administrative Officer	(i) to (iv) All All	Principal Principal. Vice Principal Vice Principal
3. All Posts (Group 'D')	Administrative Officer	Vice Principal	(i) to (iv)	Principal
4. Departmental Officials deputed for training (Group 'C' & 'D')	Appropriate appointing Authority in Parent Cadre			

Annexure A-4b

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ATTESTED

29/10/25

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264-1

POSTAL AND RAILWAY MAIL SERVICE DIVISIONAL OFFICES — 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	Head of Circle
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	All	Postmaster General/ Director of Postal Services
		Superintendent (Sorting)/Assistant Superintendent Railway Mail/Inspector Railway Mail of the Office/ Head of Sub-Division	(i) to (iv)	Head of Division

Annexure A-4b

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Attended

Director Postal Services
Division Imphal-795001

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Annexure A-4b

Page No 285

1. All other posts (Group C)	Head of Division	Head of Division	All	Postmaster General/ Director Postal Services
		Superintendent (Sorting/ Headquarters)/ Assistant Superintendent Railway Mail (Mail Office)	(i) to (iv)	Head of Division
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)	Senior Superintendent of Railway Mails/ Superintendent of Railway Mails	All	Postmaster General/ Director of Postal Services
		Superintendent (Sorting) in respect of all staff under his control	All	Senior Superintendent of Railway Mails
		Head Record Officer (in his own office and 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)	(i) to (iv)	Senior Superintendent of Railway Mails/ Superintendent of Railway Mails
POST OFFICES				
1. Postmaster/Ministerial Staff in Higher Collection	Director of Postal Services	Director of Postal Services/ Director P.O.)	All	Chief Postmaster General/ Postmaster General

ATTESTED

29/10/05

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 re-instated 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.

ATTESTED

29/11/00
AOP

- 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 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 :-

ATTESTED

[Signature]
AOP

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 intecede 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)

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.
3.

The Director Postal Services, Nagaland Division, Kohima.
Office.

ATTESTED


29/11/08
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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 cumulative 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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29/1/02

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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 (1) 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 :-

- i) 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.
- ii) 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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ABP

- 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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29/10/08
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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. Halder, 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 Rule 15 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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29/10/05
ABR

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 a 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)

ATTESTED

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

Received on 18/1/03
 18/1/03

No. B- 580/Loose/II

Dated, Kohima the 2.1.2003

To,

✓
 Shri S.B. Hazarika,
 Ex. Complaint Inspector,
 Divl. Office, Kohima
 u/s now at Sajiwa 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.

ATTESTED

18/1/03
 APP

(P. Chakraborty)

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

Annexure A - 17

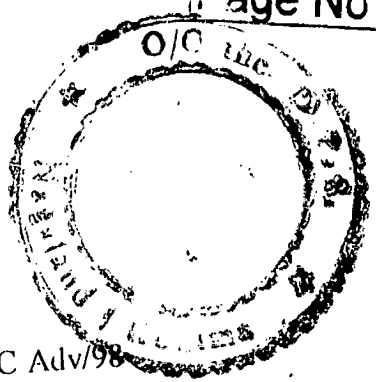
Department of Posts

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

10 December, 2002

No. Staff/109/Misc/8/99

Page No 295



Read the following:

- i) Charge Sheet against Shri S.B. Hazarika vide 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.

This is an appeal submitted by Shri S.B. Hazarika, ex-CI, Manipur Division and present under suspension while working as CI Nagaland Division.

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.

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.

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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29/12/05
ABP

6. I have carefully considered all the submissions made in the appeal of Shri S.B. Hazarika, 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 shows 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

ATTESTED

29/4/05
ABP

Appellant. I 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. Pannier Selvam)
Postmaster General
North East Region
Shillong 793001
&
Appellate Authority

Copy to:

- ✓ 1. Shri S.B. Hazarika, ex-Cl 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 - Staff/109/Misc/8/99
6. PF of the official
7. Spare

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

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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

COMPILATION NO-2
DOCUMENTS RELIED UPON
(WITH INDEX)