

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 233/2005

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SECTION OFFICER (Judl.)

Kahla
06.11.17

FORM NO. 4.
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 233/05

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicant(S): Niranjan Aganika

Respondant(S): U.O. & Govt.

Advocate for the Applicant(S): M. Chanda, S. Nath, S. Das Choudhury
Mr. A.K. Choudhury,

Advocate for the Respondant(S): None

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited vide IPC/PD No. <u>206/58/681</u> Dated <u>29.8.05</u>	16.9.2005	Present: The Hon'ble Mr. Justice G. Sivaraman, Vice-Chairman. The applicant is a Store Keeper (PA No.37094-A), Logistic Section, No.14 wing AF, C/O 99 APO under the respondents. He has filed this appli- cation seeking for direction to set aside and quash the memorandum of chargesheet dated 16.8.2004 (Annexure- 6) and penalty order dated 8.11.2004 (Annexure-8). The applicant has filed an appeal memorandum dated 31.1.2005 (Annexure-9) before the appellate au- thority. The main grievance of the applicant is that though more than six months have elapsed since the filing of the appeal memorandum the same has not so far been disposed of. I have heard Mr.M.Chanda, learned counsel for the applicant and Mr.A.K. Chaudhuri, learned Addl.C.G.S.C. for the respondents. Having considered the matter I am of the view that this application can be disposed of at the admission stage itself. The applicant has filed a statutory appeal against the memorandum of charges dated 16.8. 2004 and the penalty order dated 8.11. 2004. The said appeal is still pending

Heer
Dy. Registrar

Pr

AB
9.9.05

Steps not taken

Pr

R
AKCh
21/9/05

Contd.

Contd.

16.9.2005 before the competent appellate authority. In the circumstances, it would be appropriate to dispose of this application by directing the competent appellate authority to pass orders on the appeal memorandum (Annexure-9) filed by the applicant. I do so. The competent appellate authority will dispose of the Annexure-9 appeal within a period of three months from the date of receipt of this order by a speaking order.

The O.A. is disposed as above at the admission stage itself. The applicant will produce this order before the competent appellate authority for compliance within two weeks from today.

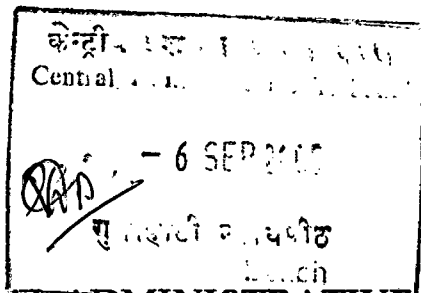
[Signature]
Vice-Chairman

bb

[Handwritten initials]
copy

23.9.05

Copy of the order has been sent to the D/Sec for issuing the order to the applicant as well as to the ADOL C.G.C. for the records.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 233 /2005

Shri Niranjana Hazarika

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 13.02.2003- Applicant while serving as Store Keeper in the office of the Air Force Station, Chabua, P.O- Air Field, Chabua, Dist- Dibrugarh, Assam submitted a leave application on 13.02.2003 for sanctioning a leave for twenty four (24) months w.e.f 02.03.2003 to 02.03.2005 on account of higher study. (Annexure-1 series)
- 14.02.2003- Station Commander forwarded the said leave application to the higher authority duly recommending the said application for sanction of the leave. (Annexure-1 series)
- 02.03.2003- Applicant left for higher studies at Mumbai in Maharashtra Institute of Computer Technology for 24 months in anticipation that the leave would be sanctioned for higher study.
- 19.07.2004- Applicant on receipt of information from his family members that a news item published by the Air Force Station authority, Chabua alleging missing of the applicant left the Computer Institute at Mumbai and reported for duty on 19.07.04. (Annexure-2)
- 11.08.2004- Office of the 14 Wing, Air Force informed the Commander that the applicant is on duty w.e.f. 19.07.04. (Annexure-3)
- 06.08.2004- Show cause notice was issued to the applicant directing to explain the reason for alleged unauthorized absence w.e.f. 03.03.03 to 18.07.04. (Annexure-4)
- 09.08.2004- Applicant submitted his reply explaining under what circumstances he had proceeded for higher studies at Mumbai and also explained other quarries raised in the show cause notice. (Annexure-5)
- 16.08.2004- Memorandum of charge sheet was issued against the applicant containing 5 articles of charges, all are relating to unauthorized absence from 03.03.03 to 18.07.04. (Annexure-6)
- 27.08.2004- Applicant submitted detailed reply denying the allegations and requested for exonerating him from charges. (Annexure-7)

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08.11.2004- Respondents issued impugned penalty order imposing penalty of reduction in lower stage for a period of 44 months without increment of pay during this period and the reduction will not effect of postponing the future increment of his pay. (Annexure-8)

31.01.2005- Applicant submitted an appeal addressed to the appellate authority through Station Commandar, 14 Wing Air Force, wherein he pointed out the violation of the procedures in the inquiry proceedings and also prayed to set aside and quash the impugned charge sheet dated 16.08.04 as well as the impugned penalty order dated 08.11.04. However, the appeal is still pending with the authority. (Annexure-9)

P R A Y E R S

Relief (s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief (s):

1. That the Hon'ble Tribunal be pleased to set aside and quash the memorandum of charge sheet dated 16.08.2004 (Annexure- 6) as well as the impugned order of penalty dated 08.11.2004 (Annexure-8).
2. That the Hon'ble Tribunal further be pleased to direct the respondents to refund the money if any deducted from the pay of the applicant as a result of imposition of penalty vide impugned order of penalty dated 08.11.2004.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.
-

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

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A.No 233 /2005

Niranjan Hazarika : Applicant.

-Versus-

Union of India and Others. : Respondents.

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Date: - 2/c

Filed By:

Subanta Nath
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. 233 /2005

BETWEEN:

Shri Niranjana Hazarika,

Store Keeper,
(PA NO. 37094-A)
Logistic Section,
No. 14 wing AF
C/O 99 APO.

-----Applicant.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Defence,
South Block,
New Delhi- 110001.
2. The AOC-in-C,
Eastern Air Command,
C/O 99 APO.
3. The Station Commander,
14 Wing Air Force,
C/O 99 APO.
4. Group Captain,
Station Commander,
14 Wing Air Force,
C/O 99 APO.

..... Respondents.

Niranjana Hazarika.

7
Filed by me applicant
through
Subregistrar
2/8/05

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made against the impugned order of penalty dated 08.11.2004 (Annexure-8) and also against non disposal of appeal preferred by the applicant before the appellate authority.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The applicant further declares that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act/ 1985.

4. Facts of the case:

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. The applicant is working as Store Keeper in the Logistic Section of 14 Wing Air Force Station, Chabua. Applicant is the Civilian employee of the 14 Air Force Station, Chabua, Govt. of India, Ministry of Defence.

4.2 That while serving as Store Keeper in the office of the Air Force Station, Chabua, P.O- Air Field, Chabua, Dist- Dibrugarh, Assam. The applicant submitted a leave application on 13.02.2003 for sanctioning a leave for twenty four (24) months w.e.f 02.03.2003 to 02.03.2005 on account of higher study. The said leave application was forwarded by Station Commander on 14.02.2003 to the higher authority duly recommending the said application for sanction of the leave by the Station Commander. The applicant in anticipation that the leave would be sanctioned by the higher

Niranjana Hazarika

authority since the leave application was duly recommended by the station commander and also due to urgency of attending the course for higher study at Mumbai at Maharashtra in the Institute of Computer Technology for 24 months course left for Mumbai. Applicant was under impression that the leave would be sanctioned by the appropriate authority since the same was recommended by his immediate controlling officer.

Copies of the leave application dated 13.02.2003 and forwarding letter dated 14.02.2003 are enclosed herewith for perusal of Hon'ble Court and marked as Annexure-1 (Series).

- 4.3 That your applicant left for higher studies at Mumbai in Maharashtra Institute of Computer Technology (M.I.C.T) for 24 months as on 02.03.2003 in anticipation that the leave would be sanctioned for higher study. It is a normal practice in the establishment in which the applicant is working that once a leave application is submitted and if the same is recommended by the immediate controlling officer then the same is normally get sanctioned of the appropriate authority. Therefore, applicant was under a bonafide belief that his leave would be sanctioned by the appropriate authority, more so in view of the fact that the same was recommended by the immediate controlling officer and accordingly applicant left for higher studies at Mumbai.
- 4.4 That your applicant while undergoing the aforesaid Computer Course at Mumbai, he came to learn from his family members that there was a news item published by the Air Force Station Authority, Chabua alleging missing of the applicant without leave in the local news paper. On receipt of the said news from his family members, the applicant immediately left the Computer Institution and reported for duty on 19.07.2004 i.e within 15 days from the publication of news item. However, the authority permitted him to join in his duty on 19.07.2004 itself.

Niranjan Chagasta

A Copy of the joining report dated 19.07.2004 is enclosed herewith for perusal of Hon'ble Court as Annexure-2.

- 4.5 That it is stated that the office of the 14 wing, Air Force vide letter bearing No. 14 W/359/37094/1/PC dated 11.08.2004. It was informed even to the Commander that the applicant is on duty w.e.f 19.07.2004.

A Copy of the letter dated 11.08.2004 is enclosed herewith for perusal of Hon'ble Court as Annexure-3.

- 4.6 That your applicant thereafter regularly attending his duties. However on 06.08.2004 a show cause notice was issued to the applicant. In the said show cause notice the applicant was directed to explain the reason for alleged unauthorized absence w.e.f 03.03.2003 to 18.07.2004, wherein it is stated that the applicant was absent unauthorizedly w.e.f 03.03.2003 till 18.07.2004 as indicated by his Section Commander. It is also stated that the applicant has been intimated that the study leave was not approved by the appropriate authority and the remarks were conveyed on his application which was submitted on 27.02.2003. It is further alleged in the show cause notice that after a period of 90 days of unauthorized absence from duty, a letter under registered A/D was sent to the home address of the applicant as per the service documents dated 10.06.2003. Wherein it was directed to the applicant to join duties failing which necessary action has been taken against him as per leave Rule 1972. The applicant submitted his reply on 09.08.2004 explaining under what circumstances he had proceeded for higher studies at Mumbai and also explaining the other quarries raised in the show cause notice dated 06.08.2004.

Copy of the show cause notice dated 06.08.2004 and reply dated 09.08.2004 are enclosed herewith for perusal of Hon'ble Court as Annexure- 4 and 5 respectively.

Vinayjan Hazare

- 4.7 That it is stated that vide memorandum dated 16.08.2004 a memorandum of charge sheet was issued against the applicant containing 5 articles of charges all are relating to unauthorized absence from 03.03.2003 to 18.07.2004. On receipt of the memorandum of charge sheet dated 16.08.2004 the applicant submitted a detailed reply dated 27.08.2004 denying the allegations and requested for exonerating him from the charges.

Copy of the memorandum of charge sheet dated 16.08.2004 and reply dated 27.08.2004 is enclosed herewith for perusal of Hon'ble Court as Annexure- 6 and 7 respectively.

- 4.8 That it is stated that enquiry proceeding was conducted in total violation of the relevant provisions of CCS (CCA) Rules 1965. However, the Station Commander, 14 wing, Air Force imposed penalty of reduction in lower stage for a period of 44 months without increment of pay during this period and the reduction will not effect of postponing the future increment of his pay vide impugned order bearing letter No. 14 W/359/37094/1/PC dated 08.11.2004. However, the following infirmities have been occurred in the aforesaid enquiry proceeding:

(1) In the memorandum of charge sheet dated 16.08.2004, more particularly in the statement of Article of Charges and statement of imputation of misconduct, contained in Annexure- I and Annexure-II, NO VIOLATION of CCS (Conduct) Rule 1964 is alleged, against the applicant. Therefore, initiation of major penalty proceeding and conducting the inquiry, under Rule 14 of CCS (CCA) Rules 1965, is not warranted and as such, imposition of penalty is not permissible under the law or under the relevant rules as indicated above.

(2) That the statement of imputation of misconduct or misbehaviour contained in Annexure-II of memorandum of charge sheet dated 16.08.2004 did not specify violation of any rule or act by the applicant which is unbecoming of a Govt. servant. Therefore,

Vinay Kumar Singh

findings of the inquiry officer, that the Article of charge No. II and V, which alleged to have been proved, by the inquiry officer, but the same cannot led to imposition of any penalty upon the applicant, specifically on the ground that no misbehaviour or misconduct or violation of any conduct rule, has been specified against the applicant.

(3) The inquiry officer, in his inquiry report dated 15.10.2004, also not alleged of any act of misbehaviour or misconduct or violation of any provision of Conduct Rule 1964. Therefore, question of imposition of penalty vide order dated 08.11.04 is contrary to the procedure laid down in Rule 14 and 15 of the CCS (CCA) Rule 1965.

(4) For that no witnesses, or listed documents were examined during the inquiry proceeding by the presenting officer, which were relied upon by the disciplinary authority in the memorandum of charge sheet dated 16.01.04, which would be evident from the daily order sheet of the inquiry proceeding as required under the Rule 14 of CCS (CCA) Rule 1965, and on that score only, order of penalty dated 08.11.2004 is liable to be set aside and quashed.

(5) For that there is no discussion on assessment of evidence is made by the inquiry officer, in paragraph 15 of the inquiry report as required under the Rule and on that score alone, order of penalty dated 08.11.2004 is liable to be set aside and quashed.

(6) That there is no discussion on the evidence, while findings arrived at by the Inquiry officer, as required under the Rule 14 and 15 of the CCS (CCA) Rule, 1965.

(7) That no action was taken by the inquiry officer or disciplinary authority, in the matter, indicated in Rule 15 of the CCS (CCA) Rule, 1965 and no opportunity was provided to the applicant to submit further representation on the inquiry report

Niranjan Chandra

and on that score alone order of penalty is liable to be set aside and quashed.

(8) That vital documents were not supplied to the applicant inspite of repeated request.

(9) That some documents supplied to the applicant is not legible.

(10) That no examination or re-examination of witnesses, or documents were made by the presenting officer.

(11) That the charged official was not examined by the inquiry officer.

(12) That order of penalty dated 08.11.2004 has been passed by the disciplinary authority in total violation of Rule 15 of the CCS (CCA) Rule 1965, there is no discussion of evidence and also there is no discussion of the inquiry report, furnished by the inquiry officer from the end of disciplinary authority as required under the Rule, the order of penalty has been passed without application of mind and as such order of penalty is void-ab-initio.

(13) That the applicant left for higher studies with the impression that the leave would be sanctioned in due course since the leave application have already been duly recommended by his immediate controlling officer, and as such absent from duty cannot be treated as misconduct and the said allegation does not fall within the meaning of misconduct.

(14) That non-payment of salary or subsistence allowance, during the period of inquiry, vitiated the inquiry proceeding and on that score alone the impugned order of penalty is liable to set aside and quashed.

A copy of the impugned order of penalty dated 08.11.2004 is enclosed herewith for perusal of Hon'ble Court as Annexure-8.

Ninengan Hagawka

4.9 That the applicant after receipt of the penalty order dated 08.11.04, submitted an appeal on 31.01.2005 addressed to the Appellate authority through Station Commandar, 14 Wing Air Force. In his appeal dated 31.01.05, the applicant categorically submitted that the disciplinary proceeding initiated against the applicant under Rule 14 of the CCS (CCA) Rule 1965 but surprisingly no procedure prescribed under Rule 14 and 15 of the CCS (CCA) Rule 1965, has been followed, in the instant proceeding, the order of penalty has been imposed upon the applicant in total violation of the mandatory provision laid down in the aforesaid Rule. Applicant in his appeal dated 31.10.05 also specifically pointed out procedural violation in the inquiry proceeding initiated against him and prayed to set aside and quash the memorandum of charge sheet dated 16.08.2004 as well as the order of penalty dated 08.11.04 and to exonerate him. However, the said appeal dated 31.01.05 is still pending with the appellate authority.

Copy of the appeal dated 31.01.05 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 9.

- 4.10 That it is stated that the applicant submitted his appeal addressed to the appellate authority on 31.01.2005 but till date no decision on his appeal has been communicated to the applicant and thereby the respondents have kept the applicant in anxiety.
- 4.11 That the applicant humbly submit that in the circumstances stated above, and finding no other alternative, the applicant is approaching this Hon'ble Tribunal and this is a fit case to interfere with, and set aside and quash the memorandum of charge sheet dated 16.08.2004 as well as the impugned penalty order dated 08.11.2004.
- 4.12 That this application is made bonafide and for the cause of justice.

Niranjan Hagarika

5. Grounds for relief (s) with legal provisions:

- 5.1 For that, in the memorandum of charge sheet dated 16.08.2004, more particularly in the statement of Article of Charges and statement of imputation of misconduct, contained in Annexure- I and Annexure-II, NO VIOLATION of CCS (Conduct) Rule 1964 is alleged, against the applicant. Therefore, initiation of major penalty proceeding and conducting the inquiry, under Rule 14 of CCS (CCA) Rules 1965, is not warranted and as such, imposition of penalty is not permissible under the law or under the relevant rules as indicated above.
- 5.2 For that the statement of imputation of misconduct or misbehaviour contained in Annexure-II of memorandum of charge sheet dated 16.08.2004 did not specify violation of any rule or act in respect of the applicant which is unbecoming of a Govt. servant. Therefore, findings of the inquiry officer, that the Article of charge No. II and V, which alleged to have been proved, by the inquiry officer, but the same cannot led to imposition of any penalty upon the applicant, specifically on the ground that no misbehaviour or misconduct or violation of any conduct rule, has been specified against the applicant.
- 5.3 For that the inquiry officer, in his inquiry report dated 15.10.2004, also not alleged of any act of misbehaviour or misconduct or violation of any provision of Conduct Rule 1964. Therefore, question of imposition of penalty vide order dated 08.11.04 is contrary to the procedure laid down in Rule 14 and 15 of the CCS (CCA) Rule 1965.
- 5.4 For that no witnesses, or listed documents were examined during the inquiry proceeding by the presenting officer, which were relied upon by the disciplinary authority in the memorandum of charge sheet dated 16.01.04, which would be evident from the daily order sheet of the inquiry proceeding as required under the Rule 14 of CCS (CCA) Rule 1965, and on that score only, order of penalty dated 08.11.2004 is liable to be set aside and quashed.

Niranjan Hagarika

- 5.5 For that there is no discussion on assessment of evidence is made by the inquiry officer, in paragraph 15 of the inquiry report as required under the Rule and on that score alone, order of penalty dated 08.11.2004 is liable to be set aside and quashed.
- 5.6 For that there is no discussion on the evidence, while findings arrived at by the Inquiry officer, as required under the Rule 14 and 15 of the CCS (CCA) Rule, 1965.
- 5.7 For that no action was taken by the inquiry officer or disciplinary authority, in the matter, indicated in Rule 15 of the CCS (CCA) Rule, 1965 and no opportunity was provided to the applicant to submit further representation on the inquiry report and on that score alone order of penalty is liable to be set aside and quashed.
- 5.8 For that vital documents were not supplied to the applicant inspite of repeated request.
- 5.9 For that some documents supplied to the applicant are not legible.
- 5.10 For that no examination or re-examination of witnesses, or documents were made by the presenting officer.
- 5.11 For that the applicant was not examined by the inquiry officer.
- 5.12 That order of penalty dated 08.11.2004 has been passed by the disciplinary authority in total violation of Rule 15 of the CCS (CCA) Rule 1965, there is no discussion of evidence and also there is no discussion of the inquiry report, furnished by the inquiry officer from the end of disciplinary authority as required under the Rule, the order of penalty has been passed without application of mind and as such order of penalty is void-ab-initio.
- 5.13 For that the applicant left for higher studies with the impression that the leave would be sanctioned in due course since the leave application have already been duly recommended by his immediate controlling officer, and as such absent from duty cannot be treated as misconduct and the said allegation does not fall within the meaning of misconduct.

Niranjan Hazare

- 5.14 For that non-payment of salary or subsistence allowance, during the period of inquiry, vitiated the inquiry proceeding and on that score alone the impugned order of penalty is liable to set aside and quashed.
- 5.15 For that appeal submitted by the applicant against the impugned penalty order dated 08.11.2004 has not been considered.

6. Details of remedies exhausted.

That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

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 before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief (s):

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the memorandum of charge sheet dated 16.08.2004 (Annexure- 6) as well as the impugned order of penalty dated 08.11.2004 (Annexure-8).
- 8.2 That the Hon'ble Tribunal further be pleased to direct the respondents to refund the money if any deducted from the pay of the applicant as a result of imposition of penalty vide impugned order of penalty dated 08.11.2004.

Niranjan Nagarkar

8.3 Costs of the application.

8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

10.

11. Particulars of the I.P.O

- | | | | |
|------|---------------|---|-----------------|
| i) | I.P.O No. | : | 20 G 158923 |
| ii) | Date of issue | : | 9. 8. 05 |
| iii) | Issued from | : | G.P.O. Guwahati |
| iv) | Payable at | : | G.P.O. Guwahati |

12. List of enclosures:

As given in the index.

Niranjan Chakraborty

VERIFICATION

I, Shri Niranjan Hazarika, S/o- Shri Dilip Hazarika, aged about 34 years, resident of Kadamoni, Dibrugarh, Assam, presently working as Store Keeper (PA NO. 37094-A), in the office of the No. 14 wing AF, C/O 99 APO, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 2nd day of August, 2005.

Niranjan Hazarika

GENERAL APPLICATION

Service No. 370940 Rank. S.A. Name and Initial. N. HAZARIKA

Trade. S.A. Section. 445 Extra. 286

14 Wing, AF
C/O 99 APO

13 Feb 2003

Air Officer Commanding
14 Wing, AF
C/O 99 APO

REQUEST FOR STUDY LEAVE

Sir,

1. I have the honour to request/state that I may please be permitted
to avail the study leave for my better career
and prospect.

Yours faithfully,

Remarks by section commander

Date:

14 Feb 03

Recommended & forwarded

(Signature)
J. S. Baskaran
Sgt. 1st Lt.
3295 off.

Remarks by SWO

Date:

Remarks by O/Room

Date:

Remarks by Asst Adjt/Stn Adjt

Date:

Remarks by A.O.C

Date:

Affected
In
Advocate

LEAVE APPLICATION : CIVILIANS

No. : 14 Wing, Air Force

Section : LogisticDate : 13/02/03

Sir,

I, Name V. Nagarika Pass/PA No. 37024-1 Trade S.K.
 have the honour to request that I may be granted 24 months ~~days~~ E/Leave Study
 C/L, Med/Leave from 02nd March 2003 to 02nd March 2005 (both days inclusive).

Reasons for leave

Acquire higher study

I hereby declare that on expiry of my leave I shall resume my duty at this Station. I also request that I may be permitted to avail LTC during my leave upto place/Railway Station . My leave address is as under :-

Village/House No Hadmore No 6 P.O. Shibpur (Hadmore)
 District Shibpur State Anam

To
 The Air Officer Commanding
 14 Wing, Air Force
 Section Commander :-

Signature of the Applicant

Recommended/Not Recommended

Date : 14 Feb 03

Remarks by SMO (for Lascars & Safaiwalas only)

Recommended/Not Recommended

Date :

Remarks by Civil Admin Section

Leave at credit and due as on date of commencement of leave

Earned Leave Casual HPL/Med Leave

Date :

I/C Civil Admin Section

Leave granted :-

Earned Leave from to = days

HPL/Med Leave from to = days

Casual Leave from to = days

Approved/Not Approved.

Date :

Attested
 by Advocate

Extn: 206

14W/673/5/Lgs

19 Jul 04

STATION LOGISTIC SECTION

ARRIVAL REPORT OF GP 'C' CIVILIAN
PA NO. 37094A N HAZARIKA (SK)

1. The abovementioned Gp 'C' civilian has reported on duty at 0900 hrs on 19 Jul 04 and being routed to you at 1330 hrs.
2. This is for your information and further necessary action.

O i/c Civil Admin

NK Pillai
(NK Pillai)
Sqn Ldr
SLO

*Alleged to
Ldr.
Acharya*

(21/11/04)

Tele : 268

14W/359/37094/1/PC

Date : 11 Aug 2004

EMPLOYMENT IN SECTION DUTIES
PA NO. 37094-A, SRI N HAZARIKA (SK)

1. Reference is made to your letter No. 14W/673/5/Lys dated 19 Jul 2004.

2. The above named individual is being routed to your section for employment in trade duties as per requirement, as he is on duty wef 19 Jul 2004.



(Dinesh Sharma)
Sqn Ldr
Dy C Adm C
14 Wing Air Force

S L O

Copy to :-

Sri N Hazarika, SK : You are requested to report to your Section
(PA No. 37094-A) : Commander immediately.

W O L B
11 PU reply
12/8

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Attested
Sd/- Advocate

Tele : 2864447/268

No. 14 Wing, AF
C/O 99 APO

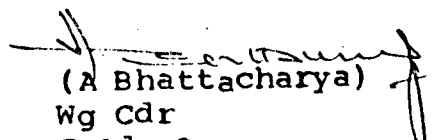
14W/359/37094/1/PC

06 Aug 2004

Shri Niranjana Hazarika, SK
(PA No. 37094-A)
No. 14 Wing AF
C/O 99 APO

DISCIPLINE CIVILIANS : SHOW CAUSE NOTICE
SHRI NIRANJAN HAZARIKA, SK (PA NO. 37094-A)

1. Whereas you have been absent from duty with effect from 03 Mar 2003 till 18 Jul 2004 as intimated by your Section Commander on 03 Mar 2003, to this HQ. You have been intimated by your Section Cdr that your leave application for study leave is not approved by the appropriate authority and also the same remarks were conveyed on the personal application submitted by you on 27 Feb 2003, by the C Adm O, 14 Wing, AF.
2. You have not mentioned in your application dated 27 Feb 2003 about the course of Higher Study applied for.
3. After a period of 90 days of unauthorised absence from duty, a letter under registered (AD) was sent to your home address as per service documents on 10 Jun 2003, wherein it was directed to join your duties immediately, failing which necessary disciplinary action will be taken against you as per the limits laid down in Rule-32 (2)(a) CCS Leave Rules 1972.
4. You are hereby directed to explain the reasons for absence for the period as mentioned above and for not following the proper procedure for availing study leave as per the conditions given in Chapter-VI of CCS Leave Rules 1972. You are also directed to show cause as to why disciplinary action should not be initiated against you. You are to submit the reply within 3 days from the receiving of this letter positively.


(A Bhattacharya)
Wg Cdr
C Adm O
for Stn Cdr

Alexis
for Advocate

Ext No-2

-19-

Annexure-5-5

25

From :

Sri Niranjan Hazarika,
(P.A. NO. 37094-A)
No. 14 Wing AF
C/o-99 APO

Dated, the 28th August, 2004.

To,
The Wing Commander
Civil Administrative Officer
No-14 Wing AF
C/o-99 APO.

**Sub : Show-Cause reply of your letter reference No. 14W/
359/37094/1/PC dated 06/08/2004.**

RESPECTED SIR,

With due honour, I beg to submit my Show-Cause reply for your kind consideration as hereunder :

1) THAT so far para 1 of your notice is concerned, I like to state that I had never been absent as shown from 03/03/2003 till 18/07/2004. Because I made an application dated 13/02/2003 through my superior officer Mr. J.S. Badhwar the then Sqan. Ldr. who recommended my application on the same day for your necessary sanction.

It is to be noted that I made such an application for leave for higher studies at Mumbai for upgrading my service carrier as I was eligible for that in accordance with the provision or Rules and Regulations of Govt. Employees.

However, in response to which I got a letter from your end assigning the reason for non-acceptance or non-consideration of my said leave application. But specifically you mentioned that I was/am not eligible for being granted my study leave against which I made a clarification vide my letter dated 27/02/2003 showing all my eligibilities as provided under the provisions of different laws, Acts and Rules and Regulations. My said letter of clarification was also recommended and forwarded to you by the aforesaid Sqan. Ldr.

All my said applications have become part of your official record to be kept and maintained by different sections ^{through} their special Officials as such, any remark on my application or letter of clarification dated 27/02/2003 is supposed not to be known by me or any

Contd., P/2 ..

Niranjan Hazarika

Received

09/09/04

Attest
Advocate

other employee other than the person who dealt with. Therefore, I could not know about any remarks which was conveyed on my personal application dated 27/02/2003 submitted by me or lying in your office record. On the other hand, I did not receive any reply rejecting my study leave application after such a clarification in regard to my eligibility.

2) THAT so far para 2 of your notice is concerned, I like to submit that at the time of making study leave application I was quite unaware about the course/Branch of higher studies which would be suitable and available for me. Simply I made an application for higher studies in Maharashtra Institute of Computer Technology (M.I.C.T.) on condition that I was ready to take admission in any branch or course of study which would be suitable for my service carrier. So, after arrival there I made my choice which could not be written in my leave application in advance. In this context, I also beg to submit that no selection took place at the time of making application for leave as such, it was uncertain in which course or branch of study I would have been selected. Therefore, I could not mention about the course of my higher studies in my application for clarification of eligibility on 27/02/2003.

3) THAT so far para 3 of your notice is concerned, first of all I deny the allegation of unauthorised absence ^{from} duty. Secondly, my leave application was not rejected or no information was given after my letter of clarification dated 27/02/2003 in respect of my leave application. Thirdly, no registered letter was received by my family members on 10/06/2003 as alleged as such, the contents of the said letter could not be known by me.

Sir, I had given my own residential address at Kadomoni, Dibrugarh in my leave application due to the reason that my original place of residence is in an interior place where no letter correspondence can be made easily. On and often I made enquiry over phone about the receipt of any letter either from my deptt. or any other person through my care taker upon whom I entrusted my residential house at Kadomoni, Dibrugarh, but no letter had ever been received by the said care-taker from your end as such, the caution of disciplinary action, though not applicable and attracted in my case, could not be known to me.

Contd., P/3 ...

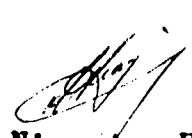
- 3 -

4) THAT Sir, I hereby crave your leave for reserving my rights of submitting an additional Written explanation if it becomes necessary on my part in near future in connection with the aforesaid Show-Cause notice.

Therefore, I submit my Written explanation stating the reasons as to why disciplinary action should not be initiated against me. In plain, knowingly I did not commit any mistake during the relevant period as alleged as such, the said Show-Cause notice is liable to be recalled.

It is, therefore, prayed that You will be kind enough to consider my case and drop the matter for the ends of justice and oblige.

Yours faithfully,



(Sri Niranjan Hazarika)

(PA No.37094 A)

No-14 Wing AF,

C/e-99 APO.

CHARGE SHEET FOR IMPOSING MAJOR PENALTY
UNDER RULE 14 OF CCS (CC&A) RULES 1965

14W/359/37094/1/PC

No. 14 Wing Air Force
C/O 99 APO

16 August 2004

MEMORANDUM

The President/undersigned proposes to hold an inquiry against Shri N Hazarika under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehavior in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A list of documents by which, and a list of witness by whom, the article of charge are proposed to be sustained are also enclosed as (Annexure II).

2. Shri N 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 N 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 provisions of Rule 14 of the C.C.S. (C.C.A.) Rules, 1965 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.

5. Attention of Shri N Hazarika is invited to Rule 20 of the Central Civil Services (Conduct) 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 Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri N Hazarika is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the C.C.S. (Conduct) Rules, 1964.

*Attended
Advocate*

6. The receipt of the Memorandum may be acknowledged.



(R Saxena)
Group Captain
Station Commander
14 Wing Air Force

To
Shri N Hazarika, Storekeeper,
PA No.37094-A
14 Wing Air Force

ANNEXURE I

Statement of Articles of charge framed against Shri N Hazarika, Storekeeper,
PA No.37094-A of No.14 Wing Air Force.

Article - I

Shri N. Hazarika, SK PA No.37094-A while working in Logistic Section has absented himself without leave and not reported for duty at 0715h on 03 Mar 2003. He has also been intimated by his Section Commander that his leave application dated 13 Feb 03 for study leave cannot be approved at the Station Level, hence not approved.

Article -II

Inspite of being informed of his study leave not been approved he put up a personal application dated 27 Feb 2003 on the same subject which was returned back with remarks of C Adm O as not approved for reasons quoted by O I/C Civil Admin in the leave application dated 13 Feb 2003. He absented from duty without approval of competent authority of his study leave with effect from 03 Mar 2003.

Article - III

Whereas a registered letter dated 10 Jun 2003 on subject, intimation regarding "Absent without leave with effect from 03 Mar 2003 till date". This letter has been refused to be accepted by Sri N. Hazarika on 25 Jun 2003 and the remarks have been made by the postman on the cover of the registered letter No.RL-5386 dated 16 Jun 2003. The second register letter dated 19 September 2003 on same subject has been forwarded to Sri N. Hazarika by registered post No.RL-3328 dated 23 September 2003 which has been returned to 14 Wing Air Force by the post office with remarks, "Addressee left without information Dibrugarh on 26 - 27 September 2003".

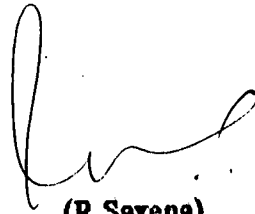
Article -IV

Efforts were made by 14 Wing in liaison with 19 P & S Unit and Civil police to trace Sri N. Hazarika, physically at his residential addresses as given in the leave application and service documents, but could not be traced till reporting back to the unit on 19 July 2004, subsequent to the publishing of a missing notice in the national and local news papers through DAVP New Delhi.

Article - V

Sri N. Hazarika has not kept his whereabouts informed to this office, his family members and relatives during the period of absences of 16 and half months, for which it became imperative to publish a missing personnel notice in the newspaper.

Unit : 14 Wing , AF
Date : 16 Aug 2004



(R Saxena)
Group Captain
Station Commander
14 Wing Air Force

ANNEXURE II

Statement of imputation of misconduct or misbehavior in support of the articles of charge framed against Shri N Hazarika, Storekeeper (PA No.37094-A).

Article-I

Copy of Leave application for study leave in respect of Shri N Hazarika, Storekeeper, PA No.37094-A) dated 13 Feb 2003.

Article -II

Copy of personal application in respect of Shri N Hazarika, Storekeeper (PA No.37094-A) dated 27 Feb 03.

Article -III

(a) Copy of letter No 14W/2605/PC dated 10 Jun 03 sent by registered post/AD and original registered cover duly returned by the post office with remarks of P & T staff.

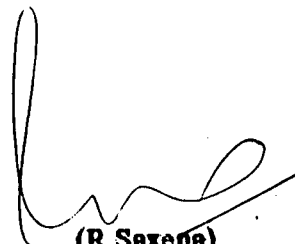
(b) Copy of second registered letter dated 15 Sep 03 on same subject returned un-delivered with remarks of P&T Staff.

Article -IV

(a) Copy of report submitted by 19 P&SU dated 15 Dec 03.

(b) Copy of the advertisement published in Assam Tribune, Guwahati dated 04 Jul 04

Unit : 14 Wing , AF
Date : 16 Aug 2004



(R Saxena)
Group Captain
Station Commander
14 Wing Air Force

Ext No- 3 -27- Annexure - 7 33

To

Mr. R. Saxena,
Group Captain,
Station Commander,
14 Wing Air Force.

Dated the 27th August, 2004.

Subject: Written Statement of Defence.

Reference: Your Memorandum No. 14W/359/37094/1/PC dated 16th August, 2004.

Sir,

With due respect and humble submission I beg to lay before your good offices, the following few lines as my written statement of defence in respect of the chargesheet containing the articles of Charges framed against me for your perusal, kind consideration and necessary sympathetic action:

1. That sir, so far as Article I of the chargesheet is concerned, I beg to deny the same and would like to state that I did not absent myself without leave as stated in Article I of the chargesheet. It is submitted that I submitted my leave application on 13.2.03 and the same was recommended by Shri J.S. Budhwar, Section Commander.

It is further submitted that as alleged in the Article I of the chargesheet, I have not been intimated by my Section Commander about any non-approval of my leave application dated 13.2.03. In fact, it is the OIC Civil Admin, who had disapproved my leave application without assigning any reasons whatsoever just to harass and humiliate me and spoil my career.

In this connection, it may be mentioned here that I am entitled to study leave as per Rule 50(1) and Rule 50(2) of the C.C.S. (Leave) Rules 1972 - (i) for higher studies or specialized training in a professional or technical subjects having a direct and close connection with the sphere of duties, and (ii) studies capable of widening the mind and improving ability as a civil servant.

I have clarified the above facts in my application dated 27.2.03 and the said application dated 27.2.03 was also recommended and forwarded by my Section Commander Shri J.S. Budhwar.

I do admit that I had not specifically mentioned the course of study in my leave application. I could not mention it because I was not sure in which course of study I would be selected after applying for. As no selection took place at the time of making the leave application, I could not mention the study in my application dated 13.2.03 and 27.2.03.

But, be that as it may, I fail to understand how the I/C, Civil admin Section could opine or decide that the course of study is not to the definite

Attested
for
Advocate

advantage of the Government or that the course of study is not directly linked with the post held by me.

Further, I fail to understand how and under what authority the Civil Admin section could disapprove my leave application after the same had been recommended by my Section Commander.

As such, I beg to submit that my leave application for higher study, to which I am legally entitled, has been whimsically rejected in order to harass and humiliate me.

It is further submitted that after my application dated 27.2.03 duly recommended by my Section Commander was forwarded to the Civil Admin section, there was no further correspondence from your end and I was in dark regarding the fate of my leave application. And hence I left for Mumbai to prosecute higher studies anticipating that my leave would be granted.

Hence, the question of absenting myself without leave does not arise at all.

2. So far as Article II of the chargesheet is concerned, I beg to deny the same and submit that my leave application dated 13.2.03 was duly recommended by my Section Commander and O I/C Civil Admin Section has whimsically disapproved the said leave application for reasons best known to them. I beg to submit that the "reasons quoted" by the O I/C Civil Admin in my leave application dated 13.2.03 are entirely vague and without any concrete basis. I fail to understand how the O I/C Civil admin could know and decide that my course of study, for which I applied for leave, is not directly linked with the post held by me or is not to the definite advantage of the Government.

It is further submitted that I have not absented from duty without approval of my study leave as alleged in Article II of the chargesheet. I fail to understand who is the "competent authority". So far as my section is concerned, my competent authority is my Section Commander, who duly recommended my leave application dated 13.2.03 and also my application dated 27.2.03. Article II of the chargesheet is vague so far as the term "competent authority" is concerned. If the leave application cannot be approved at the station level, then who will approve it?

3. That sir, so far as the Article III of the chargesheet is concerned, I beg to deny the same and submit that the letter dated 10th June, 2003 or its contents are all greek to me in as much as I neither received nor refused to accept any such letter as alleged. The person who refused to receive the said letter was my brother, whose name is also N. Hazarika (Nipun Hazarika). It is not a fact that I refused to accept any such letter.

The second letter dated 19th September, 2003 returned to 14 Wing Air Force because I was not available at Dibrugarh and ~~went away~~ to join my course of higher studies at M.I.C.T. (Maharashtra Institute of Computer Technology).

That sir, so far as Article IV of the chargesheet is concerned, I beg to submit that as I left Dibrugarh for M.I.C.T. Maharashtra to prosecute higher studies

the question of my missing does not arise. The publication of missing notice in the newspapers was done only with the malafide object of finding fault in me on this or that pretext.

It may be mentioned here that, I have been enrolled as a student in the M.I.C.T., Maharashtra and prosecuting my studies there. I had to rush to Dibrugarh on seeing the missing notice in the newspaper by taking leave therefrom with effect from 12.7.04 to 28.7.04 and I was supposed to join my classes on 29.7.04 - which I could not do. May I ask what will be the fate of my career if I do not join my classes at the M.I.C.T. in time? Will the Civil Admin Section take the responsibility if my enrolment in the M.I.C.T. is cancelled?

5. That sir, so far as article V of the chargesheet is concerned, I beg to deny the same and submit that I informed the office, my family members and relatives that I had gone out of Assam for higher studies. The statement of my elder sister Miss Gitanjalce Hazarika is very much clear in this respect. In her statement, she has stated about my going out of Assam for study purpose.

Further I beg to submit that it is not a fact that I have not informed my whereabouts to the office. I had been making a number of applications requesting for my posting at Mumbai or Guwahati on several occasions vide letter no. 14W/2623/1/PC dated 5.1.99 and 22.11.02 and also for study leave dated 14.2.03, recommended and forwarded by Section Commander, but all my applications, though duly recommended by my Section Commander, have been lying without any result for a pretty long time for reasons best known to the Civil Admin Section. My remainder dated 29.1.03, recommended by my Section Commander, wherein I wanted to know the latest position of my applications, had also been lying pending for about 2 months without any action. All these acts of the Civil Admin section has considerably disturbed my mental peace and my career is at stake.

All my said applications became part of the official records and I was totally in dark about any remark on my application dated 13.2.03 or 27.2.03.

Hence, I submit that the charges leveled against me in Articles I to V of the chargesheet do not stand and are liable to be set aside.

In fine, therefore, I would like to request your good offices fervently to consider my case sympathetically and kind enough to exonerate me from the aforesaid charges and the proceedings initiated against me be dropped.

Further I would like to request that I may be heard in person in the matter.

And for this act your kindness, I, as in duty bound, shall ever pray.

Yours faithfully,

Vinayan Hazarika

Enclosures: Annexure I containing list of documents submitted by the delinquent.

by

ANNEXURE I

LIST OF DOCUMENTS SUBMITTED BY THE DELINQUENT

1. Copy of the letter of Director MICT, Maharashtra granting leave from 12.7.04 till 28.7.04.
2. Copy of leave application dated 13.2.03.
3. Copy of letter requesting study leave dated 14.2.03.
4. Copy of letter dated 29.1.03 asking for latest position of applications.
5. Copy of statement of Miss Gitanjalee Hazarika.

[Handwritten signature]
12/5/04

→

[Handwritten text]
Central Ag.

ORDER FOR IMPOSING A MAJOR PENALTY UNDER
RULE - 11 & 14 OF CENTRAL CIVIL SERVICES
(CC&A) RULES - 1965 .

14 Wing Air Force
C/O 99 A P O

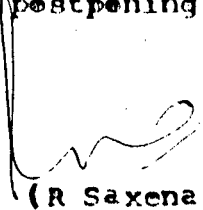
14W/359/37094/1/FC

08 Nov 2004

ORDER

1. Whereas Shri N Hazarika, SK, PA No.37094-A of 14 Wing AF had been Charge Sheeted vide Memorandum No.14W/359/37094/1/FC dated 16 Aug 2004 for the offences committed by him.
2. And whereas a Board of Inquiry was ordered to investigate the charge framed against Shri N Hazarika, SK, PA No.37094-A vide Articles I & II of the Charge Sheet. The charges have been proved against the said Shri N Hazarika, SK, PA No.37094-A.
3. Now therefore, in exercise of the powers conferred by Rule - 11 & Rule 14 of Central Civil Services (CC&A) Rules, 1965 the undersigned hereby imposes the following Penalty on the said Shri N Hazarika, SK, PA No.37094-A.

(a) Reduction in lower stage for a period of 44 months without increments of pay during this period and the reduction will not have effect of postponing the future increments of his pay.


(R Saxena)
Group Captain
Station Commander
14 Wing Air Force

To :

Shri N Hazarika, SK
PA No. 37094-A
Lgs Sec
14 Wing AF
C/O 99 APO

Received on
17/11/04

Shri N Hazarika
Advocate

To.

The Appellate Authority.

Through:

Station Commander
14 Wing Air Force.

Sub: - An appeal against the order of penalty dated 08.11.2004.

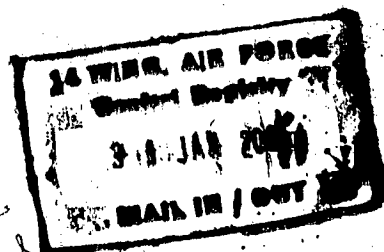
Respected Sir.

I have duly received the order of penalty imposed on me, vide order issued under letter No. 14W/359/37094/1/Pc dated 8.11.2004, whereby penalty of reduction in lower stage for a period of 44 months, without increment of pay during the period of penalty and the reduction would not have effect of postponing the future increments of pay.

That Sir, the disciplinary proceeding initiated against me under Rule 14 of the CCS (CCA) Rules 1965, it is admittedly a major penalty proceeding, but surprisingly no procedure prescribed in Rule 14 and 15 of the CCS (CCA) Rule 1965, has been followed, in the instant proceeding and the order of penalty has been imposed upon me in total violation of the mandatory provision laid down in the aforesaid Rule vide impugned order dated 8.11.2004.

I do hereby submit the details of infirmities occurred in the aforesaid proceeding as under: -

- (1) In the memorandum of charge sheet dated 16.8.2004, more particularly in the statement of Article of Charges and statement of imputation of misconduct, contained in Annexure-I and Annexure-II, NO VIOLATION of CCS (conduct) Rule 1964 is alleged, against the undersigned. Therefore, initiation of Major penalty Proceeding and conducting the inquiry, under Rule 14 of CCS(CCA) Rule 1965, is not warranted and as such, imposition of penalty is not permissible under the law or under the relevant rule as indicated above.
- (2) That the statement of imputation of misconduct or misbehaviour contained in Annexure-II of the memorandum of Charge sheet dated 16.8.2004 did not specify violation of any rule or act in respect of me



Received

(CP 1265)
dt 31/1/05

Attested
by
Advocate

which is unbecoming of Govt. servant. Therefore, findings of the inquiry officer, that the Article of charge No. II and V, which alleged to have been proved, by the inquiry officer, but the same cannot led to imposition of any penalty upon the undersigned, specifically on the ground that no misbehaviour or misconduct or violation of any conduct rule, has been specified against the undersigned.

- (3) That, the inquiry officer, in his inquiry report dated 15.10.2004, also not alleged of any act of misbehaviour or misconduct or violation of any provision of Conduct Rule 1964. Therefore question of imposition of penalty vide order dated 8.11.2004 is contrary to the procedure laid down in Rule 14 and 15 of the CCS (CCA) Rule 1965.
- (4) For, that no witnesses, or listed documents were examined during the inquiry proceeding by the presenting Officer, which were relied upon by the Disciplinary Authority in the memorandum of Charge sheet dated 16.1.2004, which would be evident from the daily order sheet of the inquiry proceeding as required under the rule 14 of the CCS (CCA) Rule 1965, and on that score only, order of penalty dated 8.11.2004 is liable to be set aside and quashed.
- (5) For, that there is no discussion on assessment of evidence is made by the Presenting Officer, in paragraph 15 of the inquiry report as required under the rule and on that score alone, order of penalty order dated 08.11.2004 is liable to be set aside and quashed.
- (6) For that, there is no discussion on the evidence, while findings arrived at by the Inquiry officer, as required under the Rule 14 and 15 of the CCS (CCA) Rule 1965.
- (7) For that, no action was taken by the Inquiry Officer or Disciplinary authority, in the manner, indicated in Rule 15 of the CCS (CCA) Rule, 1965 and no opportunity was provided to the undersigned to submit further representation on the inquiry report and on that score alone order of penalty is liable to be set aside and quashed.
- (8) For that vital documents were not supplied to me inspite repeated request.
- (9) Some of the documents supplied to the under signed is not legible.

- (10) For that no examination or re-examination of witnesses, or documents were made by the Presenting Officer.
- (11) For that, charged official was not examined by the inquiry officer
- (11) For that, order of penalty dated 8.11.2004 has been passed by the Disciplinary Authority in total violation of Rule 15 of the CCS(CCA) Rule 1965, there is no discussion of evidence and also there is no discussion of the inquiry report, furnished by the I.O from the end of Disciplinary Authority as required under the rule, the order of penalty has been passed without application of mind and as such order of penalty is void-ab-initio.
- (12) For that applicant left for higher studies with the impression that the leave would be sanctioned in due course since the leave application have already been duly recommended by his immediately controlling officer, and as such absent from duty cannot be treated as misconduct and the said allegation does not fall within the meaning of misconduct.
- (13) For, that non-payment of salary or subsistence allowance, during the period of inquiry, visited the inquiry proceeding and on that score alone the impugned order of penalty is liable to be set aside and quashed.

In the facts and circumstances stated above, the memorandum of Charge Sheet dated 16.8.2004 as well as the order of Penalty dated 8.11.2004 be pleased to set aside and quash and further be pleased to exonerate the undersigned.

And for this act of kindness the undersigned as in duty bound shall remain ever grateful to you.

Yours faithfully

Date: 31/01/05

(NIRANJAN HAZARIKA)
Store Keeper, P.A No. 37094-A,
LGS Sec. 14 Wing Air Force,
C/O 99 APO.