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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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*Biju*  
27/11/17  
SECTION OFFICER (Judl.)

FORM NO. 4.  
( SEE RULE 42 )

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.**

ORDER SHEET

Original Application No. 190/05

Mise. Petition No. \_\_\_\_\_

Contempt Petition No., \_\_\_\_\_

Review Application No.

Applicant(s): Aril Ch. Mathur - - - - -

Respondent(s): W-O-L-Q-V-N

Advocate for the Applicant(s):- Adil Ahmed

Advocate for the Respondant(s):- Cast

Notes of the Registry	Date	Order of the Tribunal
This application is in form is made P. F. Rs. 30/- deposited via TPCB No. 206133016 Date 6.7.05	20.7.05.21	Judgment delivered in open Kept in separate sheets. Application is disposed of.
<i>Sheet</i> Dy. Registrar	1m	<i>Chairman</i> Member
<i>Ch</i>		Vice-Chairman
Slips taken with envelope		
<i>Ch</i>		
<u>7.05</u>		
Copies of the Judgment been sent to the Court for issuing the same to the applicant as well as to the Adm C. S. C. for the Registry		

22.7.05  
Copy of the bond  
has been sent to the  
D/sec for issuing the  
same to the applicant  
as well as to the ADG  
C & SC for the Regds.

R  
25/7/05

**CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.**

**O.A. No. 190 of 2005**

**DATE OF DECISION: 20.07.05**

**Shri Anil Chandra Mathur**

**APPLICANT**

**Mr.A. Ahmed,**

**ADVOCATE FOR THE  
APPLICANT(S)**

**VERSUS -**

**U.O.I & Others**

**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. K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.**

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

4

**CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH**

Original Application No. 190 of 2005.

Date of Order: This the 20<sup>th</sup> day of July, 2005.

**HON'BLE MR JUSTICE G. SIVARAJAN, VICE-CHAIRMAN**

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

Shri Anil Chandra Mathur,  
Surveyor of Works(Civil)  
Office of the Superintending Engineer  
(Civil),Civil Construction Wing,  
All India Radio, Ganeshguri Chariali,  
Dr.P.Kakati Building,1<sup>st</sup> Floor  
Post Office-Dispur, Guwahati-6

..... Applicant

By Advocate Mr. A. Ahmed.

- Versus -

1. The Union of India represented by the Secretary to the Government of India Ministry of Information & Broadcasting A Wing, Shastri Bhawan, New Delhi-1.
2. The Director General, All India Radio, Civil Construction Wing, Parliament Street, New Delhi-1
3. The Secretary, Union Public Service Commission Dholpur House, Sahjanan Raod, New Delhi-11
4. The Chief Engineer 1(Civil), Civil Construction Wing, All India Radio, 5<sup>th</sup> Floor, Susma Bhawan, Lodhi Raod, New Delhi-3.
5. The Superintending Engineer(Civil), Civil Construction Wing, All India Radio, Ganashguri Chariali, Dr.R.Kakati Building, 1 Floor Post Office-Dispur, Guwahati-6. .... Respondents

By Advocate Mr. A.K. Chaudhuri, Addl. C.G.S.C.

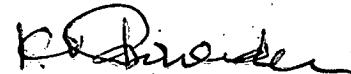
**ORDER(ORAL)**

**SIVARAJAN, J.(V.C.)**

The applicant presently working as Surveyor Works(Civil) Civil Construction Wing, All India Radio, Guwahati has filed this application challenging the order of censure passed by the disciplinary authority(Annexure G) dated 27.1.2005.

2. We have heard Mr. A. Ahmed learned counsel for the applicant and Mr. A.K. Choudhury, learned Addl. CGSC appearing for the Respondents. Mr. A.K. Choudhury, has pointed out that the applicant has not exhausted the alternate remedy, namely filing appeal against the impugned order before the competent Appellate authority and therefore the application is premature. We find merits in his submission. This application is accordingly disposed of at the admission stage itself with a direction to the applicant to file an appeal before the competent appellate authority.

The application is disposed of as above.



(K.V.PRAHLADAN)  
ADMINISTRATIVE MEMBER



(G.SIVARAJAN)  
VICE-CHAIRMAN

LM

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Guwahati Bench

Original Application No. 190/2005

Sri Anil Chandra Mathur

... Applicant

- Versus -

The Union of India & Ors

... Respondents.

I N D E X

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Filed By

(ADIL AHMED)  
ADVOCATE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL  
ADMINISTRATIVE TRIBUNAL ACT 1985)  
ORIGINAL APPLICATION NO. 190 OF 2005.

Shri Anil Chandra Mathur

...Applicant

-Versus-

The Union of India & Others

...Respondents

**LIST OF DATES AND EVENTS:**

1994                   Applicant was working as Surveyor of Works (Civil) Civil Construction Wing, All India Radio, New Delhi.

15-07-1994           The Respondent No.2 issued an Office Memorandum alleging that "while Applicant was working as Assistant Engineer (Civil) Civil Construction Wing, All India Radio, Jaipur had physically verified Civil Construction Wing, All India Radio Stores, at Jaipur during the period when one Shri T. M. Meena, Junior Engineer (Civil) was in-charge of Civil Construction Wing, All India Radio Stores from August '83 to August'87. But the Applicant never submitted the verification report the Competent Authority".

01-08-1994           Applicant submitted his reply before the Respondent No.2.

29-12-1999           The Respondent No.1 issued Office Memorandum proposed to take action against the Applicant under Rule 16 of Central Civil Services (Classification, Control and Appeal) Rules 1965.

07/10-01-2000       The above said Office Memorandum was forwarded by the Office of the Respondent No.2 to the Applicant.

19-01-2000           The Applicant filed reply against the said Office Memorandum.

07-10-2004           The Union Public Service Commission advised the Respondent No.1 to impose the penalty of Censure against the Applicant.

27-01-2005           The Respondent No.1 accepted the advice of the Union Public Service Commission.

17-02-2005           The Office of the Respondent No.2 communicated the said orders to the Applicant.

28-03-2005           The Applicant received the said order.  
Hence the Applicant filed this Original Application against the said impugned order.

Filed by

(Adil Ahmed)

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

(An Application Under Section 19 Of The Administrative Tribunals Act 1985)

ORIGINAL APPLICATION NO. 190 OF 2005.

BETWEEN

Shri Anil Chandra Mathur  
Surveyor of Works (Civil)  
Office of the Superintending Engineer  
(Civil), Civil Construction Wing,  
All India Radio, Ganeshguri Chariali,  
Dr. P. Kakati Building, 1<sup>st</sup> Floor,  
Post Office-Dispur, Guwahati-6

...Applicant

- AND -

- 1) The Union of India represented by the Secretary to the Government of India, Ministry of Information & Broadcasting, A wing, Sashtri Bhawan, New Delhi-1.
- 2) The Director General,  
All India Radio, Civil Construction Wing,  
Parliament Street, New Delhi-1.
- 3) The Secretary,  
Union Public Service Commission,  
Dholpur House, Sahjahan Road,  
New Delhi-11.
- 4) The Chief Engineer I (Civil),  
Civil Construction Wing, All India Radio, 5<sup>th</sup> Floor, Sushma Bhawan,  
Lodhi Road, New Delhi - 3.

*Anil Ch*

Filed by  
Shri Anil Chandra Mathur  
Applicant  
H. No. 190  
Case No. AHMED  
Date

- 2 -

5) The Superintending Engineer (Civil),  
Civil Construction Wing,  
All India Radio, Ganeshguri Chariali,  
Dr.R.Kakati Building, 1<sup>st</sup> Floor,  
Post Office-Dispur, Guwahati-6.

... Respondents

**1) DETAILS OF THE APPLICATION PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:**

This instant application is made against the impugned Office Order No.C-13013/43/92-CW-i/Vol.III/580 Dated 17-02-2005 issued by the Office of the Respondent No.2.

**2) JURISDICTION OF THE TRIBUNAL:**

The Applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

**3) LIMITATION:**

The Applicant further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

**4) FACTS OF THE CASE:**

Facts of the case in brief are given below:

4.1) That your humble Applicant is a citizen of India and as such, he is entitled to all the rights and privileges guaranteed under the Constitution of India. He is aged about 44 years.

4.2) That your Applicant begs to state that he is working as Surveyor Works (Civil) Civil Construction Wing, All India Radio under the Office of the Respondent No.4. The Applicant is a Central Government Employee and he is not absorbed in Prashar Bharati (Broadcasting Corporation of India) nor he is drawing the pay scale of Prashar Bharati (Broadcasting Corporation of India).

*Nil Ch*

4.3) That your Applicant begs to state that while he was working as Surveyor of Works (Civil) Civil Construction Wing, All India Radio, New Delhi in the year 1994, the office of the Respondent No.2 issued an Office Memorandum No.C-13013/43/92-CW I/409 Dated 15-07 (the year was not mentioned by the Respondents) alleging that "while Applicant was working as Assistant Engineer (Civil) Civil Construction Wing, All India Radio, Jaipur had physically verified Civil Construction Wing, All India Radio Stores, at Jaipur during the period when one Shri T. M. Meena, Junior Engineer (Civil) was in-charge of Civil Construction Wing, All India Radio Stores from August '83 to August'87. But the Applicant never submitted the verification report the Competent Authority". The Applicant was directed to submit his explanation for the alleged lapses on his part. Your Applicant submitted his reply on 01-08-94 before the Respondent No.2 vide his letter No.1 (1)/91/Misc./Sw.III/435.

It may be stated that at the relevant time the applicant was not working as Assistant Engineer (Civil), Civil Construction Wing, All India Radio at Jaipur but he was posted at Suratgarh, as Assistant Engineer (Civil), Civil Construction Wing, All India Radio. As such the Respondents had casually issued the Office Memorandum to the Applicant.

Annexure-A is the photocopy of Office Memorandum No.C-13013/43/92-CW I/409 Dated 15-07 (the year was not mentioned by the Respondents).

Annexure-B is the photocopy of letter No.1 (1)/91/Misc./Sw.III/435 Dated 01-08-94.

4.4) That your Applicant begs to state that, the Office of the Respondent No.1 vide their Office Memorandum No.C-14015/1/99-Vig Dated 29-12-99 proposed to take action <sup>against</sup> the Applicant under Rule 16 of Central Civil Services (Classification, Control and Appeal) Rules 1965. The said Office Memorandum was forwarded to the Applicant by the Office of the Respondent No.2 vide their letter No.C-13013/43/92-CW-I/9 Dated 7/10 January 2000.

Annexure-C is the photocopy of Office Memorandum No.C-14015/1/99-Vig Dated 29-12-99.

1.1

*Nil Ch*

Annexure-D is the photocopy of letter No.C-13013/43/92-CW-I/9

Dated 7/10 January 2000.

4.5) That your Applicant begs to state that he had filed a reply on 19-01-2000 before the Office of the Respondent No.1. In the said reply he completely denied the charge framed against him. The Office of the Union Public Service Commission vide their letter No. Confidential F3/9/04-S-1 New Delhi-11 Dated 7-10-2004 advised the Respondent No.1 to impose penalty of "Censure" against the Applicant. The Respondent No.1 vide their Order Dated 27-01-2005 accepted the advice of the U.P.S.C. and impose the penalty of "Censure" against the Applicant. The Orders dated 07-10-2004 and 27-01-2005 issued by the Office of the Respondent No. 3 & 1 were communicated to the Applicant by the Office of the Respondent No.2 vide their letter No.C-13013/43/92-CW-I/Vol III/580 Dated 17-02-2005. The said Orders were received by the Applicant on 28-03-2005.

Annexure - E is the photocopy of letter dated on 19-01-2000.

Annexure-F is the photocopy of letter No. Confidential F3/9/04-S-1 New Delhi-11 Dated 7-10-2004.

Annexure-G is the photocopy of the letter No.C-13013/43/92-CW-I/Vol III/580 Dated 17-02-2005.

4.6) That your Applicant begs to state that while he was functioning as Assistant Engineer (Civil), Civil Construction Wing, All India Radio, Suratgarh he was entrusted for physical verification of Stores at Civil Construction Wing, All India Radio, Jaipur by Shri R.M.R.Parti, Executive Engineer (Civil) Construction Wing, All India Radio, Jodhpur Division who was also holding the additional charge of Jaipur Division. The physical verification of the said stores was to be conducted during the period from August 1983 to August 1987 when Shri T.M.Meena, Junior Engineer(Civil), Civil Construction Wing, All India Radio was In-charge of the stores of Jaipur Division. Even though Applicant visited the Jaipur Stores Division at the relevant time but could not physically verify the stock in store at Jaipur because the Cement and Steel was not stocked as per norms specified for this i.e. the different Steel was intermixed and was lying in a haphazard manner and scattered at different places. It was also buried under loose soil and also even not visible. The room in which Cement was lying was overfilled by placing Cement Bags in haphazard manner. It was also not possible even to enter the store room. The then Assistant Engineer (Civil) In-Charge of the store did not extended or any

*lnd Cr*

help for taking out the Cement and Steel for physical verification of the stocks. The whole matter was reported immediately by the Applicant to the then Executive Engineer (Civil) Civil Construction Wing, All India Radio, Jodhpur who entrusted him to do this job. The then Executive Engineer did not show any kind of dissatisfaction and did not emphasize for further any action in this matter. The then Executive Engineer (Civil) also made payment to the Applicant for his Traveling Allowance. Since the construction works at the relevant time was going on at All India Radio, Suratgarh and Bikaner All India Radio, the applicant was compelled to return back to his Headquarter. After the said alleged incident no notice, reminder or memorandum was issued to the applicant for not doing the physical verification and submission of verification report to the concerned authority. But after seven (7) years of the alleged incident the applicant was served with Office Memorandum in the year 1994.

4.7) That your Applicant begs to state that the Respondents did not hold any oral inquiry in to this matter. Although the Applicant in his reply dated 19-01-2000 against the Office Memorandum dated 29-12-99 requested the Respondents to hold a detail oral enquiry of this matter and he also requested the Respondents to supply preliminary Enquiry Report conducted by the vigilance section of All India Radio, Civil Construction Wing. It may be stated that the Hon'ble Supreme Court of India held in the state of Bombay -Vs- Murul latif Khan, AIR 1966 SC 269, that "the Statutory rules regulating departmental inquiry make it obligatory on the Inquiry Officer to hold oral inquiry if the charged Officer so demands, then, there should be no doubt that the failure of the inquiry officer to hold such oral inquiry would introduce a serious infirmity in the inquiry and would amount to denial of a reasonable opportunity to the officer". As such the Respondents have totally violated the natural justice and administrative fair play in the case of the Applicant. The Respondents without holding any oral inquiry in to the matter referred this said matter to the Union Public Service Commission vide their letter No.C-14015/1/99-Vig dated 24-03-2004.

4.8) That your Applicant begs to state that the Respondent No. 1 vide his letter dated 24.03.2004 referred the matter to the Union Public Service Commission for their advice regarding disciplinary proceeding against Sri R.M.R. Parti, Surveyor Works (Civil), Civil Construction Wing (i.e. the then Executive Engineer, (Civil) Jodhpur Division, who was holding the

*Ans Cl*

Additional Charge of Jaipur Division during the period 1987-88), All India Radio, Sri R.V. Singh, Surveyor of Works (Civil), (i.e., the then Assistant Engineer, (Civil), Jaipur Division), Civil Construction Wing, All India Radio and Sri A.C. Mathur, Executive Engineer (Civil), (i.e., the applicant who was working as Assistant Engineer (Civil), Suratgarh was giving the task of verification of Stores at Jaipur during the said period) Civil Construction Wing, All India Radio. The Union Public Service Commission in their findings observed in case of Sri R.M.R. Parti who was the then Executive Engineer, Jodhpur Division holding the Additional Charge of Jaipur Division was required to have his Divisional Stores check once in a year and the charge officer i.e., Sri R.M.R. Parti vide his letter dated 04.07.1987 and 10.07.1987 directed the then Assistant Engineer (Civil) Sri A.C. Mathur, i.e. the applicant to carry out physical verification of stores. The Commission note that copies of the above letters and T.A. bills of Sri Mathur for journeys to Jaipur in connection with verification of store are not available on record. However, from the defence of Sri A. C. Mathur, Assistant Engineer, it appears that the Charged Officer deputed him for verification of stores as also he passed his TA bills. The Commission further observed that though Sri Mathur visited the stores twice, no verification could be done as neither the material was stacked properly nor any assistance was provided by the Stores In-charge for restacking the material and taking the same to the weigh bridge. Sri Mathur claimed that this was brought to the notice of the Executive Engineer (Civil). The Commission observed that since the Charged Officer was aware that no verification could be done, there was no question of his obtaining the verification report from Sri Mathur and bringing the discrepancies/shortages in store to the notice of the competent authority. In view of the above, the Commission has held that the charge is not clearly established against the Charged Officer, i.e. Sri R.M.R. Parti who was holding only the additional charge of Jaipur Division at that time.

But in case of the Applicant i.e. Sri A.C. Mathur, the Commission observed that the Charge Officer, i.e., Sri A.C. Mathur visited the CCW (AIR) Store/Jaipur twice - from 04.08.1987 to 07.08.87 and on 23.08.87 - for the purpose of verification of stores, but as per his own statement could not conduct the verification due to non-cooperation of the Stores Incharge and non-staking of the material in proper and systematic manner. This according to the Charged Officer, Sri A.C. Mathur was reported to the Executive Engineer (Civil) and the Prosecution has not denied this. There is also no evidence to show that any directions were issued by the then

*Ans* *u* *P.*

Executive Engineer (Civil) to the Charged Officer or the Stores Incharge subsequent to Charged Officer's reporting the matter to Executive Engineer (C). Further the Commission observed that since no shortage of steel and cement was shown in the store closing of August, 87 & September, 87 neither any shortage was recorded in the handing/taking over report dated 23.08.1987 signed by both the Junior Engineers, the Charged Officer could not be held responsible for alleged shortfall in steel & cement. However, the Commission has held the charge as proved to the extent that the Charged Officer did not submit even an incomplete report on verification of stores. After taking into account all other aspects relevant to the case, the Commission considered that ends of justice would be met in this case if - (a) the proceedings against Shri R.M.R. Parti, Executive Engineer (Civil) are dropped and he is exonerated of the charge, and b) the penalty of "Censure" is imposed on Shri R.V. Singh, Executive Engineer (Civil) and Shri A.C. Mathur, Executive Engineer (Civil).

From the above, it is surprising that the Union Public Service Commission has taken two different views in the same matter in a similar situation and recommended for exoneration of Shri R. M. R. Parti, but Shri A. C. Mathur's case was recommended for penalty of 'Censure', although being a Superior Officer Shri R. M. R. Parti should be held full responsible for the alleged act.

4.9) That your Applicant begs to state that in the instant case the Respondents particularly Respondent No.1 without applying their mind accepted the recommendation of Union Public Service Commission by imposing penalty of 'Censure' to the applicant and exonerated Sri R.M.R. Parti from the charges. The respondents also did not follow the procedures to be maintained in a disciplinary case. The All India Radio, Civil Construction Wing followed the Manual provision of CPWD Manual Volume I. In the said CPWD Manual Volume I Section 3 regarding disciplinary cases and departmental proceedings it has been stated that "where the disciplinary authority is the Director General (Works) or higher, preliminary inquiry in to the cases of administrative nature ought to be proceed by the Chief Engineers. The drill required to be performed by them is calling for the explanation of the officer concerned giving of show cause notice to him / her and examining the same. If in the opinion of Chief Engineer after the preliminary investigation there is substance in the case, warranting initiation of formal disciplinary proceedings for imposition of any of the statutory penalties, a self contained report supported by relevant documents together with the explanation of the Govt. servant concerned are required to be sent to the Director General (Works) for consideration. However the preliminary investigation does not in the opinion of the CE justify imposition of any statutory penalties, he may finalized the case himself by closing the case or by administering a recordable simple / oral warning according to the seriousness of the lapse without any reference to the Director General of Works". In the instant case the Disciplinary Authority of the Applicant is Government of India, Ministry of Information and Broadcasting. As such the preliminary inquiry ought to be proceed by the Chief Engineers. But surprisingly in the above said case the inquiry and office memorandum was issued to the Applicant by the Superintending Surveyor of Works II who is the junior to the Chief Engineer. Hence the whole Disciplinary proceedings initiated the against the Applicant is not sustainable before the eye of law and liable to be set aside and quashed.

Annexure - H is the photocopy of relevant portion of CPWD Manual Volume I Section 3 Disciplinary Cases and Departmental proceedings.

*Ansler*

4.10) That your Applicant begs to state that the Disciplinary proceeding was initiated against the Applicant after seven years which is violative to the service jurisprudence and there was no explanation for such delay. In spite of this your applicant fully co-operated with the respondents in the said disciplinary proceeding.

4.11) That your Applicant begs to state that he had informed the Executive Engineer (Civil) Civil Construction Wing, All India Radio, Jaipur at the relevant time about the difficulty he had faced in connection with the physical verification of stores at Jaipur and also the non co-operation attitude towards the Applicant by the officers of Jaipur stores of Civil Construction Wing, All India Radio. But the then Executive Engineer did not take any steps in this matter, he simply paid the traveling allowance of the Applicant.

4.12) That your Applicant begs to state that he most humbly obeyed the order of the then Executive Engineer for physical verification of the stores at Civil Construction Wing, All India Radio, Jaipur. The then Executive Engineer did not take interest in this matter or he also did not issue any show cause notice to the Applicant, although the whole matter was highlighted by the Applicant to the then Executive Engineer i.e., Sri R.M.R. Parti, where onus lies on the part of the Executive Engineer for taking further necessary action.

4.13) That your Applicant begs to state that he has already completed eight and half years as regular Executive Engineer and he is in the verge of promotion to the post of Superintending Engineer. The imposition of Censure by the Respondents to the Applicant will prejudice the future career prospect of the Applicant.

4.14) That your Applicant submits that in spite of crystal clear of lapse and negligence committed by the then Executive Engineer Shri R. M. R. Parti, the Applicant was not able to conduct the physical verification of the stores of Jaipur. Surprisingly the then Executive Engineer, Shri R. M. R. Patri was exonerated by the Respondent No.3 the reason best known to them.

4.15) That your Applicant submits that he has got reason to believe that the Respondents are resorting the colorable exercise of power.

*Nil Ch*

4.16) That your Applicant submits that the action of the Respondents is in violation of the fundamental rights guaranteed under the constitution of India and also in violation of principles of natural justice.

4.17) That your Applicant submits that the action of the Respondents is arbitrary, whimsical and also the Respondents have acted with a malafide intention only to deprive the Applicant from his legitimate right.

4.18) That your Applicant submits that the Respondents have deliberately done serious injustice and put him into great mental trouble.

4.19) That in the facts and circumstances stated above, it is fit case for the Hon'ble Tribunal to interfere with to protect the rights and interests of the Applicant by passing an appropriate Interim Order staying the operation of the impugned Office Order No.C-13013/43/92-CW-i/Vol.III/580 Dated 17-02-2005 issued by the Respondent No.2.

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

**5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:**

5.1) For that, due to the above reasons narrated in detailed the action of the Respondents is in *prima facie* illegal, malafide, arbitrary and without jurisdiction. Hence, impugned Office Order No.C-13013/43/92-CW-i/Vol.III/580 Dated 17-02-2005 issued by the Respondent No.2 may be set aside and quashed.

5.2) For that, the Respondent have casually initiated the Departmental proceedings against the Applicant by violating all the official procedure to be maintained as per the CPWD Manual Volume I. Hence impugned Office Order No.C-13013/43/92-CW-i/Vol.III/580 Dated 17-02-2005 issued by the Respondent No.2 may be set aside and quashed.

5.3) For that, due to unknown reason the Respondents particularly the Respondent No.3 has taken two total different views in the same case by imposing penalties to the Applicant. Hence the impugned Office Order No.C-13013/43/92-CW-i/Vol.III/580 Dated 17-02-2005 issued by the Respondent No.2 may be set aside and quashed.

*Nil Ch*

5.4) For that, the Applicant has reported the whole matter to then Executive Engineer, Jaipur Division about the reason of his inability to conduct physical verification but due to unknown reasons the then Executive Engineer did not reported the matter to higher authority nor he did take any initiative for conducting smooth physical verification of the stores by the Applicant. Hence impugned Office Order No.C-13013/43/92-CW-i/Vol.III/580 Dated 17-02-2005 issued by the Respondent No.2 may be set aside and quashed.

5.5) For that, the Respondents have violated the Articles 14,16 & 21 of the Constitution of India. Hence, impugned Office Order No.C-13013/43/92-CW-i/Vol.III/580 Dated 17-02-2005 issued by the Respondent No.2 may be set aside and quashed.

5.6) For that, the action of the respondents is arbitrary, malafide and discriminatory with an ill motive.

5.7) For that, in any view of the matter the action of the respondents are not sustainable in the eye of law as well as facts.

The Applicant craves leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

#### **6. DETAILS OF REMEDIES EXHAUSTED:**

That there is no other alternative and efficacious and remedy available to the Applicant except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

#### **7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:**

That the Applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition or suit is pending before any of them.

*Nilch*

**8. RELIEF SOUGHT FOR:**

Under the facts and circumstances stated above the applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

- 8.1) That the Hon'ble Tribunal may be pleased to direct the Respondents to set aside and quash the impugned Office Order No.C-13013/43/92-CW-i/Vol.III/580 Dated 17-02-2005 issued by the Respondent No.2
- 8.2) To Pass any other relief or relieves to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.
- 8.3) To pay the cost of the application.

**9) INTERIM ORDER PRAYED FOR:**

- 9.1) The Applicant prays before this Hon'ble Tribunal seeking an interim order by this Hon'ble Tribunal for stay the impugned Office Order No.C-13013/43/92-CW-i/Vol.III/580 Dated 17-02-2005 issued by the Respondent No.2.

10) Application is filed through Advocate.

**11) Particulars of I.P.O.:**

I.P.O. No.	: 206-133016
Date of Issue	: 18-7-05
Issued from	: G. P. O.
Payable at	: Guwahati

**12) LIST OF ENCLOSURES:**

As stated above.

Verification...

*Nil Ch*

## VERIFICATION

I, Shri Anil Chandra Mathur, Surveyor of Works (Civil), Office of the Superintending Engineer, Civil Construction Wing, All India Radio, Ganeshguri Chariali, Dr.R.Kakati Building, 1<sup>st</sup> Floor, Post Office-Dispur, Guwahati-6 do hereby solemnly verify that the statements made in paragraph Nos. 4.1, 4.2, 4.6, 4.7, 4.8, 4.10 to 4.14..... are true to my knowledge, those made in paragraph Nos. 4.3, 4.4, 4.5, 4.9 ..... are being matters of record are true to my information derived therefrom which I believe to be true and those made in paragraph ..... Are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 18<sup>th</sup> day of July, 2005 at Guwahati.

Anil Chandra Mathur

ANNEXURE - A 20

CONFIDENTIAL

135  
GOVERNMENT OF INDIA  
DIRECTORATE GENERAL : ALL INDIA RADIO  
CIVIL CONSTRUCTION WING

New Delhi-110 001

No. C-13013/43/R2-CW I/18

Dated:

MEMORANDUM

It has come to the notice of this Directorate that Sh. A.C. Mathur SW(C) CCW, AIR, New Delhi, while working as AE(C), CCW, AIR, Jaipur had physically verified CCW AIR Stores, Jaipur during the period when Sh. T.M. Meena, JE(C) was Incharge of CCW AIR Stores from August, 83 to August, 87. Whereas the physical verification was carried out by Sh. A.C. Mathur but the report in this regard was never submitted to competent authority thus defeating the very purpose of verification.

Sh. A.C. Mathur, SW(C) is therefore found responsible for dereliction of duties and is hereby directed to submit his explanation for the lapses on this part mentioned above by 14.8.94 failing which it will be presumed that he has no reasons to offer and further appropriate action under conduct rules shall be initiated against him.

*Answer 15/7*  
(S.K. MOHINDRA)

Superintending Surveyor of Works II

Sh. A.C. Mathur,  
Surveyor of Works,  
Civil Construction Wing,  
All India Radio,  
6th floor, Khan Market,  
Lok Nayak Bhawan,  
New Delhi.

145  
No 1(1)/91/Misc/Sw. II/435.

ANNEXURE-B

Dated - 1-8-94.

CONFIDENTIAL

To,  
The Directorate General,  
Civil Construction Wing,  
All India Radio,  
2nd Floor,  
PTI Building,  
New Delhi-110001.

Ref. - Your office Memorandum No. C-13013/43/92-CI-I/409  
dated 15/7/92.

With your above referred memorandum I will like to submit the following facts about the incidence as per as I remember. (Since I am Enquired in this regard after nearly seven year)

- 1) Yes, I was nominated for the task of physical verification of stores at CCW, AIR, Jaipur but I was not AE (C), CCW, AIR, Jaipur.
- 2) Secondly, I proceeded for the physical verification of stores at CCW, AIR, Jaipur but I could not concieve the task i.e. I could not physically verify the CCW, AIR, stores at Jaipur because:
  - i) The cement & steel was not stacked as per norms specified for this i.e. the different size steel was inter mixed & was lying in hafazard manner & scattered at 2-3 different places. Somewhere it was buried under loose soil also & was not even visible. The room in which cement was lying was over filled by placing cement bags in hafazard manner & it was not possible to even enter the room, what to think of counting.
  - ii) Further AE (C) incharge of the store did neither extended his help by fixing any agency for restacking of the cement & steel & providing mechanical transportation for taking the steel to nearest weighing bridge after weighing getting it weighed & returning back to the store & unloading in stacks nor assured me for making necessary arrangement for the same.
- 3) I will like to intimate the recent similar incidence at CCW, AIR, Jodhpur during my tenure at CCW, AIR, Jodhpur. Whereas I was the incharge of store at CCW, AIR, Jodhpur. I fixed some agency for physical verification of stores, immediately so as to help the officer concerned, who was nominated for the physical verification.

4) The whole matter was reported to then EE (C), CCW, AIR,

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Jodhpur. He also did not show any kind of dissatisfaction, did not emphasised for further any action in the matter. He made payment for my Travelling Allowance Bill as well.

4) Since the construction works at AIR Suratgarh & A.I.R. Bikaner was suffering badly at CCW, AIR Suratgarh & Bikaner. ILS returned back to my H.Q.

Since after this whole incidence, no reminders or memorandums etc. were issued by the authority to u/o for not doing physical verification & submitting the report. It was understood that it is not necessitated at this stage.

Hence, I will request your good office to remove the charge "found responsible for dereliction of duties".

Submitted for your further necessary action please.

Thanking You

Yours faithfully,

Aril Chaudhary  
(A.C. MATHUR) 1/8/94  
Surveyor of Works(C)-III

Arif Chaudhary  
Surveyor of Works(C)-III

New Delhi, dated 29.12.99.

MEMORANDUM

Shri A.C. Mathur, Executive Engineer (Civil), Civil Construction Wing, All India Radio, Jaipur is hereby informed that it is proposed to take action against him under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. A statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.

2. Shri A.C. Mathur is hereby given an opportunity to make such representation as he may wish to make against the proposal.

3. If Shri A.C. Mathur fails to submit this representation within 10 days of the receipt of this Memorandum, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri A.C. Mathur ex parte.

4. The receipt of this Memorandum should be acknowledged by Shri A.C. Mathur.

( BY ORDER AND IN THE NAME OF THE PRESIDENT )

*(Signature)*  
(P.K. VARMA)

Under Secretary to the Govt. of India  
Ph: (मुख्यमंत्री)

(P.K. VARMA)

अवश्य सचिव (गवर्नर)

Under Secretary (Vig.)

✓ Shri A.C. Mathur, Executive Engineer (Civil), Civil Construction Wing, All India Radio, Jaipur.

सूचना एवं प्रसारण विभाग  
Min. of Information & Broadcasting  
भारत सरकार, नई दिल्ली  
Govt. of India, New Delhi

*Attent*  
*Sh. Mathur*

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STATEMENT OF IMPUTATIONS OF MISCONDUCT OR MISBEHAVIOUR  
AGAINST SHRI A.C. MATHUR, EXECUTIVE ENGINEER (C)  
CIVIL CONSTRUCTION WING, ALL INDIA RADIO, NEW DELHI.

\*\*\*\*\*

That the said Shri A.C. Mathur, while functioning as Assistant Engineer (C), CCW, AIR, Suratgarh was given the task of verification of stores at Jaipur during the period when Shri T.M. Meena, JE(C) was in-charge of the stores from August, 1983 to August, 1987. As evident from his own submissions made by Shri Mathur, vide his letter dated 1.8.94, in response to the CCW, AIR's Memorandum No.C-13013/43/92-CW.I dated 15.7.94, he visited the CCW, AIR stores, Jaipur but never submitted the report on the outcome of the physical verification, to his superiors. The above act of Shri Mathur is in violation of CPWD Manual vol.II 1983 section 48 para 6 & 7, which states that the result of all verifications of stores should be reported to the competent authority for orders, also, as soon as a discrepancy is noticed, the book balance must be set right by the verifying officer, treating surplus as a receipt and deficit as an issue with suitable remarks.

2. Subsequently, the Junior Engineer (C) stores, Shri T.M. Meena was transferred and Shri M.L. Dagia took over the charge from him on 23.8.87. The handing over/taking over of the charge between them had shown a shortage of 5.12 MT of steel (tor and mild steel) and 20.10 MT (later verified as 10.00 MT) of cement which was again manipulated by Shri Dagia for further loss of 6.36 MT of steel and 10 MT of cement. Had Shri Mathur conducted the verification of stores on time and reported the discrepancies to the notice of the competent authority, further loss to the Govt. could have been avoided and also suitable action could have been taken against the officers concerned at that time itself.

3. By his above acts, Shri A.C. Mathur exhibited lack of devotion to duty and acted in a manner unbecoming of a Govt. servant and thus contravened Rule 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules, 1964.

*P. K. Varma*  
(पी. कॉ. वर्मा)

(P. K. VARMA)

अध्यक्ष राज्यीय (सतर्कता)

Under Secretary (Vig.)

भारत सरकार प्रसारण पंचालय

Information & Broadcasting

भारत सरकार, भारत दिल्ली

Govt. of India, New Delhi

*Attested  
S. K. Awasthi*

Confidential  
By Hand

**PRASAR BHARTI**  
**(BROADCASTING CORPORATION OF INDIA)**  
**DIRECTORATE GENERAL: ALL INDIA RADIO**  
**CIVIL CONSTRUCTION WING**

2<sup>nd</sup> floor, PTI Bldg.  
 New Delhi-110001.

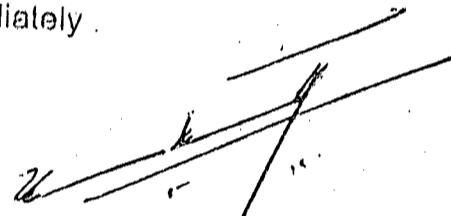
No C-13013/43/92-CW-I/9

7 January, 2000  
 To

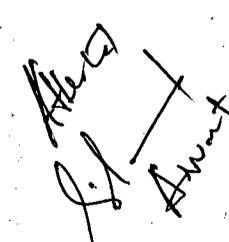
**Subject :- Disciplinary proceedings against Sh. A.C.Mathur, EE ( C ),**

Enclosed please find herewith Ministry of I & B Memorandum no. C-14015/1/99-  
 Vig. Dt. 29.12.99, on the subject cited above, in original.

2. Receipt of the above memorandum may please be acknowledged in  
 triplicate and send to this office immediately.

  
 (K. VELUKUTTY)  
 Superintending Surveyor of  
 Works-II

✓ Shri A C Mathur  
 Surveyor Of Works  
 CCW AIR  
 6th Floor, Lok Nayak Bhawan  
 New Delhi

  
 A.C.  
 Mathur  
 Surveyor Of Works  
 CCW AIR

No: ACM/CS/1

Dated: 19.1.2000

To

Shri P.K. Verma,  
Under Secretary (Vig.),  
Ministry of I & B,  
Shastry Bhawan,  
New Delhi

Sub:- Disciplinary proceedings against  
Shri A.C. Mathur, EE(C)

\*\*\*\*\*

Ref:- (1) No. C-13013/43/92-CW-I/9 7/10 Jan. 2000  
of CCW : AIR

(2) Ministry of I & B Memorandum No. C-14015/1/99-  
Vig. dated 29.12.99

\*\*\*\*\*

Sir,

I have the honour to submit the reply to aforesaid  
charge sheet as under:-

- (1). I deny the charges for the reasons mentioned below.
- (2). That I was issued a memorandum dated 15.7.94 in the same matter (copy annexed). I replied the same vide letter dated 1.8.94 (copy annexed) to the satisfaction of CCW, AIR, New Delhi, (since nothing has been heard in the matter since then). The contents of the same may be read as a part of this reply. It has been specifically and clearly mentioned that physical verification could not be conducted for the reasons mentioned therein, though I visited store twice. But, this part has lost the attention of your honour.
- (3). Even though I visited twice the store, but at times concerned persons failed to intimate the exact date of physical verification, which have to be conducted simultaneously to handing over taking over of charge between Shri M.L. Daga and Shri T.M. Meena (as per order No. EE(C)/Dp/Store/87-88/324 dated 10.7.87)
- (4). That if there was any shortage revealed during physical verification, the concerned stock holder could be responsible, only, even if I was the stock verifier. In the instant case the shortage was pointed out by Shri M.L. Daga, while taking over the charge.

A. H. S.  
S. J.  
A. H. S.

contd... 2/-

(5). That the subject matter relates to an incident which took place in 1987, i.e., about 13 long years have elapsed. It is difficult to remember the facts of the case at this belated stage. The delay is also unexplained and no purpose would be served at this stage.

(6). That the matter is a complicated one. I had gone two times for physical verification of store and contacted concerned persons, incharge of store. But, no one cooperated. After submission of tour report to the then EE(C), my T.A. Bills were passed. Since thereof nothing was heard from EE(C). Then I remained under impression that the matter is closed and physical verification is not required. This fact could be made evident in an oral and detailed enquiry by examining the witness and relevant records. If your honour is inclined to proceed in the matter, I request that a detailed oral enquiry may be conducted.

(7). With reference to C.P.W.D. Manual Vol-I page 142 Para (4) (5) & (6) comments of superior officers of CCW, AIR may kindly be sought in the matter and sent to undersigned for my further necessary action.

(8). That I may be supplied with a copy of preliminary inquiry report conducted by Vigilance Section of AIR and CCW, AIR, on which basic charge sheet has been framed, alongwith comments of all concerned officers, e.g., CE(Civil)-I, SE(Civil), EE(Civil), AE(Civil), JE(Civil), SSW-II, SW(Vig.) etc.

(9). It may also, please, be borne in mind before deciding next course of action that I would have neither been benefited nor put to any loss, if I had conducted physical verification (which could not be conducted due to explanation elaborated above) as per point raised at point (4).

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It is, therefore, requested that the charge/suit  
may be cancelled/dropped in the interest of justice or in the  
alternative an oral inquiry may be conducted.

Thanking you,

Encd : as above

Yours faithfully,

A. C. MATHUR  
(A.C. MATHUR) 19/1/2000  
SURVEYOR OF WORKS (C)-II

Dated: The 19th January, 2000

Attested  
S. P. Shanta

ANNEXURE - F

CONFIDENTIAL

No. F.3/9/04-S-I

No.

SERCOM

Tel: 011-62677  
Fax: 011-3385345

संघ लोक सेवा आयोग  
धौलपुर गार्हस, शाहजहां रोड  
**UNION PUBLIC SERVICE COMMISSION**  
(SANGH LOK SEVA AYOG)  
DHOLPUR HOUSE, SHAHJAHAN ROAD

मेरा नै  
Toनई दिल्ली-110011  
New Delhi-110011

The Secretary to the Govt. of India,  
Ministry of Information and Broadcasting,  
'A' Wing, Shastri Bhavan,  
New Delhi.

Dated 07.10.2004

[Attn: Shri S.K. Arora, Under Secretary]

Sub: Disciplinary proceedings against S/Shri R.M.R. Parti, SW(C), R.V. Singh,  
SW(C) and A.C. Mathur, EE(C), CCW, AIR.

Sir,

I am directed to refer to your letter No.C-14015/1/99-Vig. dated 24.3.2004 on the above subject and to convey the advice of the Union Public Service Commission as follows:

2. The Commission note that vide Charge Memorandum No.C-14015/1/99-Vig. dated 29.12.1999 S/Shri R.M.R. Parti, SW(C) CCW(AIR), R.V. Singh, SW(C) CCW(AIR) and A.C. Mathur, EE(C) CCW, AIR were called upon under Rule 16 of the CCS (CCA) Rules, 1965 to explain the following imputations of misconduct and misbehaviour:

I. Shri R.M.R. Parti

That the said Shri R.M.R. Parti, while functioning as Executive Engineer (C), Jodhpur division, was also holding the additional charge of Jaipur Division during the period 1987-88. During that period, a shortage of 5.12 MT of steel (tor and mild steel rods) and 20,10 MT of cement (later on verified as 10,00 M. Tonnes) was noticed in the CCW stores, Jaipur, when Shri M.L. Dagla, the then Junior Engineer (C), Jaipur, took over charge of CCW stores, Jaipur from his predecessor Junior Engineer(C) Shri T.M. Meena, on 23.8.87. But Shri Parti

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to take any action to find out the cause of shortage or even to report the same to his higher authorities. This facilitated in manipulation of materials accounts by Shri Dagla, by maintaining two different material at site A/C books, one showing the actual quantity handed over by Shri Meena and other showing the book quantities.

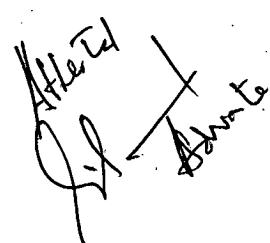
As per CPWD Manual Vol.II 1983 Section 48 para 1, 6 and 7 the verification of stores under the divisions has to be conducted once in a year and the discrepancies have to be brought to the notice of the competent authorities for necessary action. Shri Parti not only failed in his duties to follow the above guidelines but also, as per CPWD code para 44, he failed to check the correctness in all respects of the original records of stores under his division.

By his above acts, Shri R.M.R. Parti exhibited lack of devotion to duty and acted in a manner unbecoming of a Govt. Servant and thus contravened Rule 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules, 1964.

## II Shri R.V. Singh

That the said Shri R.V. Singh, while working as Assistant Engineer(C), CCW, AIR, under Jaipur division, was given the task of verification of stores at Jaipur during the period when Shri T.M. Meena, JE(C) was in charge of the stores from August, 1983 to August, 1987. It was found that Shri R.V. Singh never submitted the report on physical verification of stores to his superiors in respect of the outcome of verifications. Hence, Shri R.V. Singh was directed to explain the reasons for not submitting the verification report; vide CCW, AIR's Memorandum No.C-13013/43/92-CW.I/410 dated 15.7.94, wherein he was allowed time to make his submissions by 14.8.94. In response, Shri Singh sought time upto 30.9.94 to submit his explanation after inspecting the records. Shri Singh was given further opportunities to submit his explanation, vide CCW, AIR's Memorandums dated 28.9.94, 24.10.94 and 3/6.2.95. However, he did not submit any explanation in this regard. As such, it is evident that he violated Section 48, para 6 & 7 of CPWD Manual Vol.II, which states that the result of all verifications of stores should be reported to the competent authority for orders, also, as soon as a discrepancy is noticed, the book balance must be set right by the verifying officer, treating surplus as a receipt and deficit as an issue with suitable remarks.

Subsequently, the Junior Engineer (C) stores, Shri T.M. Meena was transferred and Shri M.L. Dagla took over the charge from him on 23.8.87. The handing over/taking over of charge between them showed a shortage of 5.12 MT of steel (tor and mild steel) and 20.10 MT of cement (later verified as 10 MT), which was again manipulated by Shri Dagla for further loss of 6.36 MT of MT), which was again manipulated by Shri Dagla for further loss of 6.36 MT of

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Substantive

70 MT of cement. Had Shri R.V. Singh conducted the verification of stores on time and reported the discrepancies to the competent authority, further loss to the Govt. could have been avoided and also suitable action could have been taken against the Officers concerned at that time itself.

By his above acts, Shri R.V. Singh, exhibited lack of devotion to duty and acted in a manner unbecoming of a Govt. servant and thus contravened Rule 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules, 1964.

### III. Shri A.C. Mathur

That the said Shri A.C. Mathur, while functioning as Assistant Engineer(C), CCW, AIR, Suratgarh was given the task of verification of stores at Jaipur during the period when Shri T.M. Meena, JE(C) was in-charge of the stores from August, 1983 to August, 1987. As evident from his own submissions made by Shri Mathur, vide his letter dated 1.8.94, in response to the CCW, AIR's Memorandum No. C-13013/43/92-CW.I dated 15.7.94, he visited the CCW, AIR stores, Jaipur but never submitted the report on the outcome of the physical verification, to his superiors. The above act of Shri Mathur is in violation of CPWD Manual Vol.II 1983 section 48 para 6 & 7, which states that the result of all verifications of stores should be reported to the competent authority for orders, also, as soon as a discrepancy is noticed, the book balance must be set right by the verifying officer, treating surplus as a receipt and deficit as an issue with suitable remarks.

Subsequently, the Junior Engineer (C) stores, Shri T.M. Meena was transferred and Shri M.L. Dagla took over the charge from him on 23.8.87. The handing over/taking over of the charge between them had shown a shortage of 5.12 MT of steel (tor and mild steel) and 20.10 MT (later verified as 10 MT) of cement which was again manipulated by Shri Dagla for further loss of 6.36 MT of steel and 10 MT of cement. Had Shri Mathur conducted the verification of stores on time and reported the discrepancies to the competent authority, further loss to the Govt. could have been avoided and also suitable action could have been taken against the officers concerned at that time itself.

By his above acts, Shri A.C. Mathur exhibited lack of devotion to duty and acted in a manner unbecoming of a Govt. Servant and thus contravened Rule 3(1) (ii) and 3(1) (iii) of Central Civil Services (Conduct) Rules, 1964.

3. The case has been carefully examined by the Commission keeping in view the evidence on record and the points raised by the three CO's in their defence and their observations in case of each CO are discussed as follows:-

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S. S.  
Abhijit

R. Parti

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The Commission observe that vide letter dated 17.12.92 the SE brought to the notice of CE(C), CCW (AIR), the matter regarding non-submission of full charge of store at Jaipur by Shri M.L. Dagla, JE(C) and informed that as reported by EE(C) the Government suffered a loss of Rs.3,56,347/- on account of shortage of steel/cement in the store. The SE, therefore, requested the CE to have the matter investigated.

As per the investigation report of the Vigilance Unit of CCW(AIR) the three COs in question were found responsible for non-maintenance of stores and alleged loss to the Govt..

The Commission observe that defence plea of CO No.1 (Shri R.M.R. Parti) is that -

- no shortage was reflected in the stock accounts submitted by AE for the months of August & September,87.

- As per para 7.2.35 (9) of the CPWD Code, physical verification of stores was to be made once in a year on the orders of the HOD (Supdt. Engr.) but no such orders were issued by the Competent Authority during his tenure. He alongwith Asstt. Accnts. Officer scrutinized the stock account returns for the months of August and September, 87 submitted by AE(C) stores and forwarded the same to PAO. Had any shortage in stores been reported to him in the store accounts statements, it would have been brought to the notice of the Competent Authority but no shortage in store was reflected in the store accounts.

The Commission observe that in the handing over/ taking over report dated 23.8.87 duly signed by both the JEs no shortage of steel/cement or any other store item was indicated. In the said handing over taking over report only the names of different store items and the quantity available was mentioned. The Commission further observe that discrepancy in store and non-submission of full charge of store by Shri Dagla on his promotion as AE/Suratgarh was pointed out by EE(C) to SE(C) vide letter dated 3.12.1992 which is not connected with handing over/taking charge between Shri T.M. Meena and Shri M.L. Dagla on 23.8.87. Hence there is no question of his (COs) taking action to find out the cause of shortage or reporting the matter to higher authorities.

Further it has been alleged that as per para 1,6 & 7 of Section 48 of the CPWD Manual - Vol-II, verification of store under the division had to be

Attn  
Ans

once in a year and discrepancies, if any, were to be brought to the Competent Authority, but the CO failed to follow these provisions of CPWD Manual. He also failed to check correctness of the original store records under his division as required under para 44 of CPWD Code.

The plea of CO in this regard is that as per para 7.2.35(9) of CPWD Code, such verification was to be done on the orders of the competent authority i.e. the SE but no such orders were issued. The department has also admitted that no orders were issued by the Superintending Engineer in charge of the division for verification of stores during incumbency of CO as EE(C), Jaipur.

The Commission observe that in the light of para 1 of Section 48 of CPWD Manual Vol. II, the EE was required to have his divisional stores checked once in a year and the CO too vide his letters dated 4.7.87 and 10.7.87 directed the then AE(C) (Shri A.C. Mathur) to carry out physical verification of stores. The Commission note that copies of the above letters and the T.A. bills of Shri Mathur for journeys to Jaipur in connection with verification of store are not available on record. However, from the defence of Shri A.C. Mathur, AE, it appears that the CO deputed him for verification of stores as also he passed his TA bills. The Commission further observe that though Shri Mathur visited the stores twice, no verification could be done as neither the material was stacked properly nor any assistance was provided by the Stores Incharge for restacking the material and taking the same to the weigh bridge. Shri Mathur claimed that this was brought to the notice of the EE(C). The Commission observe that since the CO was aware that no verification could be done, there was no question of his obtaining the verification report from Shri Mathur and bringing the discrepancies/shortages in store to the notice of the competent authority.

In view of the above, the Commission have held that the charge is not clearly established against the CO who was holding only the additional charge of Jaipur Division at that time.

#### 4. Shri R.V. Singh

The Commission note that this CO is alleged to have violated provisions of paras 6 & 7 of Section 48 of CPWD Manual Volume II because while working as AE(C) under Jaipur Sub Division, he was deputed for verification of stores at Jaipur, but he did not submit the report of physical verification of stores despite memo dated 15.7.94 allowing him to do so till 14.8.94. Further it has been stated that had he conducted the verification of stores and reported the discrepancies to the competent authority, the shortage in stores could have been avoided.

After  
JL  
Adarsh

No written orders of SE's directing him to undertake physical verification of stores were shown to him. However, as far as he remembered verification of stores was undertaken by him on the oral instructions of Shri T.K. Das, the then EE(C)/Jaipur. While verification of stores was in process, the cartage agents engaged for carrying steel from store to weigh bridge expired leaving the verification incomplete. This was brought to the notice of EE(C) but no alternate arrangements were made. Hence, there was no action on his part.

He was not aware of any shortage in steel/cement during handing over/taking over charge by Shri T.M. Meena and Shri M.L. Dagla in August, 1987 as at that time he was working under CCW(AIR), Bareilly Division.

The Commission observe that as claimed by the CO and accepted by DA no orders were issued by the SE for verification of stores. However, following verbal directions of EE, the CO started the work of verification of stores but could not complete the same because of passing away of the cartage contractor. Since no alternate arrangements were made thereafter, the work of verification of stores could not be completed.

The Commission observe that the basic charge against the CO is that he did not carry out physical verification of stores thereby facilitating manipulation in stores material. The CO has also admitted that for the reasons explained by him, verification of stores could not be carried out. The Commission note that the reasons given by the CO for not carrying out verification of stores (such as non-cooperation by the store incharge, not stacking the material in proper manner or passing away of the Cartage Contractor) could have delayed the process of verification but it cannot be accepted as an ultimate cause for non-verification.

The Commission further observe that the CO could have atleast submitted a part report of verification of cement where only the cement bags were required to be counted.

As regards alleged financial loss due to non-verification of stores/shortage of steel/cement, the Commission observe that there is no direct linkage between verification of stores and alleged financial loss as the handing over/taking over report between Shri Meena and Dagla (JEs) did not mention any shortage in stores. The closing balance of stores as on August, 87 &

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September, 87 also did not indicate any shortfall. Since the CO left in July, 87, and the handing over report did not show any shortage, he (the CO) cannot be held responsible for shortage.

In view of above the Commission have held the charge as proved to the extent that the CO failed to submit even a part report on verification of cement bags.

#### 5. Shri A.C. Mathur

This CO has also been charged with non-submission of report of physical verification of stores/Jaipur. The CO has contended that he proceeded for verification of CCW(AIR) Store/Jaipur but could not verify the stock as the material was not properly stacked nor any assistance was extended by the AE incharge of the stores for re-stacking the material or carrying it to weigh bridge. The CO has stated that this was reported to EE(C) but nothing was heard from him. Hence he remained under the impression that the matter was closed and no further action regarding verification of stores by him was required. The CO has further stated that these facts were open for verification by holding an oral inquiry.

The Commission observe that the CO visited the CCW(AIR) Store/Jaipur twice – from 4.8.87 to 7.8.87 and on 23.8.87 – for the purpose of verification of stores, but as per his own statement could not conduct the verification due to non-cooperation of the Stores Incharge and non-stacking of the material in proper and systematic manner. This according to the CO was reported to the EE(C) and the Prosecution has not denied this. There is also no evidence to show that any directions were issued by the then EE(C) to the CO or the Stores Incharge subsequent to CO's reporting the matter to EE(C).

Further the Commission observe that since no shortage of steel and cement was shown in the store closing reports of August, 87 & September, 87 neither any shortage was recorded in the handing/taking over report dated 23.8.87 signed by both the JEs he (the CO) could not be held responsible for alleged shortfall in steel & cement. However, the Commission have held the charge as proved to the extent that the CO did not submit even an incomplete report on verification of stores.

6. In the light of their findings as discussed above and after taking into account all other aspects relevant to the case, the Commission consider that ends of justice would be met in this case if - (a) the proceedings against Shri R.M.R. Parti, EE(C) are dropped and he is exonerated of the charge, and (b) the penalty

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of "Censure" is imposed on Shri R.V. Singh, EE(C) and Shri A.C. Mathur, EE(C). They advise accordingly.

7. A copy of the orders passed by the Ministry in this regard may please be endorsed for Commission's perusal and record.

8. The case records as per the list attached are returned herewith receipt of which may please be acknowledged.

Yours faithfully,

 (SAROJ)

UNDER SECRETARY

UNION PUBLIC SERVICE COMMISSION

TEL: 23070393

Encl. 1. Case records as per list attached.

2. Two spare copies of this letter.

*(Signature)*  
S. A. Mathur

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ANNEXURE - 62

Confidential

PRASAR BHARTI  
(BROADCASTING CORPORATION OF INDIA)  
DIRECTORATE GENERAL : ALL INDIA RADIO  
CIVIL CONSTRUCTION WING  
( VIGILANCE UNIT )

5<sup>th</sup> Floor, Soochna Bhawan  
CGO Complex, Lodi Road  
New Delhi - 110003

No. C-13013/43/92-CW-I/Vol. III/ 580

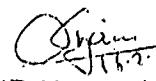
dt. 17.1.05

✓ Sh. A.C. Mathur,  
Surveyor of Works©,  
O/o SEC,  
CCW AIR,  
Guwahati.

SUB: Disciplinary proceedings against Sh. A.C.Mathur, EE©.

REF: M/o I&B Order no. C-14015/1/99-Vig. Dt. 27.1.2005.

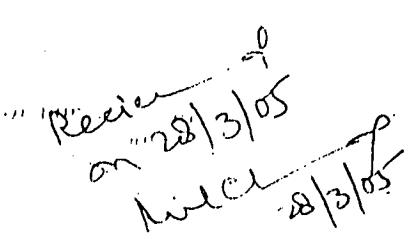
Kindly find enclosed herewith M/o I&B order no. C-14015/1/99-Vig. Dt. 27.1.2005 meant for you, along with a copy of UPSC's letter no. F.3/9/04-S.I. dt. 7.10.2004. You are requested to send your dated acknowledgement for the above order in triplicate in the enclosed proforma immediately please.

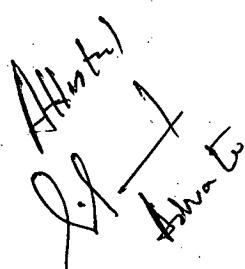
  
(D.K. JAIN)  
Executive Engineer © Vig. -I

Encl: A/A

Copy to:

Sh. Imran Farid, SO(Vig.) DG AIR Akashwani Bhawan, New Delhi w.r.t. their ID Note no. 7/64/94-Vig./224 dt. 11.2.05 for information.

  
Executive Engineer © Vig. -I



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### ACKNOWLEDGEMENT

RECEIVED MINISTRY OF I&B ORDER NO. C-14015/1/99-Vig. Dt. 27.1.2005,  
MEANT FOR ME, IN ORIGINAL, ALONG WITH A COPY OF UPSC's LETTER  
NO. F.3/9/04-S.I. DT. 7.10.2004.

(A.C.MATHUR)  
SURVEYOR OF WORKS©  
DT. \_\_\_\_\_

### ACKNOWLEDGEMENT

RECEIVED MINISTRY OF I&B ORDER NO. C-14015/1/99-Vig. Dt. 27.1.2005,  
MEANT FOR ME, IN ORIGINAL, ALONG WITH A COPY OF UPSC's LETTER  
NO. F.3/9/04-S.I. DT. 7.10.2004.

(A.C.MATHUR)  
SURVEYOR OF WORKS©  
DT. \_\_\_\_\_

### ACKNOWLEDGEMENT

RECEIVED MINISTRY OF I&B ORDER NO. C-14015/1/99-Vig. Dt. 27.1.2005,  
MEANT FOR ME, IN ORIGINAL, ALONG WITH A COPY OF UPSC's LETTER  
NO. F.3/9/04-S.I. DT. 7.10.2004.

(A.C.MATHUR)  
SURVEYOR OF WORKS©  
DT. \_\_\_\_\_

Attched  
File  
Ans

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No.- C-14015/1/99-Vig.  
GOVERNMENT OF INDIA  
MINISTRY OF INFORMATION & BROADCASTING  
'A' Wing Shastri Bhawan, New Delhi – 110 001

Date: 27.1.2005

ORDER

WHEREAS disciplinary proceedings under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, were initiated against Shri A.C. Mathur, the then Assistant Engineer, Civil Construction Wing, All India Radio, Suratgarh, vide this Ministry Office Memorandum No.C-14015/1/99-Vig. dated 29.12.99, on the following Statement of imputations of Misconduct or Misbehaviour:-

STATEMENT OF IMPUTATIONS OF MISCONDUCT OR MISBEHAVIOUR  
AGAINST SHRI A.C.MATHUR, EE(C) CCW, AIR, NEW DELHI.

That the said Shri A.C.Mathur, while functioning as Assistant Engineer (C), CCW, AIR, Suratgarh was given the task of verification of stores at Jaipur during the period when Shri T.M.Meena, JE (C) was in charge of the stores from August, 1983 to August 1987. As evident from his own submission made by Shri Mathur, vide his letter dated 1-8-94, in response to the CCW, AIR's Memorandum No.C-13013/43/92-CW-I dated 15-7-94, he visited the CCW, AIR stores, Jaipur but never submitted the report on the outcome of the physical verification to his superiors. The above act of Shri Mathur is in violation of CPWD Manual vol.II 1983 section 48 para 6 & 7, which states that the result of all verifications of stores should be reported to the competent authority for orders, also, as soon as a discrepancy is noticed the book balance must be set right by the verifying officer, treating surplus as a receipt and deficit as an issue with suitable remarks.

Subsequently, the Junior Engineer (C), stores, Shri T.M. Meena was transferred and Shri M.L. Dagla took over the charge from him on 23-8-87. The handing over/ taking over of the charge between them had shown a shortage of 5.12 MT of steel (tor and mild steel) and 20.10 MT (later verified as 10.00 MT) of cement which was again manipulated by Shri Dagla for further loss of 6.36 MT of steel and 10 MT of cement. Had Shri Mathur conducted the verification of stores on time and reported the discrepancies to the notice of the competent authority, further loss to the Government could have been avoided and also suitable action could have been taken against the officers concerned at that time itself.

By his above acts, Shri A.C. Mathur exhibited lack of devotion to duty and acted in a manner unbecoming of a Govt. Servant and thus contravened Rule 3 (1) (ii) and 3 (1) (iii) of Central Civil Services (Conduct) Rules, 1964.

WHEREAS Shri A.C.Mathur denied the allegations and submitted his written statement of defence dated 19-1-2000.

(A.C. Mathur)  
A.C. Mathur

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WHEREAS the said written statement of defence of Shri Mathur was duly considered by the disciplinary authority. The comments of the disciplinary authority on the said written statement of defence of Shri Mathur, are as under:

COMMENTS ON THE REPRESENTATION OF SHRI A.C.MATHUR

Though he visited Jaipur twice for this purpose, he never submitted verification report to the EE (C). If the stock holders at Jaipur had not cooperated with Shri Mathur (as claimed by him) for verification of stores, he could have reported the same to his superiors. Shri Mathur had also claimed TA for his visits to Jaipur for store verification, duly got approved by the EE (C), without submitting the verification report. Had Shri Mathur conducted the verification of stores in time and submitted the report to the competent authority further loss of stores could have been avoided.

WHEREAS the Disciplinary Authority after carefully examining the written statement of defence submitted by Shri Mathur took a tentative view to impose one of the minor penalties on Shri Mathur for the lapse on his part and the case was referred to Union Public Service Commission, vide this Ministry's letter dated 24.3.2004, for their advice.

WHEREAS vide their letter No.F.3/9/04-S.I dated 07.10.2004 (copy enclosed), the UPSC tendered their advice and, for the reasons mentioned therein, advised this Ministry that the ends of justice would be met in this case, if the penalty of 'Censure' is imposed on Shri A.C.Mathur EE(C). While tendering their advice UPSC has observed that the charged officer visited the CCW (AIR) Store/Jaipur twice – from 4.8.87 to 7.8.87 and on 23.8.87 – for the purpose of verification of stores, but as per his own statement could not conduct the verification due to non-cooperation of the Stores Incharge and non-stacking of the material in proper and systematic manner. This according to the charged officer was reported to the EE(C) and the Prosecution has not denied this. There is also no evidence to show that any directions were issued by the then EE(C) to the charged officer or the Stores Incharge subsequent to charged officer's reporting the matter to EE (C).

Further the Commission observe that since no shortage of steel and cement was shown in the store closing report of August, 87 and September, 87 neither any shortage was recorded in the handing/taking over report dated 23.8.87 signed by both the JEs he (the CO) could not be held responsible for alleged shortfall in steel and cement. However, the Commission have held the charge as proved to the extent that the charged officer did not submit even an incomplete report on verification of stores.

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AND, WHEREAS the Disciplinary Authority has, after taking careful consideration of the relevant records, the advice tendered by UPSC, and keeping in view the facts and circumstances of the case has come to the conclusion that the advice dated 07.10.2004, tendered by UPSC is appropriate and therefore, the ends of justice would be met in this case if the aforesaid advice of UPSC is accepted and the penalty of 'Censure' is imposed on the said Shri A.C. Mathur, EE(C).

NOW, THEREFORE, the Disciplinary Authority orders accordingly.

( BY ORDER AND IN THE NAME OF THE PRESIDENT )

*S. K. ARORA*  
UNDER SECRETARY TO THE GOVT. OF INDIA  
PH:2338 45 97.

Shri A.C. Mathur,  
Executive Engineer,  
Civil Construction Wing  
All India Radio  
New Delhi  
(Through DG: AIR)

*copy*  
(along with UPSC's letter  
No. No.F.3/9/04-S.I. dated. 07.10.2004)

*Attn:*  
*Attn:*  
*Attn:*

6. In the case of ministerial or drawing office establishment, the Head Clerk/Accountant/Superintendent/Estimator/Draftsman shall, in addition to a detailed note, enclose a list of files and equipment in their personal custody and a list of returns or data which may be required to be submitted to the higher authorities within the next fortnight.

7. Similarly, the ministerial and drawing office staff shall hand over the lists of pending cases/estimates and undisposed of references to their successors. A census of the Library Books, Measurement Books, Tools and Plant and stationery and office equipment, liveryes of Group 'D' etc., shall be taken and made over to the successor.

### SECTION 3—DISCIPLINARY CASES & DEPARTMENTAL PROCEEDINGS

#### Procedure in Disciplinary Cases

1. The procedure to be followed in disciplinary cases has a statutory basis. Any neglect in its due observance is liable to vitiate the whole proceedings and the ultimate orders passed. The officers and staff dealing with this type of cases shall be well conversant with the instructions laid down in the Vigilance Manual Volumes I and II and the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The procedure is summarised hereunder :—

- (i) Decision to proceed against the officer concerned after a preliminary enquiry.
- (ii) Framing of charge-sheet and issue of charge-sheet.
- (iii) Consideration of the case by the Disciplinary Authority in the light of the defence statement received from the accused officer and passing of final orders or conducting any oral inquiry into the charges by the disciplinary authority itself or by appointing an Inquiry Officer and passing final orders on receipt of the Inquiry Officers report after examination of the oral and documentary evidence.

Note : Where the disciplinary authority is the Director General (Works) or higher, preliminary enquiry into the cases of administrative nature ought to be processed by the Chief Engineers. The drill required to be performed by them is calling for the explanation of the officer concerned, giving of show cause notice to him/her and examining the same. If in the opinion of Chief Engineer after the preliminary investigation there is substance in the case, warranting initiation of formal disciplinary proceedings for imposition of any of the statutory penalties, a self-contained report supported by relevant documents together with the explanation of the Govt. servant concerned are required to be sent to the Director General (Works) for consideration. Where, however, the preliminary investigation does not in the opinion of the CE justify imposition of any the statutory penalties, he may finalise the case himself by closing the case or by administering a recordable simple/oral warning according to the seriousness of the lapse without any reference to the Director General of Works.

#### Complaints

2. Complaints received against Govt. servants are entered in a Complaint Register in Form CVC I. Only those complaints in which there is an allegation of corruption or improper motive or a *prima facie* indication of an offence with a vigilance angle are entered in this register. Information gathered from Audit reports, returns, inspection notes, news-papers proceedings of Parliament etc. which has a vigilance angle also come under the term 'Complaint' and entered in the register for further action.

#### Anonymous and Pseudonymous complaints

3. No action shall be taken on anonymous complaints against Govt. servants. Pseudonymous Complaints against Government servants are also treated similarly. However, in case of doubt, the pseudonymous charter of a complaint is verified by enquiry from the signatory of the complaint whether it has actually been sent by him. If he cannot be contacted at the address given in the complaint or if no reply is received from him within a reasonable time it may be presumed that the complaint is pseudonymous and may be ignored.

#### Preliminary enquiry

4. On receipt of a complaint, a preliminary inquiry is conducted immediately. At the preliminary inquiry all available evidence and relevant documents are collected and oral evidence of witness, if any, is recorded in writing and got signed by them, if possible, in the presence of the officer complained against. The preliminary inquiry report is examined by the disciplinary authority in order to decide whether a *prima facie* case exists and whether departmental disciplinary action may be taken or the case be referred to the Central Bureau of Investigation for further investigation.

Complaints against Gazetted Officers are sent through the Ministry to the Central Vigilance Commission alongwith the finding of the preliminary enquiry for advice and opinion with regard to the action to be taken.

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Date