

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
O.A/T.A No. 300/2005

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet..... 01Pg. 1to 7.....
2. Judgment/Order dtd. 25.07.2008Pg. 1to 8 Dismissed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 300/05Pg. 1to 162.....
5. E.P/M.P.....Pg.to.....
6. R.A/C.P.....Pg.to.....
- ✓ 7. W.S.....Pg. 1to 14.....
- ✓ 8. Rejoinder.....Pg. 1to 12.....
9. Reply.....Pg.to.....
10. Any other Papers.....Pg.to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

baht
07.11.17

FORM NO. @
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 300/05
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s) M. N. Mishra
Respondent(S) U. O. D. Army

Advocate for the Applicants S. Sarma, B. Devi

Advocate for the Respondent(S) G. Baishya Sr. CGSC
Rly St. Counsel

Notes of the Registry Date 07.12.2005 Order of the Tribunal

Present : Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

Heard Mr. S. Sarma, learned counsel for the applicant and Mr. G. Baishya, learned Sr. Central Government Standing Counsel for the respondents.

Admit. Issue notice to the respondents.

Post on 19.01.2006.

[Signature]
Vice-Chairman

19.1.06.

At the request of Mr. G. Baishya, learned Sr. C.G.S.C. six weeks time is granted to get instructions and to file written statement.

Post the matter on 6.3.06.

[Signature]
Vice-Chairman

Pl. comply order dated 7.12.05.

7.12.05

Notice & order sent to D/Section for issuing to resp.

Nos. 1, 2 by regd. A/D

post.

D/No = 1688-1689

Dt = 14/12/05.

Notice duly served
on resp. No-2

6.3.2006

Four weeks time is requested for
filing reply statement. Let it be done
post on 5.4.2006.

Vice-Chairman

① Notice duly served
On R.No-2

05.04.2006

Mr. G. Baishya, learned Sd.
C.G.S.C. for the respondents wanted
some more time to file reply statement.

Post on 23.05.2006.

Vice-Chairman

② No Reply has been
biled

mb

23.5.2006

Mr.S.Sarma, learned counsel for
the applicant is present. ~~xxxxxxx~~
Mr.G.Baishya, learned Sr.C.G.S.C.
prays for four weeks more time to file
reply statement. Let it be done.

post on 23.6.2006.

Vice-Chairman

No w/s has been
biled

bb

23.6.2006

Mr.G.Baishya, learned Sr.C.G.S.C.
submits it may required some more
time to file reply statement. post
after four weeks.

post on 26.7.2006.

Vice-Chairman

No w/s has been
biled

bb

26.07.2006

Learned counsel for the
respondents wanted time to file reply
statement.

Post on 18.08.2006.

Vice-Chairman

22-5-06
No w/s has been
biled

22-6-06

No w/s has been
biled

25-7-06

No w/s has been
biled

No w/s has been
biled

27-8-06

O.A.N. 300/2005

~~0.2.2007/2005~~

18.8.2006

Mr.G.Baishya, learned Sr.C.G.S.C. submits that he would like to have three weeks time to file reply statement. Let it be done.

post on 13.9.2006. Respondents counsel is directed to keep in readiness all the records pertaining to enquiry and service of the applicant at the time of hearing.

Vice-Chairman

bb

13.9.06.

Counsel for the respondents has sought time to file written statement. Post the matter on 18.9.06.

Vice-Chairman

la

18.9.2006

Mr.G.Baishya, learned Sr.C.G.S.C. has filed reply statement. Copy of the same is given to the representing counsel Mr.S.Nath. Reply statement shall be brought on record if it is otherwise in order.

post on 31.10.2006.

Vice-Chairman

bb

31.10.2006

Learned counsel for the applicant wanted to file rejoinder. Let it be done.

post on 29.11.2006. Respondents are directed to produce the records before the next date of hearing.

Vice-Chairman

bb

19.9.06

W/S filed by the respondents.

[Signature]

No rejoinder has been filed.

20
30.10.06.

12.11.06

Rejoinder submitted by the Applicant.

[Signature]

W/S and rejoinder filed by the parties.

20
28.11.06.

29.11.06.

The learned counsel for the Respondents wanted to file written statement. Let it be done. Post the matter on 21.12.07..

Vice-Chairman

The case is ready for hearing.

lm

19.1.07.

Post the matter for hearing on

8.2.07.

Vice-Chairman

May
18.1.07

lm

The case is ready for hearing.

15.3.07.

Counsel for the applicant has submitted that records may be necessary in this matter. Post the matter before the next available Division Bench.

Member

Vice-Chairman

May
14.3.07

lm

Wks and rejoinders filed by the parties.

26.4.2007

Present: Hon'ble Shri G. Shanthappa, Judicial Member
Hon'ble Shri G. Ray, Administrative Member.

May
25.4.07

Mr S. Sarma, learned counsel for the applicant and Mr G. Baishya, learned Sr. C.G.S.C. are present..

At the request of the learned counsel for the applicant the case is adjourned. Post it before the next Division Bench.

Member (A)

Member (J)

The case is ready for hearing.


May
5.5.08


nkm

0.A. 300/05

06.05.2008

Mr.H.K.Das, learned counsel appearing for the Applicant ^{in present.} A prayer has been made to ^{take} ~~make~~ an adjournment of this case. Prayer is allowed. Call this matter on 08.05.2008.


(Khushiram)
Member(A)



(M.R.Mohanty)
Vice-Chairman

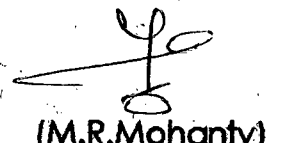
Page Break

08.05.2008

Heard Mr.S.Sarma, learned counsel appearing for the Applicant and Mr.G.Baishya, learned Sr. Standing counsel appearing for the Respondent department in part.

Call this part heard matter on 13.05.2008.

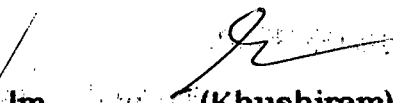

(Khushiram)
Member (A)

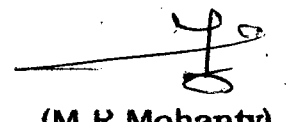

(M.R.Mohanty)
Vice-Chairman

/bb/

13.05.2008

On the prayer of Mr.H.K.Das, learned counsel appearing for the Applicant call this matter on 21st May, 2008, for hearing.

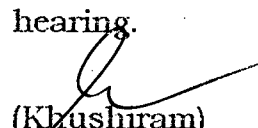

(Khushiram)
Member(A)


(M.R.Mohanty)
Vice-Chairman

lm

22.05.2008

On the prayer of Mr. H. K. Das, learned counsel appearing for the Applicant this part heard matter stands adjourned and to be taken up on 05.06.2008 for further hearing.


(Khushiram)
(Member(A)


(M.R.Mohanty)
Vice-Chairman

lm

the case is ready
for hearing.

3
4.6.08

O.A.300 of 07

05.06.2008 None appears for the Applicant
nor the Applicant is present.
Mr.H.K.Das, learned counsel for the
Applicant (who took adjournment on

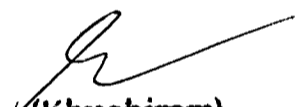
O.A.300 of 07

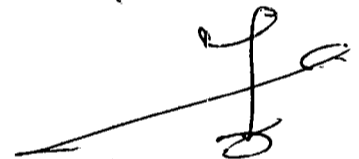
05.06.2008 None appears for the Applicant
nor the Applicant is present.
Mr.H.K.Das, learned counsel for the
Applicant (who took adjournment on
last occasion), ~~he~~ has filed a letter of
absence till 13.06.2008.

Call this part heard matter on
16.06.2008.

*The case is ready
for hearing.*

13.6.08



(Khushiram)
Member(A)

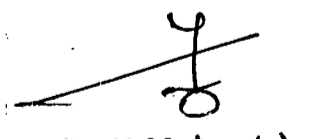

(M.R. Mohanty)
Vice-Chairman

lm

16.06.2008

On the request of Mr.H.K.Das
learned counsel appearing for the
Applicant(made in presence of Mr.G.Baishya,
learned Sr.Standing Counsel appearing for
the Respondents) this part heard matter is
adjourned to be taken up on 21st July, 2008.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

lm

21.07.2008

Heard Mr.S.Sarma, learned counsel appearing for the Applicant and Mr.G.Baishya, learned Sr.C.G.S.C. for the Respondents.

Hearing concluded. Judgment reserved.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

copy received

11.8.08
Advocate

copy received
for 12.8.08
MR. G. Baishya
S.C.G.S.C.

25.07.2008

Judgment delivered in open Court.

Kept in separate sheets. Application is dismissed.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

Lm

22.8.08

Copy of the
order sent to the
office for issue
the one to the
resps No 2 by post
AS

20.1.09

hand note
of No. 3801
29.8.08.
H.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....

Original Application No.300 of 2005.

DATE OF DECISION :25-07 -2008

Shri U. N. Mishra

.....Applicant/s

Mr S. Sarma

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Mr G. Baishya, Sr. C.G.S.C.

.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No.

Vice-Chairman/Member(A)

10

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 300/2005.

Date of Order : This the 25th Day of July, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

Sri U.N.Mishra,
Superintending Surveyor
OC No. 5 Party, NEC,
Survey of India,
Shillong.

.....Applicant

By Advocate Sri S.Sarma.

-Versus -

1. Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Science and Technology,
Technology Bhawan, New Mehrauli Road,
New Delhi-110016.

2. The Director,
Survey of India,
North Eastern Circle, NEC
Shillong-1, Meghalaya.


.....Respondents

By Advocate Mr G.Baishya, Sr.C.G.S.C


ORDER

KHUSHIRAM (MEMBER-A)

The Applicant was appointed Deputy Superintending Surveyor after clearing the Indian Engineering Service Examination in June 1993. He was posted in Survey of India at Shillong. In the year 1996-97, a field camp was set up and one Shri R.K.Meena, (a Senior Deputy Superintending Surveyor) was kept as Officer in Charge of the



said camp. The Applicant was assigned the job of camp officer there and he was assisted by one Sri S.K.Sen, (Surveyor) as Assistant Camp Officer. During the field session, party No.29 and other two parties were assigned the job of blue print verification in Lohit District of Arunachal Pradesh and, taking into consideration the area, 8 plane tablers were deployed by the Officer in charge. The work was completed during December 1996 to April 1997. Each plane tabler was entitled to get 10 porters in difficult hilly terrain. In the party No.29, 4 porters were brought from Shillong office and 4 were engaged locally to reduce the expenses. After reaching the work site, another 4 labourers were engaged for each Plane tabler with the approval of the Officer in charge. The Applicant was promoted as Superintending Surveyor on 13.12.1998 and was served with Memorandum of charges dated 17.01.2001 relating to preparation of bills during the field session 1996-97 and employment of extra labourers and sale of 246 Kgs of sugar in open market at market rate for personal gain. During the enquiry Shri R.K.Meena admitted the fact of recruitment of additional porters through Assistant Field Officer Sri S.K.Sen. On the basis of the departmental enquiry report dated 14.07.2003 (with some charges proved fully against the Applicant) and after consultation with UPSC and Chief Vigilance Commissioner (CVC), Government of India vide order dated 16.05.2005 punished the Applicant by ordering 'reduction of pay' by 3 stages in the time scale of pay of Rs. 10000-325-15200/- for a period of 3 years with further directions that, during the period of such reduction, the Charged Officer will not earn increments and that



the penalty will not have the effect of postponing his future increments of pay. Aggrieved by the impugned order the Applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act 1985 before the Tribunal seeking mainly the following reliefs.

- i) To set aside and quash the impugned enquiry proceeding as well as the impugned order dated 16.5.2005 and to provide the applicant all consequential relief etc.
- ii) To direct the respondents to consider his case for promotion to the next higher grade for which he is over due i.e. the post of Deputy Director with all consequential service benefits including arrear salary and seniority etc.

2. The Respondents have filed written statement stating that porters were not actually appointed and that, therefore, the plea of the Applicant is false, concocted and ill motivated; that as a Camp Officer, the Applicant was duty bound to ensure the presence of all the porters (whether engaged at site or at camp Head Quarter) before signing/claiming their wages; that the Assistant Camp Officer Sri S.K.Sen appointed additional porters without prior sanction but, as the Camp Officer the Applicant cannot escape from his responsibility by making excuses (as Sri Sen, Assistant Camp Officer was his subordinate and whatever he did was under the supervision and control of the Applicant); that no sanction of the competent authority for engaging the extra porters was obtained and still then their wages were claimed by the Applicant; that, in fact, it was a composite case where the witness^{es} were also co-charged in the same case and all of them had a common interest and they all had joined hands to prepare fake muster rolls of additional porters beyond the approved strength;

that the Applicant bought 400 Kgs of sugar in consecutive months by using Government money and then finding it surplus, he sold the same in open market and that the porters of that area mostly depend on rice, salt and dal (apart from their bronze) and Sugar was not in their list of demand (when employed on any squad strength) and hence it was done for personal gain of the Applicant. The Respondents have stated that other officers (like Assistant Camp Officer Sri S.K.Sen, and Camp-in-Charge Sri R.K.Meena) involved were also charge sheeted and punished; that all the muster rolls (regarding wages of porters) were verified and signed by the camp officer i.e. the Applicant which clearly shows his direct involvement in the matter; that the Respondents acted as per procedure and advice of the CVC and UPSC and that after consideration of all the relevant facts, the Respondents imposed major penalty on the Applicant to suit the requirement of justice. It has been asserted by the Respondents that the findings of the enquiry was based on material facts and deposition of the witnesses and they disputed the allegation that the enquiry was initiated at the behest of some vested interest/groups to deprive the Applicant of his promotion to higher grade.

3. The Applicant filed rejoinder stating that Superintending Surveyor Shri R.K.Meena and Assistant Camp Officer Sri S.K.Sen were also involved in the scam for which the allegation have also been levelled against the Applicant.

4. The Applicant has alleged that the orders were passed by the Respondents is violative of Article 14 of the Constitution. The



charge sheet issued to the Applicant was devoid of clarity and ^{was} vague, that enquiry was held without following the rules holding the field; that Respondents failed to appreciate the materials on record and that they passed non speaking order. It has been alleged that enquiry was conducted arbitrarily, with ulterior motive, without providing reasonable opportunity to the Applicant at various stages of enquiry and, as such, the impugned penalty order is not sustainable and that the same should be quashed.

5. Mr S.Sarma, learned counsel appearing for the Applicant and Mr G.Baishya, learned Sr. Standing counsel appearing for the Respondents were heard and materials placed on record were perused. Mr S.Sarma, learned counsel for the applicant submitted that the copy of the complaint, on which the preliminary enquiry was initiated, was not provided to the Applicant. Relevant materials/documents sought by the Applicant during the enquiry were also not given to him. The Applicant was a new/inexperienced field officer of the Government and has been made a scapegoat by his senior and subordinate officers.

6. Mr G. Baishya, learned Sr. Standing counsel for the Respondents, on the other hand, submitted that the Applicant was rightly punished for his misconduct and misappropriation of Government money and it was done after a regular enquiry, after giving due opportunity to the Applicant and on completion of all procedural requirements like consultation with UPSC and CVC and that enquiry has proved that the Applicant failed to maintain absolute



integrity and devotion to duty which was unbecoming of a Government servant and that, therefore the ^{original} application may be out rightly rejected.

6. The learned counsel for the Applicant has cited the decision of the Hon'ble Apex Court given in (1995) 6 SCC 749 (B.C.Chaturvedi vs. Union of India & Ors); wherein it has been held that "Tribunal is competent to intervene in the matters where blatant injustice has been awarded and the principle of natural justice were violated by the Respondents." The learned counsel for the Respondents also cited the decision of the Hon'ble Supreme Court of India rendered in *Moni Shankar vs. Union of India & another*, reported in (2008) 3 SCC 484, wherein it was held that :

"The High Court, on the other hand, as indicated hereinbefore, proceeded to opine that the Tribunal committed a serious illegality in entering into the realm of evidence. It is permissible in law to look to the evidence for the purpose of ascertaining as to whether the statutory requirement had been complied with or not.

.....the jurisdiction of the Tribunal was limited and as some evidence was adduced, the Tribunal should not have interfered with the order of punishment imposed upon the appellant. The Tribunal was entitled to consider the question as to whether the evidence led by the Department was sufficient to arrive at a conclusion of guilt or otherwise of the delinquent officer. While reappreciation of evidence is not within the domain of the Tribunal, an absurd situation emanating from the statement of a witness can certainly be taken note of. The manner in which the trap was laid, witnessed by the Head Constable and the legality of enquiry proceeding were part of decision making process and, thus, the Tribunal was entitled to consider the same.

The Tribunal was entitled to take the same into consideration along with other materials brought on record for the purpose of arriving at a decision as to whether normal rules of natural justice had been complied with or not.

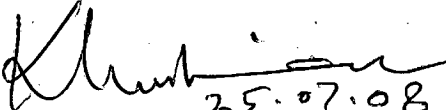


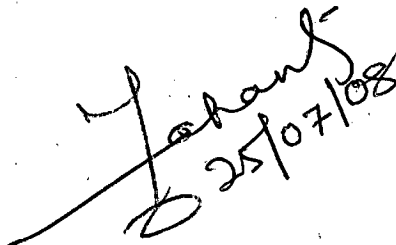
The High Court unfortunately even without any material on record held that some excess amount was found from the appellant which itself was sufficient to raise a presumption that it had been recovered from the decoy passenger. No such presumption could be raised. In any event there was no material brought on record by the Department for drawing the said inference. The High Court itself was exercising the power of judicial review. It could not have drawn any presumption without there being any factual foundation therefore. It could not have taken judicial notice of a fact which did not come within the purview of Section 57 of the Evidence Act."

7. From the discussion and materials placed on record and the arguments advanced by the learned counsel of the rival parties, it is apparent that Applicant was one of the co-accused in the scam along with Sri R.K.Meena and A.K.Sen. He personally verified the muster rolls, on the basis of which the wages of the bogus porters were claimed. Subsequently the Applicant also deposited an amount of Rs.79,126.00 against the excess wages/reimbursement claimed by the Applicant for hiring excess porters etc. and, thus, has proved himself to be involved in the scam and failed to maintain absolute integrity and devotion to duty and acted in a manner which was unbecoming of a Government servant. The punishment awarded by the Respondents cannot be interfered with by the Tribunal nor any fact or piece of evidence were brought to our notice which necessitated interference with the order of punishment passed against the Applicant. Since the Applicant has also been punished along with his superior and subordinate, we are of the opinion that the orders passed in this matter are based on evidence and needs no interference by this Tribunal. Accordingly the Applicant is not entitled to the reliefs claimed by him. This case is, accordingly,

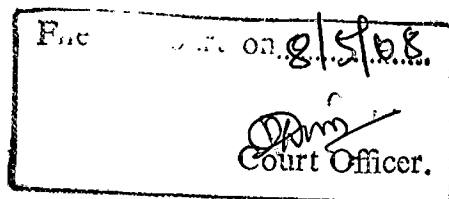


dismissed being devoid of any merit. There will, however, be no order
as to costs.


25.07.08
(KHUSHIRAM)
ADMINISTRATIVE MEMBER


25/07/08
(MANORANJAN MOHANTY)
VICE CHAIRMAN

/pg/



Filed by:
The Applicant
through
Hridip K. Das. B
Advocate
8.5.08

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

OA No.300/2005

Shri U.N.Mishra Applicant

-Versus-

Union of India & Ors. Respondents

LIST OF DATES & HIGHLIGHTED FACTS

DATES	PARTICULARS
1987	The applicant joined the services under the steel authority of India.
June, 1993	He joined the services under the respondents as Dy. Supdt. Surveyor after clearing the <u>Indian Engineering Service Examination</u> conducted by the UPSC. He was posted to <u>Shillong</u> after completion of the training held at Hyderabad.
1996-1997	<p>The 29 party camp was established under one Dy. Supdt. Surveyor, Sri R.K.Meena, and he was the Officer - in Charge, of the said party.</p> <p>The applicant being a new officer, he was assigned with the job of <u>camp officer</u> and he was assisted by one Sri S.K.Sen, Surveyour, and he was assigned the job of Asstt. Camp Officer.</p>
Field Session' 96 - 97.	<p>During the field session party No 29 and other two parties, i.e. <u>^</u> were assigned the job blue print verification in <u>Lohit District, A.P.</u> The order for such verification was given by the <u>Director NEC, Brigadier, P.K.Gupta.</u></p> <p>Taking into consideration the area 8 plane tablers were appointed as per the direct command of Officer in charge Sri R.K.Meena.</p>
Dec. 96 to April 97.	The scheduled work was completed.
During the field work.	Each plane tabler is entitled to get the assistance of 10 porters in difficult hilly terrain. In fact in the other parties 8 porters each were engaged along with the

	<p>pane tablers. In fact in the party No 29, 4 porters were brought from Shillong office and 4 were engaged locally to reduce the expenses and to get rid of insurgency problem.</p> <p>On reaching work site another 4 each plane tablers were engaged as per the approval of the Officer-in-charge, and with the supervision of the Asstt. Camp Officer. The Director visited the work site number of occasions.</p>
13.12.1998	The applicant was promoted to the rank of Supdt. Surveyor.
17.01.2001	The applicant was served with a memorandum of charges, through a communication dated <u>11.2.01</u> . Charges are relating to preparation of bills during the field session 1996 - 97. (ANNEXURE - 1).
12.03.2001	The applicant preferred representation against the said charge sheet. (ANNEXURE -2).
21.12.2001	Preliminary hearing took place. (ANNEXURE -3).
17.01.2002	The applicant submitted list of 25 additional documents and 9 defense witnesses. (ANNEXURE - 4).
23.01.2002	The applicant submitted representation for production of one more document. (ANNEXURE - 5).
20.09.2002	Order sheet- I/O directed the P/O to collect the documents. (ANNEXURE - 6).
21.05.2003	Daily Hearing-Only 5 prosecution document were taken on record and out of 13 prosecution witnesses, only 3 were recorded, <u>R.D.Sao</u> , <u>P.K.Roy</u> & <u>D.N.Deb</u> . The deposition clearly reveals the fact that the applicant is no way connected in the matter.
22.05.2003	<p>Daily Hearing - another <u>three</u> prosecution witnesses were examined, R.K.Meena; S.K.Sen; & J.Kharmujai.</p> <p>7 documents have also been taken on record.</p> <p>R.K.Meena, admitted the fact of recruitment of additional porters, through S.K.Sen. Also he deposed that the working of the applicant was as per rules.</p> <p>S.K.Sen also reiterated the above fact. Sri Sen also made it clear that the applicant is no way involved in the other charges of the charge sheet. (ANNEXURE -7)</p>

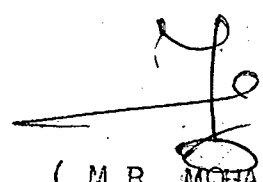
23.05.2003	Daily Hearing - applicant was examined and he denied all the charges - and asked to submit written brief: (ANNEXURES - 9 & 10) .
09.06.2003	P. O. submitted his written brief. (ANNEXURE - 11) .
20.06.2003	The applicant submitted his written brief. (ANNEXURE -12)
14.07.2003	I/O submitted the enquiry report. Art-I proved & Art V - partly proved. (ANNEXURE - 13) .
10.11.2003	The applicant submitted representation. (ANNEXURE - 14) .
09.07.2004	The matter was referred to UPSC.
30.11.2004	The UPSC wrote to the respondents with an advice to impose major penalty of reduction of his pay by three years with the restriction towards earning of increments and postponement of future increment.
During the field work.	The respondents issued the impugned order imposing the major penalty of reduction of pay by three stages in the time scale of pay of Rs 10,000/- -325- 15200/- for a period of three years, with the further direction that during the period of reduction he would not earn increments and same would not effect postponing his future increment of pay.

- ① Chargesheet again
- ② Finding of IO bar
- ③ Records ^{by Applet} wanted / not supplied / denied
- ④ Records ^{to the Applet} denied, but taken in to evidence by the I.O.
- ⑤ Allegations (not in the C.S.) were considered in E.R.

22
✓ CA/CP/RA/ME No. 300 /2005

Order dated 25.3.2008

Call the matter for hearing
on 6.5.08


(M.R. MOHANTY)
Vice-Chairman

23

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

Original Application No. 300/5

1. a) Name of the Applicant:- U.N. Mishra
b) Respondants:- Union of India & Ors.
c) No. of Applicant(S):-
2. Is the application is the proper form:- Yes / No.
3. Whether name & description and address of the all the papers been furnished in cause title :- Yes / No.
4. Has the application been duly signed and verified :- Yes / No.
5. Have the copies duly signed :- Yes / No.
6. Have sufficient number of copies of the application been filed : Yes/No.
7. Whether all the annexure ~~parties~~ are impleaded :- Yes/No.
8. Whether ~~English~~ translation of documents in the Language:- Yes/No.
9. Has the application is in time :- Yes/ No.
10. Has the Vokatlatnama/Memo of appearance /Authorisation is filed: Yes/No.
11. Is the application by IPO/BD/for Rs.50/- 26637907
12. Has the application is maintainable : Yes No.
13. Has the Impugned order original duly attested been filed:- Yes/ No.
14. Has the legible copies of the annexurea duly attested filed: Yes/No.
15. Has the Index of the documents been filed all available :- Yes/No.
16. Has the required number of enveloped bearing full address of the respondents been filed:- Yes/ No.
17. Has the declaration as required by item 17 of the form: Yes/No.
18. Whether the relief sought for arises out of the Single: Yes/ No.
19. Whether interim relief is prayed for :- Yes/ No.
20. Is case of Condonation of delay is filed is it Supported :- Yes/No.
21. ~~Whether~~ this Case can be heard by Single Bench/Division Bench:
22. Any other pointd :-
23. Result of the Scrutiny with initial of the Scrutiny Clerk:

SECTION OFFICER(J)

DEPUTY REGISTRAR

U.N. Mishra

- ① Applicant joined Service in the year 1987 on SAIL and subsequently Dg Supdt Surveyor in 1993.
- In 1996-97 party 28 was framed and alongwith Part 9 & 12 was given the job of Blue Print verification by Brig RK Gupta
- 8 Posters were required to be hired but he was provided an irregular basis and 4 were employed at local rate.
- Applicant was further promoted as Supdt. Surveyor ~~in 1997~~
- A charge sheet was issued containing 5 Articles Annex -3

VE TRIBUNAL

... of 2005

U.N. Mishra

- 2 The applicant indicated 25 documents and 9
- 90 did not agree to take all documents ^{witnesses} around and entertain all witnesses and Inquiry is vitiated
- on the advice of CVC charge sheet to some other officers was issued and charges were not proved in their case.
- whereas in case of applicant charges ^{proved} of Article 1 and 5 were proved.
Art 1 ~~False~~ False Muster Rolls prepared
Art 5 246 kg Sugar sold in market
- CVC recommended issue of charge sheet for Major Penalty.

ments.

Page No.

1 to

.....

Annexure-1

Annexure-2

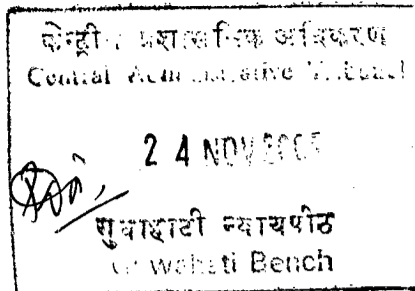
Annexure-3

- 3 - case referred to UPSC which recommended reduction of pay by 3 stages for 3 yrs.
- All casual labours were deployed with his permission
- All muster rolls were verified and signed by him.

Regn.No.:

Date :

File : d:\private\unmishra



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Title of the case : O.A. No. 300/5 of 2005

Between

U.N.Mishra Applicant.

AND

Union of India & ors Respondents.

I N D E X

Sl.No.	Particulars	Page No.
1.	Application	1 to 31
2.	Verification 32
3.	Annexure-1	33-42
4.	Annexure-2	43-49
5.	Annexure-3	50
6.	Annexure-4	51-55
7.	Annexure-5	56
8.	Annexure-6	57
9.	Annexure-7	58-80
10.	Annexure-8	81
11.	Annexure-9	82
12.	Annexure-10	83-90
13.	Annexure-11	91-102
14.	Annexure-12	103-114
15.	Annexure-13	115-136
16.	Annexure-14	137-150
17.	Annexure-15	151-162

Filed by : *Di*

Regn.No.:

File :d:\private\unmishra

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 350 of 2005

U.N.Mishra
..... Applicant.

AND

Union of India & ors
..... Respondents.

SYNOPSIS

The applicant in the instant OA is aggrieved by the impugned order imposing penalty dated 16.5.05 by which the penalty of reduction of pay has been imposed on him on the alleged incident took place way back in the year 1996-97. Indicating certain false and baseless allegation pertaining to the period December 1996 to April 1997, the respondent issued a memorandum of charges vide memo dated 17.1.01 basically regarding submission of false bills. The applicant through his representation denied the charges and subsequently proceeding started with the appointment of Enquiry Officer to enquire into the matter. Pursuant to the memorandum of charges dated 17.1.01 enquiry proceeding started but the respondent committed manifest error in the said proceeding as contemplated under CCS(CCA) Rules 1965. Basing on the said forcical enquiry the Enquiry Officer submitted its report with the perverse finding that the applicant is guilty of the charges. The said enquiry report dated 14.7.03 was preferred to Central Vigilance Commission

for their second sage advise and basing on that advise the said proceeding came to an end resulting issuance of the impugned order dated 16.5.05 by which his pay has been reduced by three stages for a period of 3 years effecting postponement of future increment of pay etc. Since the aforesaid impugned order has been issued by order and in the name of President of India, in terms of Rule 22 of CCS (CCA) Rule, no appeal lies and hence as a last resort the applicant has come under the protective hands of this Hon'ble Tribunal seeking an appropriate relief. Hence this application.

Amish

- 1 -

Filed by -
The Applicant
through
Bandana Devi
Advocate
23.11.05

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

O.A.No. 360 of 2005

BETWEEN

Sri U.N.Mishra
Superintending Surveyor
DC No.5 Party, NEC,
Survey of India,
Shillong.

..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt. of India,
Ministry of Science and Technology
Deptt. of Science and Technology,
Technology Bhawan, New Mehrauli Road,
New Delhi-110016.

2. The Director,
North Eastern Circle, NEC,
Shillong-1., Meghalaya .-

..... Respondents.

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION
IS MADE :

This application is directed against the order
issued vide memo No.C-14012/01/99-Vig(2) dated 16.5.05
issued by the order and in the name of President under the
signature of Deputy Secretary to the Govt. of India,
Ministry of Science and Technology.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant in the instant OA is aggrieved by the impugned order imposing penalty dated 16.5.05 by which the penalty of reduction of pay has been imposed on him on the alleged incident took place way back in the year 1996-97. Indicating certain false and baseless allegation pertaining to the period December 1996 to April 1997, the respondent issued a memorandum of charges vide memo dated 17.1.01 basically regarding submission of false bills. The applicant through his representation denied the charges and subsequently proceeding started with the appointment of Enquiry Officer to enquire into the matter. Pursuant to the memorandum of charges dated 17.1.01 enquiry proceeding started but the respondent committed manifest error in the said proceeding as contemplated under CCS(CCA) Rules 1965. Basing on the said farcical enquiry the Enquiry Officer submitted its report with the perverse finding that the applicant is guilty of the charges. The said enquiry report dated 14.7.03 was preferred to Central Vigilance Commission for their second sage advise and basing on that advise the

Unsub

said proceeding came to an end resulting issuance of the impugned order dated 16.5.85 by which his pay has been reduced by three stages for a period of 3 years effecting postponement of future increment of pay etc. Since the aforesaid impugned order has been issued by order and in the name of President of India, in terms of Rule 22 of CCS (CCA) Rule, no appeal lies and hence as a last resort the applicant has come under the protective hands of this Hon'ble Tribunal seeking an appropriate relief.

This is the crux of the matter for which the applicant has come under the protective hands of this Hon'ble Tribunal.

4.2. That the applicant is a citizen of India and as such he is entitled to all the rights, privileges and protection guaranteed by the Constitution of India.

4.3. That the applicant in the year 1987 joined the services under the Steel Authority of India Ltd. Durgapur. During his service tenure he appeared in the All India Competitive Examination i.e. Indian Engineering Service conducted by UPSC and he was declared successful. The applicant in the month of June 1993 joined the services under the respondent as Deputy Superintending Surveyor. The applicant after completion of necessary training at Hyderabad got his present place of posting at Shillong.

4.4 That during his initial stage of posting as Deputy Superintending Surveyor under the respondent i.e. during the field season of 1996-97 in 29 party the camp was established

under one Sri R.K.Meena who was the Deputy Superintending Surveyor and Officer-in-Charge of 29 party. To get the experience after training, the applicant was assigned with the job of camp Officer under said Sri Meena and he was assisted by Sri S.K.Sen, Surveyor who was assigned with the job of Asstt. Camp Officer.

4.5. That during the field session of 1996-97 the said party No.29 along with other two units i.e. Party No.12 and Party No.9 were assigned the job of Blue print Verification in Lohit District of Arunachal Pradesh by the then Director (NEC) Brigadier P.K.Gupta. As per the procedure prescribed and taking into consideration the area of operation 8 Plane Tablers were employed under 29 party and 4 each in the other two parties i.e. 12 and 9 parties. Since the applicant was new and had no field experience one Mr. S.K.Sen, Surveyor was attached to him as Asstt. Camp Officer. The field work started under the direct command of the Officer-in-Charge Sri R.K.Meena and he was the Executive Officer as well as the Drawing and Disbursing Officer of Party No.29.

Continue
4.6. That the aforesaid camp started its functioning in the month of December 1996 at Hayuliang (A.P) with the official set up as mentioned above with 8 plane Tablers as under.

- (i) Sri D.N.Deb, Plane Tabler Grade II.
- (ii) Sri D.C.Bhandari, -do-
- (iii) Sri N.G.Das -do-
- (iv) Sri J. Kharmujai -do-
- (v) Sri P.K.Roy -do-

- (vi) Sri S.P.Roy -do-
- (vii) Sri J.P.Chakraborty -do-
- (viii) Sri L.Rajawar Plane Tabler Grade IV.

The camp in question completed its assigned task in all respect in the month of April 1997.

4.7 That the stipulated work of Plane Tabler entails to carry a load about 3 quintals of Govt Stores during the field work of verification of the blue print and to carry them through very difficult hilly terrain. To assist the Plane Tablers, as per the departmental hand book Chapter II, each Plane Tabler is entitled to engage 10 porters in difficult terrains like the one which was assigned to the party No.9. At the same terrain as stated above other two parties were doing field work wherein 8 porters were provided to each Plane Tablers whereas in case of Plane Tabler of 29 Party the officer-in-charge, to minimize the expense, provided 4 porters to each plane tablers which they carried them from Shillong and a decision was also taken to deploy 4 porters each from the work site. The decision of deploying local porters was taken with a view to minimize the expense of the field work as well as on the consideration that local porters are more helpful in locating different details and locations, and executing the work being acquainted with the area. The said decision was also taken taking into consideration the law and order as well as the insurgency problem prevailing at that relevant point of time in the area. The local people often used to create hindrance in such field work unless some of their people are engaged on daily waged basis.

Chinn

Immediately on reaching the site of the work, as per the approval of the officer-in-charge the plane Tablers were conveyed that they could deploy 4 more porters of their choice to complete the assigned work in time through Sri S.K.Sen, the Asstt. Camp officer.

4.8. That the officer-in-charge instructed Sri S.K.Sen to help the Plane Tablers to engage 4 additional porters locally. Accordingly Sri S.K.Sen visited all the Plane tablers which is available from the records of the Car Diary of the camp vehicle and he reported back the matter to the applicant about such engagement/employment of 4 additional porters each to 8 plane tablers. Said Sri Sen also recorded the names of the Porters in the Muster Roll during his inspection and marked them as present. He also supplied the list of local porters to be kept in the Camp Head Quarter. Since the additional 4 porters each were deployed at the sites of work and they never worked at the camp Head Quarter, there was no occasion for the applicant to record their presence in the Muster Roll even for a day.

4.9 That the camp as well as the work site where the plane tablers were engaged during the field work were subjected to number of inspections by the concern authorities including the applicant, officer-in-charge and the Director himself. The Muster Roll clearly indicates the fact that the additionally employed Porters were on Roll from 16.1.97 to 28.2.97. All the 8 Plane Tablers of party No.29 had completed 2-4 camp shiftings as per their journal maintained during the said period which reveals the fact that without 8 porters engaged with each plane tabler, such

Chinn

shifting could not have been done. As stated above the employment of the additional porters was done as per due sanction and approval by the Officer-in-Charge i.e. Sri R.K.Meena, the Deputy Superintending Surveyor. The applicant as per the procedure sent the Muster Rolls to the party Head quarter at Shillong and the Officer-in-Charge who also inspected physically the work site after due verification prepared the bill of the wages of the porters and sent them back to the applicant for payment. Accordingly the applicant made the payment of the said verified bills through the plane tablers and Asstt. Camp Officer and conveyed the same to the Officer-in-charge. After successful completion of the assigned work entire camp returned to the Head Office at Shillong and reported the same to the concern authority.

4.10. That the applicant after completion of the camp work continued to hold the post of Deputy Superintending Surveyor in his earlier place of posting with due sincerity and by virtue of his sincere and devoted service, by an order dated 13.12.98, he was promoted to the post of Superintending Surveyor. The applicant at the relevant point of time was holding the post of Superintending Surveyor and on 11.2.01 he was served with a memorandum of charges issued vide memo number C-14012/1/99-Vig. dated 17.1.01. In the said memorandum of charges the respondent incorporated 5 articles of charges basing on some false and baseless facts. The basic contention of the 5 article of charges incorporated in the said memorandum of charges are relating to the period of field season of 1996-97.

The summary of the articles of charges are basically relating to preparation of the bill expenditure incurred during the field season 1996-97, which are summarised below;

A copy of the memorandum of charge dated 17.1.01 is annexed herewith and marked as Annexure-1.

4.11. That the applicant received the memorandum of charges on 10.2.01 through his controlling authority. The applicant being very new in that official assignment submitted his written statement of defence dated 12.3.01 against the charge sheet dated 17.1.01. The applicant through his representation submitted in details regarding each article of charges and controverted each of them in categorical them.

A copy of the said written statement of defence dated 12.3.01 is annexed herewith and marked as Annexure-2.

Unimur
4.12. That the respondent being dissatisfied with the reply submitted by the applicant proposed to hold regular enquiry and appointed enquiry officer (IO) and presenting Officer (PO) to enquire into the matter. On 21.12.01 the preliminary hearing took place in presence of PO and IO. The order sheet dated 21.12.01 signed by the IO indicates nomination of Defence Assistant, and time frame for supply of listed and additional documents and witnesses etc.

A copy of the order sheet dated 21.12.01 is annexed herewith and marked as Annexure-3.

4.13. That the applicant pursuant to the said direction contained in the order sheet dated 21.12.01 submitted a list of 25 additional documents and 9 defence witnesses through his letter dated 17.1.02. The aforesaid communication dated 17.1.02 was followed by another communication dated 23.1.02 from the applicant to IO seeking one more additional defence document. The applicant by the aforesaid communication while placing the additional list of defence document and witnesses also clarified its relevancy in the proceeding along with the other particulars. In the said communications dated 17.1.02 and 23.1.02 apart from other relevant documents the applicant also prays for submission of copy of the preliminary enquiry report and other related documents as item No.1-5 of the list of the additional document.

Copies of the communication dated 17.1.02 and 23.1.02 are annexed herewith and marked as annexure-4 and 5.

Christy
4.14. That the enquiry officer on receipt of the communications dated 17.1.02 and 23.1.02 submitted by the applicant directed the PD to collect the additional documents from its custodian. The aforesaid fact is revealed from the order sheet dated 20.9.02.

A copy of the order sheet dated 20.9.02 is annexed herewith and marked as Annexure-6.

4.15. That the aforesaid enquiry proceeding proceeded without following the rules holding the field and it took several months to complete the same. During the course of hearing on 21.5.03 five prosecution documents (Listed documents) were taken on record and deposition of only 3 prosecution witnesses out of 13 were recorded. The prosecution witnesses i.e. Sri Ram Das Sao, Khalasi, Sri P.K.Roy, Storekeeper Grade -II and D.N.Deb, Planet abler grade-II submitted their deposition before the IO which clearly reveals the fact that the applicant is no way having connection with the charge.

4.16. That on the subsequent day i.e. on 22.5.03 the regular hearing resumed with the examination of another 3 prosecution witnesses, namely R.K.Meena the Officer-in-Charge, S.K.Sen, Asstt. Camp Officer and J.Kharmujai Plant abler Grade II. The other prosecution witnesses did not turn up. On the same day 7 defence documents were also exhibited and taken on record. The exhibit-1 - the inspection remark of the officer-in-charge and Director (NEC) which reflects no irregularities in the functioning of the camp, the exhibit 3- the inspection note of Director NEC clearly indicates that there were 8 porters each with a plane tabler and they were found to be working, exhibit-5 reflects the rules guiding the recruitment procedure of porters (Survey of India- land Book of Topography Chapter II) and exhibit-6 journal of Sri S.K.Sen clearly reflects the fact that Sri S.K.Sen in his own handwriting has shown disbursement of dues and lastly the exhibit 7, letter written by P.K.Sen Officer, Surveyor OC No.29 party NEC retrenching the bills in question.

Unishu

On the same day i.e. on 22.5.03 deposition of 3 prosecution witnesses were also recorded. The 3 prosecution witnesses are Sri R.K.Meena, Officer-in-charge Sri S.K.Sen, Asstt. Camp Officer and J. Kharmojai, Planetabler Grade II. Said Sri R.K.Meena (SW4) who was the officer-in-charge and the controlling authority of the applicant admitted that he without obtaining sanction of Director, ordered the recruitment of the additional Porters with the help of S.K.Sen and he also confirmed that Sri S.K.Sen ACO had recruited those additional porters. During the course of cross examination he also admitted the fact that he inspected the camp and found that there were no procedural lapse on the part of the applicant in working in the camp.

Said Sri S.K.Sen as SW5 also deposed before the said enquiry on 22.5.03 wherein he admitted the fact that the decision of recruiting additional porters was taken by the officer-in-charge and recruitment of those porters have been made as per the instruction of officer-in-charge wherein the applicant is no way connected. During the course of questionnaires he also admitted the fact of collection of ration from the Govt. quota for the camp. The issue relating to distribution of sugar and its disposal has also been admitted by said Sri S.K.Sen by which it is clear that the applicant is no way connected with the charge.

On the same day i.e. on 22.5.03 deposition of Sri J.Kharmujai Planetabler Grade III (SW-6) was also recorded which further clarifies that additional 4 porters in fact were engaged during the field work in question. The fact of demand towards requirement of sugar has also been clarified

by SW-6 and from which it is clear that the applicant is no way connected with the charges leveled against him.

Copies of the aforesaid daily order sheet along with the deposition are annexed herewith and marked as Annexure 7 colly.

4.17. That during the course of regular hearing on 22.5.03, the deposition of defence witness (DW1) of Sri P.K.Sen officer-in-charge of No.35 party who during May 97 was the officer-in-charge of party No.29. During the course of examination-in-chief the fact could be revealed that he did not verified the genuineness of the bills. From the above deposition it was apparently clear that during the course of enquiry and deposition there were no material appearing against the applicant.

A copy of the deposition of DW1 is annexed herewith and marked as Annexure-8.

Quint
4.18. That on 23.5.03 i.e. the date scheduled for daily hearing of the enquiry, the applicant was examined and his deposition was recorded. The applicant while denying the charges clarified the entire issue as well as the fact that he was no way connected with the charges as leveled against him. The daily order sheet dated 23.5.03 issued by the IO clarified that the oral hearing of the case as concluded and the applicant as well as the PO have been provided with the

-13-

task of submission of their written brief within a stipulated time frame.

Copies of the daily order sheet dated 23.5.03 as well as the deposition of the applicant are annexed herewith and marked as Annexure-9 & 10.

4.19. That the PO on 9.6.03 submitted his written brief and on 20.6.03 the applicant submitted his written brief. The applicant in his written brief clearly spelt out the issue indicating the same with the help of depositions recorded during the course of enquiry.

Copies of the written briefs submitted by the PO and the applicant are annexed herewith and marked as Annexure-11 and 12 respectively.

4.20. That as stated above the departmental proceeding was concluded hurriedly and without following the procedure. Surprisingly enough the respondent during the course of enquiry only took into consideration 7 defence document out of 25 defence documents and 1 defence witness out of 10 defence witness. From the records of the enquiry it is clear that the respondent considered all the additional documents and witnesses as relevant but without there being any indication most of them have been omitted from the perview of enquiry whereby the applicant has lost his opportunity of cross examination. In fact the said documents as well as witness were very much relevant towards

-14-

proving the innocence of the applicant and denial of the same has caused serious prejudice to his defence. As per the rules it is mandatory on the part of the enquiry officer to assign reason towards rejection of such additional document as well as witness, however in the instant case the respondent has failed to take into consideration that aspect of the matter causing serious prejudice to his defence. On this score alone entire departmental proceeding is vitiated and same is liable to be set aside and quashed. The I/O as per the Rules ought to have send the requisition of the same to the custodian of the said documents on receipt of its discovery and pass orders for production of the same, provided that the I/O may for the reasons to be recorded by it in writing, refuse for production of such recorded. But in the instant case the rule has not been followed and as such the proceeding can be treated at vitiated on the ground of causing prejudice. It is noteworthy to mention here that the respondents without any reason or order rejected the prayer made by the applicant for production of records. The said documents have been produced during the inquiry on the same subject in respect of other officers. Admittedly the documents in question are not involved with the National security nor with public interest and as such the respondents ought to have produced the documents as requested by the applicant and in not following the said procedure same has caused prejudice to the applicant in his defence and as such the proceeding as well as the impugned orders are liable to be set aside and quashed.

4.21. That the respondent basing on such farcical enquiry, submitted its enquiry report with the finding that

Article 1 as proved and Article 5 as partly proved, indicating the other Article of charges as not proved.

A copy of the enquiry report dated 14.7.03 is annexed herewith and marked as Annexure-13.

4.22. That the applicant as per the rules immediately on receipt of the enquiry report submitted his statutory representation dated 10.11.03 against the ame within the stipulated time frame. In the said representation the applicant controverting both the findings made it clear that he did not prepare the Muster Roll (Art.1) and he was not a party in disposition the excess sugar in the camp (Art.5). The applicant clearly spelt out the fact that in respect of Article 1 apart from documentary evidence the statements recorded during the enquiry indicates his innocence in the matter of recruitment as reflected in Article of charge No.1. So far as Article 5 is concerned he clearly pointed out it a case of no evidence and he prayed for his exoneration Apart from that the applicant also pointed out the procedural irregularities committed during the course of enquiry. The applicant while narrating the facts has pointed out that the IO traveled beyond its scope and took into consideration certain irrelevant facts having no nexus with the case.

A copy of the said representation dated 10.11.03 is annexed herewith and marked as Annexure-14.

4.23. That it is pertinent to mention here that on the advise of CVC the officer-in-charge, Asstt. Camp Officer

and all the 8 plane tablers were charge sheeted. the Article 1 of the said charge-sheet is identical in respect of applicant and 8 Planetabler, whereas the charges against 8 planetablers who were also party to the recruitment process of additional porters along with the Asstt. Camp Officer and Officer-in-Charge and preparation of muster roll, were exonerated from their charges. The additional porters were deployed by the Asstt. Camp Officer as per the demand of the Planetablers as well as its necessity, as per the sanction accorded by the officer-in-charge of party No 29. The applicant so far as Article 1 of the charge sheet is concerned in no way connected but surprisingly enough the I/O and D/A, indicated the Article of charge as proved against the applicant. The above facts clearly indicate the malafide intention on the part of the respondent in harassing the applicant. This contradictory and conflicting finding in a similar matter pertaining to the same issue depicts total non-application of mind by the respondent in concluding the proceeding. The applicant begs to state that the preliminary enquiry was conducted and based on this preliminary enquiry, charges against the applicant were proved but the report of the said preliminary enquiry was never furnished to the applicant. On the contrary the said enquiry report along with the documents were provided to the other co-charged officers pertaining to the same issue. It is noteworthy to mention here that the statement of Sri S.K. Sen and Sri R.K.Meena, were recorded during the course of preliminary enquiry but inspite of repeated requests those statements were never furnished to the applicant. From the record it reveals that most of the materials of preliminary enquiry have been taken into consideration by the IO without

allowing the applicant to confront with the same during the course of hearing. These irregularities have clearly vitiated the enquiry proceeding and same being violative of Art.14 of the Constitution of India and as such entire enquiry proceeding is liable to be set aside and quashed.

4.24. That the applicant begs to state that after enquiry into the charges the IO in his finding clearly spelt out that out of 5 Article of charges only the Article of charge no. 1 stands proved and the Article of charge no.5 stands partly proved. The Article no 1 of the charge sheet is quoted below for ready reference:

"Article 1: That the said Sri U.N.Mishra Supdt. Surveyor while posted as Deputy Supdt. Surveyor, No.12 Party NEC was attached to No.29 party NEC and appointed as Camp Officer of Camp No.1 during field season 1996-97.

U.N. Mishra

While performing the duties of Camp Officer In Arunachal Pradesh during the period Dec'1996 to April 1997, said Sri U.N.Mishra with malafide intention prepared fictitious Master Rolls of those Porters who were not at all engaged and also prepared a Master Rolls for such longer period of those Porters who were engaged for much shorter period and claimed false contingent bills on account of wages of those Porters on various occasions during the period from 12.12.96 to 9.4.97. Thus the said Sri U.N.Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3(1)(i) & (iii) of CS (Conduct) Rules, 1964. "

The crux of the aforesaid Article 1 of the charge contains the basic ingredients of preparation of fictitious Muster Rolls and thereafter claiming the same on account of their wages. The applicant as stated above begs to state that he being the Camp Officer, there were no occasion for him in respect of preparation of so called false bill and claiming the same. The fact has already been narrated above as to how and who prepared the bills and claimed the same. It is pertinent to mention here that the officer-in-charge sanctioned/ordered the Asstt. Camp Officer, S.K.Sen for engagement of additional Porters and the bills in question have been sanctioned by the officer-in-charge. Apart from that the Planetablers in their deposition have admitted the fact that there were a requirement of additional Porters in the said field work. It is also pertinent to mention here that the work in question as well as the engagement of additional Porters has also been noticed during the inspection made by the Director as well as officer-in-charge. Apart from that the Asstt. Camp Officer, S.K.Sen inspected the camp in question more than once confirming the existence of additional Porters. From the above it is crystal clear that the applicant is no way connected with the charges as leveled against him and the IO could not have been made a remark regarding the Article of Charge No.1 as proved. The IO acted as per the dictation of the higher authority which will be revealed from the enquiry report as well as the records of the case. This clearly indicates the perverse findings of the IO as reflected in the enquiry report and as such same is not sustainable in the eye of law and liable to be set aside and quashed. The finding of the

Unsubstantiated

IO is not only perverse, but self contradictory and discriminatory also.

4.25. That the applicant begs to state that the IO while concluding its findings against the Article 5 of the charge sheet has committed manifest error and has commented in its finding that the said Article to be proved partly against the applicant. For better appreciation of factual position it will be pertinent to place the Article V of the charge sheet which is as follows:

"Article-V: That the said Sri U.N.Mishra, Superintending Surveyor, while functioning as camp Officer in the field camp No.29 pantry (NEC) purchased 400 kgs of Sugar from Arunachal Pradesh Govt. Ration Shop @Rs.9 per kg. Approximately for distribution amongst camp personnel, but out of that Sri Mishra sold 246 kgs. of sugar in the open market @ Rs.15/- per kg. for his personal gain. Thus Sri U.N.Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violation Rule 3(1)(i) and (iii) of CCS (Conduct) Rules 1964.

U.N. Mishra

That the crux of the charge as reflected in the Article V of the charge-sheet implies that the excess quantity of sugar amounting to 246 kg has been sold out in the open market by the applicant for his personal gain. The issue relating to said Article No.V while discussed during the course of hearing the prosecution side could not substantiate the same and as reflected in the enquiry report finally they came to the conclusion that he failed to exercise the control over the sell of sugar by the camp

khalasi. In fact the wordings of the Article V of the charge sheet is very clear and definite that the applicant sold the excess sugar in question in the open market for his personal gain. From the above it is crystal clear that the applicant is no way connected even remotely in respect of both the charges as levelled against him. The applicant highlighting each and every aspect of the matter preferred the above noted Annexure-14 representation dated 10.11.03 before the Disciplinary Authority praying for his exoneration.

4.26. That the disciplinary authority after considering the entire matter referred the matter to the CVC for their advise. The CVC through their communication dated 26.9.03 recommended imposition of major penalty on the applicant. it is noteworthy to mention here that at the initial stage the respondent referred the matter to the CVC for their advice and accordingly the CVC recommended initiation of major penalty proceeding against 11 officials including the applicant. The CVC also recommended the name of the IO conduct the enquiry proceeding. This clearly shows that entire proceeding has been initiated and concluded as per the dictation of CVC which is not permissible in the eye of law.

4.27. That the CVC vide its communication dated 26.9.03 intimated the respondent to impose major penalty on the applicant. The respondent along with the enquiry report forwarded the CVC's second stage advise to the applicant against which he made a representation dated 10.11.03. The disciplinary authority without discussing anything in this regard referred the matter to the UPSC along with all the

Chinnare

relevant records vide communication dated 9.7.04. The disciplinary authority while forwarding the papers to the UPS also made it known that a major penalty of reduction of pay by three stages for a period of three years has been decided to be imposed on the applicant. The UPSC thereafter approving the same wrote back to the disciplinary authority vide its communication dated 30.11.04 with an advice to impose major penalty on the applicant by reducing his pay by three stages for a period of three years with further direction for restriction towards earning increments and postponement of future increments of pay during the currency of the penalty. The disciplinary authority vide impugned order dated 16.5.05 without discussing any material on record and without analyzing any of the available materials confirmed the advice of the UPSC by imposing punishment of reduction of pay by three stages in the time scale of pay of Rs.1000-325-15200 for a period of three years with further direction that during the said period of reduction, he would not earn increment and same would not have effect of postponing his future increment of pay. The disciplinary authority along with the said impugned order also enclosed the advice of the UPSC communicated dated 30.11.04. On this score the impugned order can not be held to be legal one and same is liable to be set aside and quashed.

A copy of the impugned order dated 16.5.05 is annexed herewith and marked as Annexure-15.

4.28. That the action of the disciplinary authority clearly indicates the fact that the said authority has failed to exercise the power as vested on him. The said

disciplinary authority acted as per the dictation of CVC and passed the impugned order which is arbitrary and illegal. The disciplinary authority in the impugned order while quoting the advice of UPSC and CVC did not even take into consideration the materials on record and passed the impugned order. The law in this regard is very clear that the disciplinary authority under any circumstances is required to exercise its independent mind and discuss the materials on record as to how he arrived at the conclusion. In the instant case the disciplinary authority was totally dependent on the findings provided by the UPSC and taking into consideration the same the said disciplinary authority acted as a rubber stamp authority without applying its independent mind. From the impugned order it is clear that the disciplinary authority was totally biased and from the very beginning of the proceeding he dictated the IO and PO during the course of enquiry. It is also pertinent to mention here that in the instant case the CVC being the allied body to render assistance towards the enquiry proceeding has acted beyond its jurisdiction and even it suggested for appointing a particular IO which is not permissible in the eye of law. From the very initiation of the proceeding as well as the interference by the CVC authority at the behest of the respondent No.1 it is crystal clear that even before initiation of the proceeding they were predetermined to entangle the applicant through this farcical enquiry and thereby to impose major penalty. It is therefore the entire proceeding along with the impugned order is liable to be set aside and quashed.

Chinnu

4.29. That the applicant begs to state that the respondent apart from the aforesaid illegalities have failed to conduct the proceeding as per the prescribed procedure as contemplated in the Rules and have committed serious procedural lapse which caused serious prejudice to the defence of the applicant and it is therefore the proceeding as well as the impugned order is liable to be set aside and quashed.

4.30. That the applicant begs to state that admittedly he is not responsible for any of the offences as reflected in the charge sheet more particularly in Article I and V and it will not be out of place to mention here that the person who was responsible has clearly been provided with the punishment. Said Sri S.K.Sen the Asstt. Camp officer and the officer-in-charge said Sri Meena have already been punished in respect of the present set of charges holding them to be responsible for the same set of charges. On the other hand proceeding so initiated on the same set of charges on the Plantablers who placed the demand of additional Porters, prepared the muster roll of such porters and in some cases who disbursed the bills have been exonerated from the charges. This clearly shows that the enquiry authority has miserably failed to appreciate the correct stand in the case and there has been apparent contradiction in the finding. The general principle as well as the law laid down by the competent court of law clearly held that in a given set of charge when there is more than one charged officials, each case should be tried separately and both the proceedings should be held simultaneously or in quick succession to avoid conflicting findings and different

appraisal of same evidence. Apart from that it has also been held that in case where separate proceedings are started it should be heard by same enquiry authority to get a clear picture of the case and to avoid conflicting findings. In the instant case proceedings against 11 persons has been initiated on the same set of charges but in case of the applicant proceeding has been initiated belatedly which in fact gave rise to conflicting findings. One set of employees who are actually responsible has been exonerated from the identical charges as reflected in Article 1 and on the other hand the applicant who has got nothing to do with the matter of recruitment and as preparation of muster roll as narrated in the said Article 1 has been imposed with heavy penalty. It is under these fact situation it can safely be presumed that the entire enquiry proceeding is vitiated and the findings arrived at are perverse.

4.31. That the applicant begs to state that the so-called incident as narrated in the Annexure-1 charge sheet shows its period as 1996-97 and the applicant has been shown as one of the charged official of the said offence. It is pertinent to mention here that on 13.12.98 the applicant was promoted to the post of Superintending Surveyor without any reservation which shows the fact that during those period conduct and performance of the applicant was outstanding. However, belatedly the respondent have initiated the proceeding only with the sole purpose to deprive him from the next promotion and other legitimate claim. The action of the respondent in initiating the so-called departmental proceeding is indicative of the fact of same to be an after thought and their malafide intention. The applicant who got

his promotion on 13.12.98 after clearing the DPC should not have been proceeded departmentally after lapse of several years that too when the incident took place about 2 years prior to his promotion. The authority ought to have taken into consideration that aspect of the matter and ought to have dropped the proceeding without further delay.

4.32. That the applicant begs to state that most of the vital documents as well as witness were not furnished to the applicant even after his repeated request and same has caused prejudice to his defence. It is therefore entire proceeding is liable to be set aside same being violative of Article 14 of the Constitution of India.

4.33. That the applicant begs to state that the findings of the IO is based on contradictory evidence and the IO during the enquiry traveled beyond the charges which is not permissible under the rules holding the field. The crux of the allegation made both in the Article I as well as Article V of the charge sheet remained unproved but the IO while traveling beyond the charges made an attempt to prove the same by recording same to be proved, which is not permissible. In this connection it is noteworthy to mention here that the Article I of the charge sheet contain the ingredient of preparing fictitious Master Roll and thereby claiming false contingent bill. However during the course of enquiry none of these could be proved against the applicant rather it become clear that he was not at all responsible towards engagement and claiming so-called bills in question. On the other hand the crux of Article V of the charge sheet reflects selling of excess sugar in the open market at

market rate for personal gain. During the course of enquiry the enquiry authority having found no materials against the applicant has made a remark that he lost his control over the sell of sugar, which is not the charge. From the above it is crystal clear that the enquiry in question was concluded on the basis of no evidence and as such same is liable to be set aside and quashed.

4.34. That the applicant begs to state that during the course of enquiry he through his representation dated 17.1.2002 and 23.1.2002 prayed for production of inspection report (Preliminary enquiry report) basing on which the charge sheet was issued but surprisingly enough the respondent did not furnish him the said reports inspite of his repeated requests. The respondent by the aforesaid acts has clearly violated the rules holding the field and as such entire enquiry proceeding is liable to be set aside and quashed.

4.35. That the applicant begs to state that during the course of enquiry the IO relied upon certain materials which were never allowed to be confronted but same were considered and discussed in the enquiry report which is not permissible and as a consequence the applicant suffered a lot towards placing his defence and as such the enquiry proceeding is liable to be set aside and quashed.

4.36. That the applicant begs to state that when the matter placed before the CVC, the CVC made a remark towards imposition of major penalty which is beyond the scope and jurisdiction of CVC. The disciplinary authority

ought not to have accepted such report of the CVC which contains suggestion of punishment. The law in this regard is clear that CVC and alike organisations are only made for making enquiry and there is bar for them to suggest punishment to be imposed. In the instant case the CVC's and UPSC's report containing the suggestion towards punishment was the base/root of the impugned order dated 6/6/2005 without there being any independent finding by the disciplinary authority which in per-se illegal and arbitrary and as such same is liable to be set aside and quashed.

4.37. That the applicant begs to state that admittedly the respondent took aid of CVC as well as UPSC towards imposition of punishment but the said disciplinary authority has failed to furnish the copy of UPSC to the applicant to place his say in the matter before imposition of the penalty. It is mandatory on the part of the respondent to allow the delinquent/charged official to confront with the materials which would go against him before imposition of punishment and to provide him adequate opportunity to place his say in the matter. But in the instant case there has been a complete violation of the said procedure prescribed in the rules by not providing the reasonable opportunity to the applicant to place his say in the matter. It is under this facts and circumstances of the case entire proceeding as well as the impugned order dated 6.6.2005 is liable to set aside and quashed.

4.38. That the applicant begs to state that IO in its findings did not take into consideration the statements of the witness as per the procedure prescribed. The evidence

on record clearly shows that the entire material came to light after the cross examination made by the applicant but the IO only on presumption confirm the evidence during the course of examination in-chief which is illegal and arbitrary. It is stated that the IO in most of the stages tried to fill up the gaps in evidence on presumption without there being any evaluation of the facts surfaced during examination of the witnesses. From the above it can safely be presumed that the case in hand is a case of no evidence.

4.39. That the applicant begs to state that during the course of inquiry the IO took into consideration the materials of preliminary enquiry without supplying the same to the applicant and same has vitiated the entire proceeding and caused serious prejudice to the defence of the applicant. It is noteworthy to mention here that in the case of other charged official pertaining to the same set of charges have been provided with the copy of the enquiry report but in the case of the applicant said report was never furnished to him inspite of his repeated request causing serious prejudice to his defence. On this score alone entire proceeding is vitiated and same is liable to be set aside and quashed. It is shocking how same report went against public interest for applicant whereas same was supplied to the co-charged officer. Such denial was made by the PO was not justified and same vitiated the proceeding.

4.40. That the applicant begs to state that the proceeding in question has been initiated at the behest of some vested interested group and same has been initiated belatedly only with the sole purpose to deprive the

applicant from his legitimate claim of promotion to the next higher grade. The intention of causing undue harassment is also evident from the various stages of proceeding including the impugned order and as such the proceeding as well as the impugned order is not sustainable and liable to be set aside and quashed. The applicant has preferred this application as a last resort to get redressal of his grievances as there is no provision of appeal provided in the rules.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondent in issuing the impugned order dated 16.5.2005 is per-se illegal, arbitrary and violative of Article 14 and 311 of Constitution of India and as such same is liable to be set aside and quashed.

5.2. For that the charge sheet issued to the applicant is totally devoid of clarity and same is vague and as such same is required to be set aside and quashed.

5.3. For that the enquiry proceeding initiated and concluded by the IO in a great hurry and without following the rules holding the field and as such same is liable to be set aside and quashed.

5.4. For that the respondent has failed to appreciate the materials on record and passed the impugned order which is a non-speaking one and same is liable to be set aside and quashed.

5.5. For that the respondent have committed various procedural irregularities in conducting the enquiry and arbitrarily with an ulterior motive did not provide the applicant the reasonable opportunity of hearing at various stages of enquiry and as such same is not sustainable and liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to advance more grounds both legal and factual at the time of hearing of this case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

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

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

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records, be called for and after

hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the impugned enquiry proceeding as well as the impugned order dated 16.5.2005 and to provide the applicant all consequential relief etc.

8.2. To direct the respondent to consider his case for promotion to the next higher grade for which he is over due i.e the post of Deputy Director with all consequential service benefits including arrear salary and seniority etc.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays for an interim order directing the respondent not to give effect the effect and operation of the impugned order dated 16.5.2005 and to consider his case for next promotion.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 26 G 317017
2. Date : 18.11.05
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Shri Upendra Nath Mishra, son of Shri Abadh Kishore Mishra, aged about 40 years, at present working as Superintending Surveyor, Survey of India, Shillong, do hereby solemnly affirm and verify that the statements made in paragraphs ..4:2, 4:23, 4:28, 4:29, 4:30, 4:32, 4:33, 4:34 are true to my knowledge and those made in paragraphs 4:1, 4:3-4:22, 4:24-4:27, 4:31, 4:35 are also matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 23rd day of .Nov.. of 2005.

Signature.

Upendra Nath Mishra

(3) -33-

ANNEXURE-1
गोपनीय/Confidential

60

भारत सरकार
विज्ञान और प्रौद्योगिकी मंत्रालय
विज्ञान और प्रौद्योगिकी विभाग
टेक्नोलॉजी भवन, नया महरौली मार्ग, नई दिल्ली-110016

सा/Telegram : SCIENCTECH
दूरभाष/Phone : (EPABX)
6567373/6962819
टेलिफैक्स/Telcx : 73381, 73317, 73280
फैक्स/Fax : 6864570, 6862418

GOVERNMENT OF INDIA
MINISTRY OF SCIENCE & TECHNOLOGY
Department of Science & Technology
Technology Bhavan, New Mehrauli Road, New Delhi-110016

No. C-14012/1/99-Vig.

Dated: 17.01.2001

MEMORANDUM

The President proposes to hold an inquiry against Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong under Rule 14 of 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 1). A statement of imputations of misconduct or misbehavior in support of each article of charge is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexure III & IV).

2. Shri U.N. Mishra 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 U.N. Mishra 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 CCS(CCA), Rules 1965 or the orders/directions issued in pursuance of the said rule, the Inquiring Authority may hold the inquiry against him ex-parte.

5. Attention of Shri U.N. Mishra, Superintending Surveyor is invited to Rule 20 of the CCS (Conduct) Rules, 1964 under which no Govt. servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Govt. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings it will be presumed that Shri U.N. Mishra 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 CCS (Conduct) Rules, 1964.

6. A copy of the Central Vigilance Commission's first stage advice given by it vide its UO No. 000/SCT/003 dated 05.04.2000 is enclosed.

Attested


Advocate

Contd...2

7. The receipt of this Memorandum may be acknowledged.

(By order and in the name of the President)

Bhisham Kumar

(B.K. Raichandani)

Under Secretary to the Govt. of India

To

Shri U.N. Mishra,
Superintending Surveyor,
O.C. No.5 Party (NEC),
Survey of India,
Shillong.

(Through: Surveyor General of India).

Attested
[Signature]
Advocate

ANNEXURE-I

Statement of Articles of charge framed against Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong.

ARTICLE 1

That the said Shri U.N. Mishra, Superintending Surveyor while posted as Deputy Superintending Surveyor, No. 12 Party (NEC) was attached to No. 29 Party (NEC) and appointed as Camp Officer of Camp No.1 during field season 1996-97.

While performing the duties of the Camp Officer in Arunachal Pradesh during the period December, 1996 to April, 1997, the said Shri U.N. Mishra with malafide intention prepared fictitious muster rolls of those porters who were not at all engaged and also prepared muster rolls for much longer period of those porters who were engaged for much shorter period and claimed false contingent bills on account of wages of these porters on various occasions during the period from 12-12-1996 to 09-04-1997. Thus the said Shri U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1)(i) & (iii) of CCS (Conduct) Rules, 1964.

ARTICLE-II

That the said Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No. 29 Party (NEC) during the period from December, 1996 to April, 1997 raised false bills on various occasions on account of hiring of private trucks for shifting of camps, ferry charges etc. in following events:-

- (i) On 16-01-1997 he shifted the squad of 2 verifiers from CHQ to Walong in a BRTF vehicle free of cost but raised a false contingent bill towards hiring of a private truck with malafide intention for personal gain.
- (ii) Raised false bills on higher rates on account of hire charges towards shifting of camp from Hayuliang to Tezu on 04-04-1997 and from Tezu to Alubarighat on 12-04-1997, than he actually paid to hired truck for his personal gain.
- (iii) Raised false bills for ferry charges of 2 private trucks hired on 10-04-1997 for conveyance of camp equipments whereas these payments were not at all made as these were included in the negotiated hiring charge of the trucks.

Thus he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1) (i) & (iii) of CCS (Conduct) Rules, 1964.

Attache
Advocate

A

ARTICLE-III

That the said Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No. 29 Party (NEC) during the period from December, 1996 to April, 1997 was required to disburse arrear of wages of 72 porters but he actually made payment to only 6 porters and showed that payment had been made to all of them. Thus he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1)(i) & (iii) of CCS (Conduct) Rules, 1964.

ARTICLE-IV

That the said Shri U.N. Mishra, Superintending Surveyor, O.C.No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field Camp of No. 29 Party (NEC) claimed in contingent bill bus fare paid to 37 porters from Tezu to Shillong on the close of the field, but the payment was made to 6 porters and no fare was paid at all to remaining 31 porters. Thus Shri U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.

ARTICLE-V

That the said Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No. 29 Party (NEC) sold 246 Kgs of sugar in the open market at market rate for personal gain, whereas the sugar was purchased from Arunachal Pradesh Govt. Ration Shop for distribution amongst camp personnel. Thus he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.

- x -

Attested

Advocate

- 37 -

Statement of imputation of misconduct or misbehaviour in support of articles of charge framed against Shri U.N. Mishra, superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong.

ARTICLE-I

That the said Shri U.N. Mishra, Superintending Surveyor while working as Deputy Superintending Surveyor in No.12 Party (NEC) was attached to No.29 Party (NEC) and appointed as Camp Officer of Camp No.1 during field season 1996-97.

While functioning as Camp Officer in Arunachal Pradesh during December, 1996 to April, 1997 Shri U.N. Mishra has shown in the muster rolls those fictitious porters who were not at all engaged or engaged for much shorter period than what has been shown by him in the muster rolls and claimed contingent bills on account of wages of these porters for the period from 12-12-1996 to 09-04-1997. The details are as under:-

- (i) An amount of Rs.38,720/= towards the wages of 40 porters for the period from 12-12-1996 to 31-12-1996 (20 days) @ Rs. 1,500/- p.m. (Rs. 968/- each) was drawn under O.C. No. 29 Party's Bill No. 346/FVC dated 15.01.1997. Later it was found that:-
- (a) 25 Nos. of porters were actually employed w.e.f. 13-12-1996 only.
- (b) 7 Nos. of porters were actually employed w.e.f. 17-12-1996 only.
- (c) 2 Nos. of porters were actually employed from 13-12-1996 to 18-12-1996 only.
- (d) 6 Nos. of porters were employed for 20 days.

Thus, the actual amount that should have been reimbursed works out to Rs.34,438/- as per detailed below :-

25 porters = 19 days @ Rs. 919/- each	= Rs 22,975/-
7 porters = 15 days @ Rs. 725/- each	= Rs. 5,075/-
2 porters = 6 days @ Rs. 290/- each	= Rs. 580/-
6 porters = 20 days @ Rs. 968/- each	= Rs. 5,808/-

= Rs. 34,438/-

Therefore, Shri U.N. Mishra has claimed false amount of Rs.4,282/-

Attended
Advocate

An amount of Rs.84,526/- towards the wages of 73 porters for the month of January, 1997, as per Party's Bill No.371/FVC dated 05-02-1997 was sent to Shri U.N. Mishra, Camp Officer for disbursement under O.C.No.29 Party's No.151/29-E dated 26-02-1997 along with A.R. No.558/FVC. Charged Officer returned the A.R. after disbursement.

39 porters	= Full Month @Rs.1,500/- each	= Rs.58,500/-
33 porters	= 16 days @ Rs.774/- each	= Rs.25,542/-
1 porter	= 10 days @ Rs.484/- each	= Rs. 484/-

Total : = Rs.84,526/-

Later, it was found that out of 73 porters, 33 were not employed for 16 days in the month of January, 1997 and 2 porters who were shown as employed for full month were discharged on 18.12.1996. 1 (One) porter was employed for 16 days only instead of full month. 1 porter was employed for 3 days only instead of 10 days as shown by him. Therefore, the amount actually disbursed is as under:-

36 porters	= Full Month @ Rs. 1,500/-each	= Rs. 54,000/-
1 porters	= 16 days @ Rs. 774/- each	= Rs. 774/-
1 porters	= 3 days @ Rs. 145/- each	= Rs. 145/-
8 porters	= 18 days @ Rs. 871/- each	= Rs. 6,968/-
		=Rs. 61,887/-

Therefore, Shri U.N. Mishra has claimed false amount of Rs.22,639/-.

(iii) An amount of Rs.22,400/- towards the wages of 14 porters @ Rs.1,600/- p.m. for the month of February, 1997 was drawn under O.C. No.29 Party's Bill No.457/FVC dated 27-03-1997 and was sent to Shri U.N. Mishra, Camp Officer vide O.C. No.29 Party's letter No. 124/29-E dated 05-04-1997, alongwith A.R. No.674/FVC. Camp Officer returned the A.R. after disbursement. Later, it was found that out of 14 porters, Camp Officer made payment to only 8 porters, as 6 porters were not at all employed during the month.

Therefore, Shri U.N. Mishra has claimed false amount of Rs. 9,600/-

(iv) An amount of Rs.84,800/- towards the wages of 53 porters for the month of February, 1997 was drawn under O.C. No.29 Party's Bill NO.10/FVC dated 03-04-1997 and was sent to Shri U.N. Mishra, Camp Officer under O.C. No. 29 Party's letter 124/29-E dated 05-04-1997, along with A.R. No.682/FVC. Camp Officer returned the A.R. after disbursement. Later, it was found that 25 porters were not employed at all during the month. One porter was employed for 26 days only. Therefore, the amount actually disbursed is as under :-

27 porters	= Full month @ Rs. 1,600/-	= Rs.43,200/-
1 porter	= 26 days @ Rs. 1,486/-	= Rs. 1,486/-

= Rs.44,686/-

Therefore, Shri U.N. Mishra has claimed false amount of Rs. 40,114/-

Thus Shri U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3(1)(i)&(ii) Of CCS (Conduct) Rules, 1964.

Advocate

[Signature]

ARTICLE-II

That the said Shri U.N. Mishra, Superintending Surveyor while functioning as Camp Officer in the field camp of No. 29 Party (NEC) has acted as under:-

- X (i) On 16.01.1997 squad of S/Shri D.N. Dev & D.C. Bhandari verifiers were shifted from CHQ (Hayullang) to their area of work at Walong in a B.R.T.F. truck free of cost but Shri U.N. Mishra raised a contingent bill for Rs. 2,000/- towards hiring of a private truck for shifting of above squad.
- (ii) (a) On 04-04-1997 camp store, tentage etc. were shifted in three hired trucks from CHQ (Hayullang) to Tezu at an actual payment of Rs. 1,100/- per truck for two trucks and Rs. 800/- for third truck. Thus total amount actually incurred by CO on this shifting was Rs.3,000/-, but Shri U.N. Mishra fraudulently raised bill at the rate of Rs.1,500/- for each truck i.e. total Rs.4,500/-. Thus he has claimed Rs.1,500/- in excess of what actually paid by him.
- X (b) On 14-04-1997 a private truck was hired for shifting of stores etc. from Tezu to Alubarighat on actual payment of Rs.2,000/- but Shri U.N. Mishra fraudulently raised a bill of Rs.2,500/-. As such Rs.500/- was charged in excess by him.
- (iii) On 10-04-1997 private trucks were hired for conveyance of camp equipments etc. Shri U.N. Mishra other than higher charges raised bills for Rs.725/- and Rs.500/- respectively on account of ferry charges whereas these payments were not at all made to the truck owners as these were included in the negotiated hiring charge of the trucks.

Thus Shri U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1)(i) & (iii) of CCS (Conduct) Rules, 1964.

ARTICLE -III

That the said Shri U.N. Mishra, Superintending Surveyor while functioning as Camp Officer in the field camp of No.29 Party (NEC) was required to make payment of arrears of wages to porters in following manner :-

An amount of Rs.5,616/- towards the arrears of wages of 72 porters (due to increase in wages of porters from Rs.1,500/- to Rs.1,600/- p.m.) was drawn under O.C. No.29 Party's bill No. 11/FVC dated 04-04-1997 and was sent to Shri U.N. Mishra, Camp officer under O.C. No.29 Party's letter No. 124/29-E dated 05-04-1997 along with A.R. No.686/FVC. Camp Officer returned the A.R. after disbursement. Later, it was found that the Camp Officer made payment to only 6 porters @ Rs.164/- each (Rs.64/- towards the arrears of December, 1996 and Rs.100/- towards the arrears for January, 1997). Therefore, Shri U.N. Mishra has claimed false amount of Rs.4,632/-. Thus Shri U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1)(i) & (iii) of CCS (Conduct) Rules, 1964.

Attested

 Advocate.

ARTICLE -IV

That the said Shri U.N. Mishra, Superintending Surveyor while functioning as Camp Officer in the field camp of No.29 Party (NEC) was required to pay bus fare to all contingent paid staff including permanent porters from the place where the porters were discharged upto the place of their recruitment on the closing of camp. But fare from Hayliang to Shillong @ Rs.290/- per porter was shown as paid to 37 porters, whereas bus fare @ Rs.150/- was actually paid to only 6 porters who were discharged from Tezu and no fare was paid at all to the other 31 porters by Shri U.N. Mishra. Thus Shri U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1)(i) & (iii) of CCS (Conduct) Rules, 1964.

ARTICLE -V

That the said Shri U.N. Mishra, Superintending Surveyor while functioning as Camp Officer in the field camp of No.29 Party (NEC) purchased 400 Kgs. of sugar from Arunachal Pradesh Government Ration Shop @ Rs.9 per Kg. Approximately for distribution amongst Camp personnel, but out of that Shri Mishra sold 246 Kgs. of sugar in the open market @ Rs.15/- per Kg. for his personal gain. Thus Shri U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1) (i) and (iii) of CCS (Conduct) Rules, 1964.

-X-

Attested

Attorney.

ANNEXURE-III

List of documents by which the articles of charge framed against Shri. U.N. Mishra, Superintending Surveyor, O.C. No. 5 Party (NEC), Survey of India, Shillong are proposed to be sustained.

1. Annexure 'A' showing organisation of Camp No. 1.
2. Muster Rolls from December, 1996 to April, 1997 submitted by Shri U.N. Mishra, Camp Officer and 8 verifiers.
3. Contingent Bill No. UNM-13/8 dated 21.04.1997 vide which sub vouchers No. UNM-13/4, 13/5 and 13/6 for Rs. 1,500/- each towards the hiring of private trucks for shifting of camp equipment from Hauyllang to Tezu were charged. This contingent bill also contains sub vouchers UNM-13/8 and 13/9 for Rs. 725 and Rs. 500/- towards ferry charges and sub voucher UNM-13/15 for Rs. 2,500/- towards hiring charges of truck No. AR-10-5095 from Tezu to Alubarighat.
4. No. 29 Partie's Bill No. 11/FVC for Rs. 8,640/- containing sub voucher No. 11/1/6 and 11/1/7 for arrears of wages for December, 1996 and January, 1997. AR No. 686/FVC dated February, 1997 and AR No. Nil/FVC dated 03-04-1997 for payment of arrears to 73 porters.
5. Contingent Bill No. UNM/13 dated 21.04.1997 containing sub voucher No. UNM-13/28 for Rs. 9,570/- for bus fare paid to porters.

- x -

Attested

22-11-97



List of witnesses by whom the articles of charge framed against Shri U.N. Mishra, Superintending Surveyor, O.C. No. 5 Party (NEC), Survey of India, Shilong are proposed to be sustained.

1. Shri Shiva Mohanta, S/o Late A. Mohanta, Khalasi. *Absent*
 2. Shri Ram Das Sahu, S/o Late Shivanandan Sahu, Dafadar. ✓
 3. Shri Nanu Sonar, S/o S.B. Sonar, Permanent Porter. X
 4. Shri Madan Pradhan, S/o Moti Lal Pradhan, Permanent porter. X
 5. Shri D.C. Bhandari, P/Tr. Grade-II. X
 6. Shri Nathu Ram, S/o Kheman Ram, Khalsi. X
 7. Shri P.K. Roy, P/Tr. Grade-II.
 8. Shri D.N. Dev, P/Tr. Grade-II.
 9. Shri N.G. Das, P/Tr. Grade-II. X
 10. Shri S.K. Sen, Surveyor.
 11. Shri J. Kharmujai, P/Tr. Grade-II.
 12. Shri R.K. Meena, Superintending Surveyor.
 13. Brig. P.K. Gupta, Director, Eastern Circle. X
- X—

Attested

Advocate.

Confidential

To

The Secretary to the Govt. of India,
Ministry of Science and Technology,
Dept. of Science and Technology,
Technology Bhavan,
New Mehrauli Road,
New Delhi - 110 016.

(Through Proper channel)

Ref:- Memo No. C-14012/1/99-Vig dated 17.01.2001.

Written statement of Defence to the Memorandum of
Article of Charges framed against Shri U.N.
Mishra, Superintending Surveyor O.C. No. 5 Party
(NEC) Survey of India, Shillong.

Sir,

The above-named delinquent has gone through the
Articles of Charges issued Vide Memorandum No. C-14012/1/99
vig. dated 17.01.2001.

The delinquent has fallen a prey to his own
inexperience in the field and overt acts of one of his
immediate superiors who was the OC 29 Party at the relevant
point of time and some juniors alike. Sheer inexperience in
service and conduct of Camp at the relevant time of the
alleged misconduct prompted the delinquent to make statements
in the Preliminary Enquiry and in cross-examination thereupon
without understanding the implications, being under pressure
and his subsequent deposit of alleged loss owning moral
responsibility for alleged irregularity as Camp Officer of
29 Party (NEC) during the period from December 1996 to April
1997 though tantamount to admission of misconduct alleged
vide Articles of Charges contained in Articles I to
supported by the imputations of misconduct, the delinquent
would most humbly and respectfully like to state the
circumstances to the extent of his alleged misconduct and

Attested
Advocate

Contd. P/2.

liability against each Article of charges framed against him. This apart the delinquent was also assured by the then DNEC that the whole matter would be closed once the amount involved in the alleged irregular transactions resulting in loss to the Exchequer was made good. The Addl. Surveyor General (EZ) also similarly advised. The delinquent being the Camp Officer arranged for the amount worked out and the alleged loss was thus made good.

The delinquent hereby makes his humble submission against each one of the Article of Charges as follows :

Article I : Alleged Preparation of fictitious
Muster Rolls for Porters :

The delinquent officer was neither directly involved in the initial recruitment of 40 Porters at Shillong nor was he associated in any manner in the recruitment of 33 additional porters locally at the camp sites by the Asst. Camp Officer (ACO) under the verbal instruction of OC 29 Party (NEC) issued to him. The delinquent officer was thus not aware of their names, addresses and deployment. It was only when a huge amount on account of their wages was disallowed from the paid Acquittance Rolls of the Porters, the delinquent officer as Camp Officer in Charge, to avoid further correspondence and consequent dislocation of work, owning moral responsibility, refunded the amounts from his own sources. This was also done to avoid blemish in his first assignment as Camp Officer. Besides, some of the permanent Porters at Camp H.Q. (CHQ) were often detailed for duty to other verifiers, and the actual deployment and payment of wages were paid by them locally which were not possible to be checked by the delinquent. However, the delinquent admits his involvement to the extent of attestation of thumb impressions of some Porters to have

been engaged and paid for believing his field officers, in good faith, but denies the charge in the manner it has been levelled against him.

Article II : Alleged preparation of false claim of hiring charges of trucks for shifting of camps and ferry charges :

i) That with regard to the alleged charges of false claim in hiring of a truck contained in Article II (i) the delinquent submits that he was detailed as Camp Officer of 29 Party (NEC) with HQ at Hayuliang, a remote area in Arunachal Pradesh. His area of operation was spread over far-flung interior areas. Two detachments were lying idle in the CHQ for long and had to be shifted to Wallong involving a distance of about 110 kms. In his area of deployment there was hardly any private truck available and plying between Hayuliang and Wallong. The availability of transport on requisition from BRTF was uncertain, hence the delinquent looked for some operator. The delinquent contacted a local person who agreed to provide some vehicle which would tranship the detachment at rates which were quite reasonable considering the distance and difficult terrain, etc. Accordingly the arrangements were made and the two detachments were shifted on 16.01.97 to Wallong. In the process, how the local contact managed the transhipment in BRTF truck, whether with the knowledge of the BRTF authorities or not, is a matter between the operator and the BRTF. The delinquent being provided with a bill on satisfactory completion of the job, with the vehicle number and the name of the driver and with the quoted rate, found it in order and paid the Bill accordingly.

ii) With regard to shifting of Camp to Tezu from Hayuliang on 04/04/97 and from Tezu to Alubarighat on 12/04/97, the alleged irregularities in the hiring charges of trucks, the delinquent submits that considering the urgency

Attested
Advocate

of shifting of Camp Equipments i.e. Govt. Stores in view of imminent flooding by a local river and danger of disruption of road communication, private vehicles were engaged. The job was accomplished which was the primary consideration of the delinquent as Camp Officer. The drivers of the trucks conveying the stores were hesitant and reluctant to disclose the truck numbers for reasons of their own but charged Rs. 1500/- per truck, and the delinquent in order to complete audit's formalities cited truck numbers with name of drivers as given by them.

iii) As regards ferry charges the delinquent admits apparent anomaly but craves for examination of the justifiability of the actual payments made by the delinquent.

Article III : Alleged irregularities in payment of Arrears of Wages to 72 Porters :

35
33

That in regard to the allegation made, the delinquent admits that the arrears of wages were actually paid to 6 at the CHQ as the amount reached only two days before the closure of the camp by which date the rest of the porters had already left for PHQ etc. on being discharged before 10/04/97, and on return to PHQ, the delinquent officer made payment to them showing the date of payment as on the date the amount was received in the CHQ. Hence there was no question of the delinquent's mis-appropriation of the undisbursed amount as alleged. The signatures in the A R can be verified from the records.

33-Field
6-CHQ
33-PHQ

Article IV : Alleged non-payment of Bus fare to 37 Porters from Tezu to Shillong :

The delinquent denies the allegations contained in the Article, as all 37 porters were paid the Bus fares and their Acquittance obtained which is a matter to be verified from record.

Article V : Alleged irregularities in Ration Stores:

The delinquent submits in his defence that the responsibility of buying ration stores from PDS was given to the ACO and or to the Camp Khalasis as it was not physically practicable for the delinquent to collect ration goods from the PDS. Once the Camp Khalasi who was in charge of the Ration stores in the CHQ reported that two bags of sugar (approx 200 kgs) were dampen following rains in the area and were likely to be unfit for sale unless they were disposed of immediately. Considering the consequent loss the delinquent asked the Camp Khalasi in the charge of stores to sell it immediately amongst Camp staff. The quantity being huge and there being no adequate response from the Camp staff, the Khalasi might have sold it in the open market to avoid loss but the delinquent received the sale proceeds at the rate at which it was supposed to be sold to the Camp staff, and the delinquent is not aware whether the Khalasi had sold this sugar at the market rate. The delinquent admits his failure to exercise control over sale.

That in the facts and circumstances the delinquent admits that some omission occurred inadvertently due mainly to lack of experience in the type of situation coupled with total mis-guidance motivated by self interest of his immediate superior and subordinates with field experiences of many years, who had from the day one ulterior motive for their personal gains. Initially being the first time in field duties the delinquent could not, due to his lack of experience, rise up against his superior and bring the matter to the notice of higher authorities. The delinquent was also to a great extent handicapped in the absence of any clear cut standing operating administrative instructions, incorporating 'dos' and 'don'ts' which are so essential for one who is for the first time put in charge of camp in an inaccessible area. Be that as

-6-

it may, the delinquent while admitting his conduct of unbecoming of a Govt. Servant to the extent as stated above in his capacity as a CO and contrary to the natural expectations from an officer of his rank and status within the scope of Rule - 3 of CCS (Conduct) Rules, but denies the allegation of his failure to maintain integrity. You will kindly appreciate the predicament of the delinquent in that he was in between "Scylla and Charybdis" in which he could not dare to disobey his immediate superior in the field which mainly resulted in a mess to which he is in today.

In this connection the delinquent considers it relevant to state that the then DNEC himself inspected the Camp in the 2nd week of March 1997 and saw all records threadbare. It was done in the presence of the then OC and ACO. Not an iota of irregularity was found. He fully approved the practice of getting acquaintance roll signed by Porters against their advance payment for their day to day expenditure as their wages used to reach to CHQ about 1½ month later than due date.

Therefore, allegation of some irregularity by the delinquent just one month after the inspection of the DNEC after successful completion of field work in the hardest possible terrain is motivated by vested interest and to malign his reputation. A copy of Inspection note No. T-169/14-B dtd. 20.03.1997 is enclosed for your kind perusal.

It is also submitted that in Survey of India, Group 'A' officers are recruited through Engineering Services Examination and two years of rigorous training in Surveying & Mapping aspects are given in Survey Training Institute. In two years of Training Programme administrative and financial procedures to be followed by a group 'A' officer as Camp Officer are not

covered. Hence, delinquent was fully dependent on his superiors and juniors for administrative and financial procedures to be followed in the Camp.

In view of the above submission the delinquent does not wish to press for personal hearing but prays to your kind honour to take a lenient, sympathetic and compassionate view of the whole thing considering his very first assignment in the field in a most inhospitable area and give him an opportunity to rectify himself and serve the organisation better in future. And for this act of kindness the delinquent as in duty bound shall remain ever grateful to you.

Thanking you,

Yours faithfully,

Date: 12.03.2001.

Place: Shillong.

(U. N. MISHRA),
Superintending Surveyor,
OC No. 5 Party (NEC),
Survey of India,
Shillong.

Amended
Shillong

F.No N1/SCJ/65
Government of India
Central Vigilance Commission

NEW DELHI
21.12.2001

Present :- Shri GC Bairagi, PO
Shri UN Mishra, CO.

Preliminary hearing in this case was taken up today as per per schedule. Both PO and CO attended the hearing. At the outset the CO denied the charges.

2. CO may nominate his defence assistant if any, as per rule.
3. PO will give copies of the listed documents to the CO by 20th January, 2002. Disciplinary Authority is requested to issue suitable directions to the PO in this regard.
4. CO will submit his list of defence documents/witnesses to the undersigned with a copy to PO by 27th January, 2002. At the time of submission of his list of defence documents CO will indicate the full particulars of the document - name of the document, F.No. custodian of the document and its relevance to the charge levelled against him. Similarly, in the case of defence witnesses - he will indicate their name, designation present postal address, his Controlling Officer's address and his relevance to the charge levelled against him.
5. PO will offer his comments on these documents/witnesses by 4th February, 2002. Thereafter, orders on these documents/witnesses will be passed by the undersigned. After orders on these documents are passed by the undersigned PO will collect these documents and provide inspection of these documents to the CO within 10 days. In case any document allowed by the undersigned is not available PO will obtain non-availability certificate from the custodian and send it to the undersigned with a copy to the CO. After confirmation is received from the PO/CO that the inspection of defence documents are completed the dates for the Regular Hearing will be fixed by the undersigned.
6. Copy of the order sheet is handed over to the PO and CO. Copy meant for Surveyor General of India and Director, NE Circle, Survey of India is also handed over to PO.

(S.C. Jarodia)
Inquiry Officer

PO----- 21/1/02

CO-----

Def. Asst

Phulapatri
(12.01.02)
O.E. no. 29 Party

12/1/02
12/1/02

CONFIDENTIAL

ANNEXURE-4

To

Shri S.C. Jarodia
Commissioner of Departmental Inquiries
Central Vigilance Commission,
New Delhi. - 23.

Sub : List of defence documents/witnesses
Ref : Your F.No.NI/SCJ/65 dtd. 21-12-2001.

Sir,

With reference to the above, I want the following defence documents which may kindly be supplied to me :

Custodian of the document

DNEC, Shillong

Its relevance to the charge

Basing on which preliminary inquiry was initiated against me by DNEC (controlling authority)

-do-

To make me aware that any preliminary inquiry will be initiated against me for any misconduct

-do-

To prepare for the defence and also to ascertain about the initial allegation against me.

For examination and preparation of defence.

to page .2....

Name of documents as per F.No.

(1) Copy of written/oral complaint against me - Not known

-do-

(2) Letter of authority which ordered for the preliminary inquiry and appointment of inquiry board -do-

-do-

(3) Letter issued to me where it was intimated to me that preliminary inquiry was to be held against me -do-

-do-

(4) Any Explanation call issued to me prior to preliminary enquiry -do-

-do-

(5) Copy of preliminary inquiry report if it will be considered during regular hearing -do-

-do-

(6) Copy of statement of prosecution witnesses if as per annexure IV of memorandum if any which is going to be considered during regular hearing -do-

Placed
20/01/02

7) Journal of following persons for entire field period 1996-97:	Not known	DNEC/OC 29 party	To ascertain the movement and work of each individual of the camp.
(i) Shri U.N.Mishra, D.S.8. (ii) " S.K. Sen, Surveyor (iii) " D.N.Deb, P/tr Gde.II (iv) " D.C.Bhandari, -do- (v) " P.K.Roy, -do- (vi) " S.P.Roy, -do- (vii) " J.Kharmujai, -do- (viii) " L.Rajwar, -do- (ix) " J.P.Chakraborty, -do- (x) " H.G.Das, -do-	-do-	-do-	To compare the cong.t.bill submitted and related & correspondence to O.C. 29 Party and individuals in camp.
(8) Camp officer book and cash book and camp file on which all cash transaction, inspection note & correspondences were made during my camp officership	-do-	-do-	To ascertain about the guidelines given by authority for smooth functioning of camp both administratively and technically as it was my first assignment as camp officer.
(9) Technical and administrative instruction issued to me for camp work	-do-	-do-	To ascertain about the guidelines given by authority for smooth functioning of camp both administratively and technically as it was my first assignment as camp officer.
(10) My attachment order to 29 Party (NEC)	-do-	-do-	To ascertain whether I was empowered to work in 29 Party (NEC).
(11) Transfer order of Shri R.K.Meena, Suptdg.Surveyor to 13 D.O. and Shri P.K.Sen to 29 Party	-do-	-do-	To ascertain whether Shri P.K.Sen, Officer Surveyor can be my controlling authority.
(12) My posting order to No.12 Party (NEC)	-do-	DNEC	To prove that I was posted under a Group 'B' Officer where as I was a Group 'A' Officer with some ulterior motive of the then DNEC.
(13) Letter pertaining to Recruitment of permanent porters and their inner line permits to move to Arunachal Pradesh	-do-	DNEC/OC 29 Party	To ascertain the name & address of porters recruitment and their movement to the field.

(14) Next of kith and kin of porters prepared in the field by Shri S.K.Sen, Surveyor, ACO	Not known	- 3 - DNEC/OC 29 Party	To ascertain the presence of all the porters and verification of signature etc. with the acquaintance roll.
(15) Movement order of self and all verifiers and ACO	-do-	-do-	To ascertain the date of movement of individual to camp.
(16) Invoices on which store/medicine issued to my camp	-do-	-do-	To establish the reason of discomentment between ACO and me.
(17) All contingent bills and Acquaintance Rolls submitted by me to the OC No. 29 Party (NEC) during the field period 1996-97	-do-	-do-	To ascertain the amount retrenched/disallowed from paid Acquaintance rolls and bills and amount of recovery made.
(18) All the correspondences made by Shri P.K.Sen, Officer Surveyor, OC No.29 Party pertaining to retrenchment of already passed bills as well as genuine bills submitted by me and my reply to them.	-do-	-do-	To ascertain the procedure of verification by Shri P.K.Sen, O.S. for retrenchment of bills, AR's etc.
(19) Authority letter under which Shri P.K.Sen, O.S. retrenched & disallowed the bills pertaining to my camp	-do-	-do-	To ascertain whether recovery was made as per the will of Shri P.K.Sen, O.S. or it was ordered by higher authorities as Shri P.K.Sen, O.S. was not involved in field work.
(20) Surveyor General's letter No.C-440/577-NEC dtd. 12-2-2001	-do-	DNEC	To know whether SG ordered for refund of permanent contingent Advance (PCA) by me.
(21) Allotment letter of govt. accommodation to (i) Shri R.K.Meena, DSS (ii) " R.K.Nigam, DSS (iii) " U.N.Mishra and notice of enhancement of licence fee in respect of Shri R.K.Meena, DSS and Shri U.N.Mishra, DSS during preliminary inquiry period	13-A-1/E & 13-L	DNEC	To show how the proceedings of preliminary inquiry was vitiated by helping one member of the preliminary inquiry board financially. It has relevance to the case because based on preliminary inquiry charge sheet has been framed framed.

[Handwritten signature and stamp]

- | | | | |
|--|-----------|--|---|
| (22) My letter No, C-1/65 dtd.28-7-97 addressed to Addl.Surveyor General (E.Z.), Kolkata through OC No. 16 Party(STI), Hyderabad and its reply if any. | Not known | Addl.Surveyor General (EZ), Kolkata's office | Relevant to the case |
| (23) All the cash receipts on which I have refunded all my permanent contingent Advance received by me | -do- | OC No.29 Party, Shillong | To establish that all the contingent bill got reimbursed and refund was made. |
| (24) All the challans vide which the PCA was refunded for field season 96-97 of No. 29 Party | -do- | OC No.29 Party, Shillong | -do- |
| (25) Letter issued to me regarding recovery of replacement value of the stores lost by ACO by the then DNEC as well as Shri P.K.Sen, OS the then OC No. 29 Party | -do- | DNEC/OC No.29 Party | Though store was lost by ACO but recovery was made from me which is out of rule and has relevance to this case. |

Further I would like to submit the list of defence witnesses as following :-

<u>Name</u>	<u>Designation</u>	<u>present postal address</u>	<u>his controlling officer's address</u>	<u>Relevance to charges</u>
1. Brig. P.K. Gupta	Director, East Circle Kolkata - 16	13, Wood Street, Survey of India, Kolkata - 16	Addl.Surveyor General, Survey of India Kolkata - 16	He inspected the field work of my camp
2. Shri R.K. Meena	Superintending Surveyor	No. 2 Party (WC) Survey of India, Jodhpur	Director (WC), Survey of India, Jaipur	He was OC No.29 Party at that point of time and involved in field work of my camp.
3. Shri P.K. Sen	Officer Surveyor	No. 35 Party(NEC) Survey of India, Guwahati	OC No. 35 party Survey of India, Guwahati	He retrenched my passed bill and disallowed genuine bills.

Attended
Advocate.

to page...5....

4. Shri S.K. Sen	Surveyor	No. 80(P) Party Survey of India, Shillong	OC No. 80(P) Party, Survey of India, Shillong	He looked after the administrative work, store etc. of the camp.
5. Shri S.P. Roy	P/Tr Grade II	No. 29 Party, Survey of India, Shillong	OC No. 29 Party, Survey of India Shillong	He was in the camp
6. Shri J. Kharmujai	-do-	-do-	-do-	-do-
7. Shri D.C. Bhandari	P/Tr Grade II	No. 5 Party, Survey of India, Shillong	OC No. 5 Party Survey of India Shillong	He was in the camp
8. Shri Antu Thakur	Khalasi	No. 12 DO (NEC) Survey of India, Shillong	OC No.12 DO(NEC) Survey of India Shillong	He was at the camp headquarter du- ring the field work.
9. Shri R.K. Nigam	Superintending Surveyor	No. 15 DO (MPO) Survey of India, Dehra Dun	Director, Map Publication Office, Survey of India Dehra Dun.	He was a member of preliminary inquiry board.

Thanking you,

Yours faithfully,

(U.N. Mishra)

Superintending Surveyor
Officer-In-Charge

No. 5 Party (NEC)
Survey of India, Shillong - 793001.

Dated : 17-1-2002

Place : Shillong.

Copy to :-

(1) Shri G.C. Bairagi,
Deputy Director (Technical) & Presenting Officer
MPO,
Survey of India, Dehra Dun.

Attested
Advocate

..//..

No. C- 07 /17-A-6(UNM)
dated 23-01-02.

-56-
82

To

Shri S.C. Jarodia
Commissioner of Departmental Inquiries
Central vigilance commission
New Delhi - 23.

Sub : List of defence documents/witnesses

Ref : (1) Your F.No.NI/SCJ/65 dtd. 21-12-2001.
(11) My letter No. C-5/17-A-6(UNM) dtd. 17-01-2002.

Sir,
In continuation to my letter under reference (11), I want the following additional defence document which may kindly be supplied to me :

<u>Name of document</u>	<u>F.No.</u>	<u>Custodian of the document</u>	<u>Its relevance to the charge</u>
(1) Sanction of DNEC and actual number of porters employed in No. 9 Party (NEC) and No. 12 Party (NEC), which were doing similar type of work in sheet No.92A/2 & 92A/6 and 91/D/4 & 91/D respectively during field season 1996-97.		DNEC/OC No.9 Party/ OC No.12 Party.	To establish that how more porters were provided for these parties where as they were working on similar job on much easier ground. It has relevance to charges.

Thanking you,

Dated : 23-01-2002
Place : Shillong.

Copy to :-

Shri G.C.Bairagi,
Deputy Director(T) & Presenting Officer
MPO, Survey of India, Dehra Dun.

Attested
Advocate

Yours faithfully,

(U.N. Mishra)
Superintending Surveyor
Officer-In-Charge
No. 5 Party (NEC)
Survey of India, Shillong-793001.

NEW DELHI
20.9.2002

Present:- Shri GC Bairagi, PO
Shri UN Mishra, CO.


This case was reviewed with the PO and CO. The CO vide his letter No.C-5/17 -A-6(UNM) dated 17.1.2002 submitted a list of 25 defence documents and 9 defence witnesses. The CO vide his letter dated C-07/17-A/6(UNM) dated 23.1.2002 submitted a list of one defence documents.


2. The PO will collect the list of defence documents submitted by the CO from the custodian of the document. In case any of the document is not available, PO will obtain the non-availability certificate from the custodian of the document. Thereafter, PO will send his comments on the list of defence documents/witnesses submitted by the CO.

3. After comments are received from the PO these documents/witnesses will be considered by the undersigned and date for the Regular Hearing will be fixed.

4. Copy of the order sheet is handed over to PO/CO. The copy of the order sheet meant for the Disciplinary Authority and Surveyor General of India is handed over to PO.


Inquiry Officer


PO-----


CO-----
20/9/12

Attested

Advocate.

-58-

ANNEXURE - 7 (copy)

85

No.NI/SCJ/65
Government of India
Central Vigilance Commission

Subject:- Departmental Inquiry against Shri UN Mishra, Superintending Surveyor,
No.12, Drawing Office, NEC, Survey of India, Shillong.

Present:- Brig. RNB Verma, PO
Shri UN Mishra, CO
Shri B. Mahapatra, Defence Assistant

Daily Order Sheet

SHILLONG

21.5.2003

The Regular Hearing in this case was taken up today. Brig. RNB Verma, was nominated as PO to present the case on behalf of the management in place of Shri G.C.Bairagi.

2. Five prosecution documents were taken on record and marked as Ex.S.1 to Ex.S.5. ✓

3. The deposition of three prosecution witnesses namely :- S/Shri Ram Das Sao, PK Roy and DN Dev were taken on record as SW-1 to SW-3.

4. The hearing is adjourned to tomorrow i.e. 22.5.2003, 9.00 hrs. when the deposition of the remaining prosecution witnesses if any, will be recorded.

5. Copy of the order sheet alongwith the deposition recorded today (evidence of SW-1 to SW-3) were handed over to the PO/CO.

PO Brig. RNB Verma
21.5.03

Def. Assistant B. Mahapatra
21/5/03

INQUIRY OFFICER

CO Shri UN Mishra
21/5/03
(U.N. Mishra)

Attested
[Signature]
Advocate

Subject: Departmental Inquiry against Shri U.N. Mishra, Superintending Surveyor, Survey of India, No.12 Drawing Office, NEC, Shillong

SHILLONG

21.5.2003

Depositor of Shri Ramdas Sao, Khalasi, No.29 Party, NEC, Survey of India, Shillong.

EXMINATION-IN-CHIEF

SW-1

प्र०(ब्रिगेडियर वर्मा) - कृपया, आप अपना नाम बताएँ ।

उत्तर - जी, मेरा नाम श्री रामदास साव है ।

प्र०(ब्रिगेडियर वर्मा) - सन् 1996-97 के कैम्प में आपके साथ और कौन-कौन थे ?

उत्तर - महोदय, मुझे ठिक से याद नहीं है ।

प्र०(ब्रिगेडियर वर्मा) - आईलॉग कैम्प से आप अपने कार्यक्षेत्र (AREA OF WORK) में कैसे गये ?

उत्तर - जी, हम अपने कार्यक्षेत्र में गाँड़ी से गये थे ।

प्र०(ब्रिगेडियर वर्मा) - आपके साथ उस गाँड़ी में और कौन था ?

उत्तर - जी, हमारे साथ उस गाँड़ी में डी.सी. भंडारी साहब थे ।

प्र०(ब्रिगेडियर वर्मा) उस कैम्प के दौरान आप लोगो के साथ कितने पोर्टरस् थे ?

उत्तर - जी, कुल मिला कर केवल चार पोर्टरस् थे ।

प्र०(ब्रिगेडियर वर्मा) उस कैम्प में और कोई एक्सट्रा या अतिरिक्त पोर्टरस् लगाया गया था ?

उत्तर - नहीं, कोई एक्सट्रा पोर्टरस् नहीं लगाया गया था ।

प्र०(ब्रिगेडियर वर्मा) उस कैम्प के दौरान आप लोगो को नियमित रूप से राशन सप्लाई होता था ?

उत्तर - जी हाँ, हम लोगो को राशन नियमित रूप से सप्लाई किया जाता था ।

प्र०(ब्रिगेडियर वर्मा) फील्ड का काम खत्म होने के बाद आप लोग कार्यक्षेत्र (AREA OF WORK) से कहाँ गए ?

उत्तर - फील्ड का काम खत्म होने के बाद हम लोग वापस हेड क्वार्टर में लौट आए ।

प्र०(ब्रिगेडियर वर्मा) सभी पोर्टरस् भी वापस आ गये थे ?

उत्तर - जी हाँ, सभी पोर्टरस् भी वापस आ गये थे ।

प्र०(ब्रिगेडियर वर्मा) वापस आने के बाद आप लोग कैम्प हेड क्वार्टर में रुके थे ?

उत्तर - जी नहीं ।

प/21/5/21

Attested
Advocate

Cross - Examination

प्र०(भागीरथी महापात्र) - क्या आप भंडारी के साथ काम करते थे ?

उत्तर - जी हाँ, हम भंडारीजी के साथ काम कर रहे थे ।

प्र०(भागीरथी महापात्र) कैम्प हेड-क्वार्टर से आपलोग अपने कार्यक्षेत्र (AREA OF WORK) में कब गये ?

उत्तर - सर, मुझे ठिक से याद नहीं है ।

प्र०(भागीरथी महापात्र) कैम्प हेड-क्वार्टर से आपलोग अपने कार्यक्षेत्र (AREA OF WORK) में कैसे गये ?

उत्तर - सर, कैम्प हेड-क्वार्टर से हम लोग अपने कार्यक्षेत्र (AREA OF WORK) में प्राईवेट गाड़ी से गये थे ।

प्र० (ब्रिगेडियर वर्मा) - आप यह बताएँ कि क्या वह किराये की गाड़ी थी ?

उत्तर - सर, यह मुझे मालूम नहीं है ।

प्र०(भागीरथी महापात्र) - केवल चार पोर्टरस् से सारा काम हो जाता था ?

उत्तर - जी हाँ, चार पोर्टरस् से सारा काम हो जाता था ।

// प्र०(भागीरथी महापात्र) - स्थानीय/लोकल लोगो को लगाया गया था ?

उत्तर - जी हाँ, लोकल लोगो को लगाया गया था ।

प्र०(भागीरथी महापात्र) - कितने लोकल लोगो को लगाया गया था ?

उत्तर - सर, मुझे ठिक से याद नहीं है ।

Re-examination: Nil

हिन्दी में उपरोक्त तथ्यों को मेरे सामने पढ़ा गया और इसे मैं सही मानता हूँ ।

गवाह
WITNESS

जाँच अधिकारी 21/5/03
INQUIRY OFFICER

Advocate

- 61 -
3
No.N1/SCJ/65
Government of India
Central Vigilance Commission

SW-2

Subject:- Departmental Inquiry against Shri UN Mishra, Superintending Surveyor, Officer in Charge No.12 Drawing Office, NEC, Survey of India, Shillong.

SHILLONG

21.5.2003

Deposition of Shri PK Roy, Store Keeper Grade-II, No.12, Drawing Office, Survey of India, North Eastern Circle, Shillong.

Examination-in-Chief

Q.1 Please give your introduction?

Ans. My name is PK Roy, Store Keeper, Grade-II, No.12, Drawing Office, Survey of India, North Eastern Circle, Shillong.

During 1996-1997 I was working as Plantabler Grade-II, No.29 Party, Survey of India, North Eastern Circle, Shillong.

Q.2 Local Porters engaged on muster roll are normally paid out of available PCA maintained in the Cash Book. In your case you preferred to pass the muster roll to your camp officer for claiming the wages. Explain the reason for deviation from claiming their bills yourself?

Ans: Normally we used to follow the procedure to send the muster roll to Camp Officer.

Q3. Why did your camp officer not rely on you for making payments to them out of contingent money and or by giving you the amount for disbursement?

Ans: Camp officer of course relied on me but payment he made himself.

21/5/03

Advocate

Q4. Did you not have to make some advance payment to your porters for their daily requirements and adjust the advance out of their total wages earned at the end of the month which is standard practice?

Ans: Sometime I used to make advance payments to porters which were adjusted while making final payment by Camp Officer.

Q5. When the strength of your squad was doubled from four to eight how did you manage to accommodate them in limited number of tents provided to your detachments which was enough for four persons only?

Ans: I had extra tentage.

Q6. How about Kerosine Oil Quota for your detachment? Was it also increased.

Ans: I had sufficient Kerosin Oil.

Q7. Did you not feel the necessity of asking for more contingent advance money since Rs. 2500/- given to you was just adequate for a squad of only four porters for any detachments?

Ans: I asked for money but I do not remember whether I got it or not.

Q8. How did the Camp Officer identified the porter while making payments to them directly?

Ans: ~~Porters were identified by me only~~

Q9. Camp shifting from Hayuling to Tezu and Tezu to Alubarighat was done on 10th April 1997. Are you aware of payment made to Transport Agency or Drivers.

Ans: I do not know.

Q10. After the close of camp the arrears of wages were drawn for disbursement. How did you manage to bring back the same porters to your camp officer so that they could be given their amounts correctly?

Ans: Before closing the Camp HQ I left for Party Headquarter and I am not aware of the disbursement.

Q11. On close of camp most of the extra and surplus porters are normally discharged. How did you ensure that they were paid bus fare upto their homes?

Ans: Before closing the Camp Headquarter I left CHQ. Regarding the bus fare of porters I do not know anything.

21/5/03
Attested
Advocate

Q12. Before you left the Camp Headquarter on completion of work your squad became surplus. Then It was your duty to ensure that they get their dues. What action did you take?

Ans: After closing my work I have surrender all my porters to Camp Officer and also told my porters to collect their dues from Camp Officer.

Q13. Did your demand for sugar include porters' demands also?

✓ Ans: Yes.

Q14. How was the supply of sugar made in your detachment and payment made?

✓ Ans: I used to collect the sugar from Camp Headquarter and camp officer used to deduct the same amount from my contingency.

Q15. Was any record of distribution of sugar maintained in your camp?

Ans: No such record was maintained.

Q16. How was the surplus sugar collected from Govt ration stores disposed off.

Ans: I do not know.

Q17. Was their any system of calling for indent of sugar supply? Any camp order issued on this?

Ans: No.

Cross-Examination

Q1. Were you present everytime when CO was making payment to porters?

Ans: Yes.

Q2. During examination in chief you have deposed that while providing sugar the money of the sugar was deducted from your PCA by the C.O.? As PCA was given only once how far it is true?

Ans: During Salary disbursement the amount of the ration sugar was deducted.

Re-examination : Nil

RO&AAC

✓ 21/5/03

WITNESS

INQUIRY OFFICER

21/5/03

SW-3

No.N1/SCJ/65
Government of India
Central Vigilance Commission

Subject:- Departmental Inquiry against Shri UN Mishra, Superintending Surveyor, Officer in Charge No.12 Drawing Office, NEC, Survey of India, Shillong.

SHILLONG

21.5.2003

Deposition of Shri DN Dev, Plantable Grade-II, No.12 Party, North Eastern Circle, Survey of India, Shillong.

Examination-in-Chief

Q.1 Please give your brief introduction?

Ans. I am DN Dev, Plantable Grade No.12 Party, NE Circle, Survey of India, Shillong

I was working in the capacity since 1980.

Q2 During 1996-97 field season you were employed at Camp Hyuliong?

Ans Yes.

Q3 Was any administrative instruction issued for forwarding muster roll to camp officer for claiming the wages?

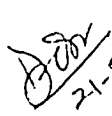
Ans: No. But wages to be drawn from PHQ that is why muster roll was sent to PHQ through CO.

Q4 When all payments were done in your detachment by Camp officer directly did you not feel offended that you are not associated for payment of porters and other persons?

Ans: No.

Attested

Advocate.


21-5-03

Q5 How was the payment made to your camp orderly?

Ans: CO made the payment in presence of me to my camp orderly.

Q6 Did you not have to make some advance payment to your porters for their daily requirements? How did you adjust this amount?

Ans: They were given advances which were recovered from the dues payable to them by CO.

Q7 How did the CO come to know about their advances made by you?

Ans: I submitted the list of advances made to the porters for recovery from their dues and paid to me.

Q8 When the strength of your squad was doubled from four to eight porters how did you manage to accommodate them in limited number of tents you had?

Ans: Adjusted in the available tents.

Q9 Did you not feel the necessity of asking more contingent money since Rs. 2500/- given to you was just adequate for squad of 4 porters of any detachment?

Ans: No.

Q10 How did the Camp officer identified the porters while making the payment directly to them?

Ans: The initial payment was made in my presence so there was not problem of identification of porters by CO. The subsequent and last payment was made by him on his own without my presence. So I do not know how he identified the porters.

Q11 Whether the payment were made by you directly to porters?

Ans: No.

Q12 Who was making the payment?

Ans: CO was making the payment

Q13 Is it COs job to make payments?

Ans: Yes.

Sted
21-5-03

Q14 Does the C.O. know and identify the porters personally

Ans: Yes.

Q15 How C.O. can identify porters sitting at distant place?

Ans: Whenever CO find it difficult he took my assistance.

Cross- Examination

Q1. Out of 8 porters how many were recruited at HQ and how were recruited at area of job.

Ans: Four were recruited at HQ and four were recruited by CO locally.

Q2. How these four porters were recruited at area of work and under what authority?

Ans: These four porters were recruited by CO. About the authority I do not know.

Q3. Whether CO can recruit porters on his capacity.

Ans: Although he is not competent to recruit porters locally but still he recruited. I do not know whether he recruited on his own or under permission from higher authority.

Q4. Did the ACO gave the names of four porters to recruit locally?

Ans: He gave the name of 4 porters and carried the porters along with him

Q5. On 16th you were at Helmet top as per journal January 1997 and you have marked present of 4 porters from 16th as per muster roll maintained by you.. So how you came to know that Camp officer recruited four persons. Is there any official letter from the Camp officer to take him into your squad?

Ans: No.

Re-Examination : NIL

RO&AAC

[Signature]
21-5-03
WITNESS

[Signature]
21/5/03
INQUIRY OFFICER

Attested
[Signature]
Advocate

No.NI/SCJ/65
Government of India
Central Vigilance Commission

Subject:- Departmental Inquiry against Shri UN Mishra, Superintending Surveyor,
No.12, Drawing Office, NEC, Survey of India, Shillong.

Present:- Brig. RNB Verma, PO
Shri UN Mishra, CO
Shri B. Mahapatra, Defence Assistant

Daily Order Sheet

SHILLONG

22.5.2003

The Regular Hearing in this case was resumed today as per schedule.

2. The deposition of three more prosecution witnesses namely :- S/Shri RK Meena, SK Sen and J.Kharmujai were taken on record as SW-4 to SW-6. The remaining prosecution witnesses did not turn up even today and no intimation was received from them.

3. With this the prosecution case was closed. The CO filed his written statement of defence with a copy to the PO.

4. The defence case was taken up. Seven defence documents were taken on record and marked as Ex.D.1 to D.7. The CO produced and examined one defence witness-DW-1. The remaining defence witnesses did not turn up. The CO did not offer himself as his own defence witness. The hearing is adjourned to tomorrow i.e. 23.5.2003, when the CO will be generally examined by me.

5. Copy of the order sheet alongwith the deposition recorded today (evidence of SW-4 to SW-6 and DW-1) were handed over to the PO/CO.

PO Brig RNB Verma
22/5/03

Def. Assistant B. Mahapatra
22/5/03

(B. Mahapatra)

INQUIRY OFFICER

CO UN Mishra
22/5/03

(U.N. Mishra)

Attested
[Signature]
Attorney

To

The Inquiry Officer,
CVC New Delhi
Cant. Shillong


Sir,

~~At the conclusion of prosecution I still deny the charges communicated to me vide no C-14012/1/99-Vig dated 17/01/2001.~~

Following defence documents are submitted :

- ✓ EXD-1 : The inspection remark of OC and DNEC (in their own handwriting) which reflects there was no technical or administrative irregularities in my camp.
- EXD-2 : Final field programme issued by DNEC showing different field works assigned to different units. This shows blue print verification work under 29 party was two times that of under 9 party.
- ✓ EXD-3 : Inspection note of DNEC showing my camp was doing twice the work of the camp of 9 party under shri S. Pharwanja, OS as camp officer. Under my camp 8 verifiers were working whereas 4 verifiers were working in the camp of 9 party.
- EXD-4 : Letter of OC No.9 Party to Deputy Residential Commissioner showing 40 porters were recruited and working in 9 party camp for one camp officer and 4 verifiers on much easier terrain than the terrain of my camp.
- ✓ EXD-5 : Showing the scale of porter requirement in the field as per Survey Of India THB chapter II.
- ✓ EXD-6 : Journal of shri S.K. Sen, ^{Ac.} written in his own handwriting showing he was disbursing dues to detachments also.
- ✓ EXD-7 : ^{Ac.} letters written by shri P.K. Sen, OS, the then O.C. No. 29 party retrenching ~~the~~ bill. Yours faithfully,

Date: 22/5/03

(U.N. Mishra) 
Superintending Surveyor
O.C. No. 12 DO (NEC)
(Charged Officer)



TO

- 69 -

Date 22/5/02

The Inquiry Officer,

CVC, New Delhi

Camp - Shillong

Sir,

At the conclusion of prosecution case, I still
deny the charges. ✓

Yours faithfully

U. N. Mishra
24/5/02

(U. N. Mishra)

Supdtg Surveyor

OC no. 12-15 (NCC)

(charged officer)

Copy to:

1) Presenting Officer

Attestd
Advocate

No.N1/SCI/65
Government of India
Central Vigilance Commission

SW-4

Subject:- Departmental Inquiry against Shri UN Mishra, Superintending Surveyor, Officer in Charge No.12 Drawing Office, NEC, Survey of India, Shillong.

SHILLONG

22.5.2003

Deposition of Shri R K Meena, Superintending Surveyor, OC No. 83 Party (WC), Survey of India, Jaipur.

Examination-in-Chief

Q.1 Please give your brief introduction?

Ans. I am RK Meena, presently working as Superintending Surveyor, Officer In Charge No.83 Party, Western Circle, Survey of India, Jaipur. During 1996-97 I was working as Officer in Charge No.29 Party, NEC. Survey of India, Shillong.

Q2. It is standard practice in the department to encash muster roll prepared by field hand after authentication. In the case of Hyulung Camp it has been noticed that no system of ensuring correctness by authentication by CO was adopted. Why did you not insist on it before passing the bills? (Exhibit No. S2)

Ans: The verification was done by CO at the end of the muster roll instead of doing it at the bottom of the pages in the appropriate column. Since the verification was done at the end of the muster roll, the bills were passed.

Q3. Muster roll employees are normally paid out of the contingency i.e. PCA and the claims of such field hands are encashed subsequently and reimbursed. What was the big urgency of not carrying on with the correct and time tested method of drawal and disbursement after exercising proper checks?

By para
22/5/03

Meena
22/5/03

Ans: As far as I remember I have given advance of porters pay for 1 and ½ month as well as 1 and ½ month's Camp orderly pay also. The muster roll reimbursement so I remember was only twice in January and April.

Q4. Did you reimburse or draw the money against muster roll?

Ans: I drew money against muster roll.

Q5. When the strength of porters in the camp was alarmingly doubled what was approved by your director you did not consider it necessary to take approval for increased strength and ask for additional sanction of permanent contingent advance?

Ans: I admit that I could not obtain additional sanction of director. This a lapse of my part.

Q6. We noticed that there is no reference by any field hands to camp officer asking for increase of porters to carry out work, but the strength of porters has been doubled?

Ans: When I went for inspection in January that time the Camp officer and ACO requested me that these strength of porters will not be sufficient for carrying out entire job. So they may be permitted to recruit extra porters. There was no written communication for either side. The extra porters were engaged on the oral request and followed by oral orders from me.

Q7. Did you issue any camp closing instruction giving direction as to how porters wages to be squared up before their discharge?

Ans: I did not issue any specific instructions either administrative and technical since there was standard instruction available.

Q8. How did you ensure that enhanced rate of porters wages effecting from back date disbursed to them after close of camp since it is not humanly possible for any camp officer to identify 22 porters correctly at their attendance for making payment?

Ans: I had sent enhanced arrears to camp headquarter before closing the camp/

Gyana
21/5/03

Attest
Secretary

Q9. What was the specific roll for which you installed ACO in the camp?

Ans: I have provided the ACO to assist the Camp Officer.

Q10. You had employed a very freshly appointed DSS in your camp. Was it not your duty to see his work closely specially in the matter of money, bill preparation?

Ans: The officer had done one Triangulation Field and one Blue Print Verification before he was assigned this job.

Q11. Did you give any guidelines for recruitment of additional porters at Hayuliang?

Ans: No.

Q12. How was recruitment done at the Party Head Quarters?

Ans: The recruitment was done by ACO and other planetablers.

Q13. Similar recruitment was done at Hayuliang, who was made responsible for recruitment?

Ans: Shri SK Sen, ACO might have done this.

Cross Examination

Q1. Did you issue any Administrative and Technical orders to CO

Ans: I do not remember.

Q2. When were these 40 porters were recruited?

Ans: These porters were recruited earlier but they were taken on muster roll from 12th December 1996 (all the 40 porters).

Q3. First detachment moved to field on 13.12.96 with 25 number of porter out 40. Rest 15 how they were employed?

Ans: The remaining porters were utilized in the Estate for cleanliness.

Q4. Who prepared the bill for wages of porters?

Ans: Accounts section prepared the bill for wages of porters.

Supena
27/12/96

[Signature]

Q5. You have inspected the field from 11.1.97 to 15.1.97. To whom did you instruct for the recruitment of additional porters?

Ans: CO and ACO were present and they were instructed.

Q6. Whether the transport facility was freely available in the area?

Ans: No.

Q7. Do you know Border Road Task Force truck was utilized for camp shifting?

Ans: I do not know.

Q8. Did you receive any complaint from the detachment for non supply or ration to any camp personnel?

Ans; No.

Q9. The entire Camp closed by 12th April 1997. Did you receive any complaint from any body for non payment of bus fare and also arrears in wages to porters.

Ans: No.

Q.10 During your three inspection of the camp along with DNEC for five days each for himself and 3 days with DNEC did you find any procedural lapses in the Camp?

Ans. No.

Q.11 During the inspection of the camp in the month of Jan.1997 was there any request from the porters for enhancement of wages?

Ans. I do not remember.

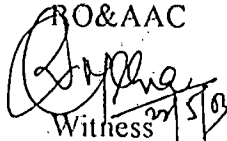
Q.12 Did you gave oral instructions for the payment of arrears wages?

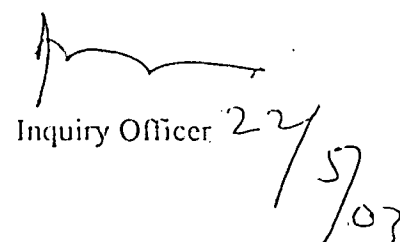
Ans. No.

Q.13 Did you issue any written instructions for the payment of Rs.1500/- to porters?

Ans.No.

RO&AAC


Witness


Inquiry Officer 27/5/03

SV-5

No.N1/SCJ/65
Government of India
Central Vigilance Commission

Subject:- Departmental Inquiry against Shri UN Mishra, Superintending Surveyor,
Officer in Charge No.12 Drawing Office, NEC, Survey of India, Shillong.

SHILLONG

22.5.2003

Deposition of Shri SK Sen, Surveyor, 80 Party at Shillong, North Eastern Circle,
Survey of India, Shillong.

Examination-in-Chief

Q.1 Please give your brief introduction?

Ans. I am SK Sen, Surveyor presently working in 80 Party at Shillong, North Eastern
Circle, Survey of India, Shillong. During 1997-98 I was posted at 29 Party at Shillong.

Q2. Who had carried out the recruitment of porters at Shillong for your Hayuliiong
Camp?

Ans: I myself

Q3. Did you recruit additional porters for camp at Hayuliiong?

Ans: No.

Q4. Your OC has stated that you did it?

Ans: No.

Q5. When there was no individual Planetablers request for additional porters how you
felt necessity for increasing the squad strength?

Attested
Advocate

Ans: Though they have not given anything in writing but it was discussed verbally and I also being an experienced verifier I felt that the depending on terrain it will not be feasible to carry out the job by 4 porters.

Q5. It has been stated by Shri Dev that you have given the names of four porters to add in their muster roll. Are you competent to do that?

Ans: During OC's first visit to field OC discussed the matter with CO in presence of me and decided that another four porter are required for each verifier and accordingly OC passed verbal instruction to CO to recruit additional porters.

Q6. How is it that every single task that disbursement of dues to staff also you did not share with your camp officer?

Ans: I never refused to carry out any instruction from my CO, whenever he orders for any job I carried out accordingly For disbursement of dues I was not asked by the CO to do the same.

Q7. Were you involved in the arrangement of field from Camp to Party Headquarter. In what way you assisted CO?

Ans: At the time of closer of field when survey work was finished by the verifiers a few detachment arrived in the Field Headquarter from their respective area. Though the remaining verifiers were still in the respective area it was decided by CO to shift the available stores items in the field HQ to Tezu at the earliest because during rainy season the road may block since there were one river which over flows heavily during rainy

Advocate

season and hence I was asked to shift to Tezu along with the stores items in very first trip.

Accordingly I came to Tezu

Q8. Who arranged truck for shifting?

Ans; Camp officer

Q9. Who made the payment to truck owner?

Ans: Camp officer

Q10. Are you aware that for transportation ferry charges were included in the truck hiring charges?

Ans: No knowledge

Q11. Were you associated with payment of arrears of enhanced wages to porters?

Ans; In no way I was connected in any mode of payment.

Q12. Who made arrangement of ration collection of govt. quota in the camp?

Ans: Generally CO but in few occasion I was also entrusted for this job.

Q13. How was the demand of sugar obtained from detachment so that procurement of consolidated quantity can be made at Camp HQ.

Ans: They used to send their demand through their dak man and subsequently they collects the same from Headquarter

Q14. Who was keeping the account of total transaction of sugar in the camp?

Ans: I performed the duty of distribution of ration including sugar and subsequently bills were produced to Camp Officer.

Q15. How was the scale of quantity of sugar arrived at?

Ans: It depends on the demand send by the detachment.

[Handwritten signature]

Attested
[Handwritten signature]
Attested

Q16. When the sugar was not taken by respective squad in-charge then how did you dispose it off?

Ans: So far I know it was distributed amongst the field hands only.

Q17. Was there any system of calling for indent for sugar supply? Any Camp order issued?

Ans: No.

Q18. Did the camp had weighing machine?

Ans: No.

Cross- Examination

Q1. How many years of experience do you have as surveyor in North Eastern Region.

Ans: 19 Years.

Q2. What job you have taken as ACO in the field?

Ans: Generally I was entrusted with the technical matter for example scrutiny, carrying out of correction, edge adjustments etc. Apart from this on few occasion I was sent to detachments to inspect their works. Responsibility of distribution of ration, stores etc.

Q3. Are you maintaining a journal for this job?

Ans: No.

Q4. Journal reflects the day to day job you have taken in which you have shown administrative job you have taken up whereas you are telling that you have carried out only technical job.

Ans: On my above question answers I have mentioned ' etc.' so naturally everything covers under that.

Attested
[Signature]

Q5. You have told that several times you have inspected the field hands and helped to carry out their jobs. ~~During that visit have you ensured the presence of 8 porters with the field hands?~~

Ans: Yes, wherever I went porters found correct as per their records.

Q6. Have you got any complain regarding non-payment of wages, bus fare etc from any porters.

Ans: No.

Q7. You have told that CO was involved in disbarment of dues etc. But record reflects that you have also carried out disbarment of dues to porters ?

Ans: If it is so I can not recollect at this moment.

Q8. As ACO in the area of field work taken up there are so many rivers where ferry charge are essential for crossing the river. Have you any knowledge without any ferry charge loaded truck can cross the river?

Ans: Where ever ferries are there charges are to be paid.

Q9. Whether such ferry charges are paid by the Camp officer?

Ans: Generally the person who accompany the vehicle is responsible to make the payment.

RE- EXAMINATION : Nil

RO&AAC

WITNESS

INQUIRY OFFICER

22/5/03

Attested
[Signature]
[Signature]

No.NI/SCJ/65
Government of India
Central Vigilance Commission

SHILLONG

22.5.2003

Deposition of Shri J. Kharmujai, Plantabler Grade-II, No.29 Party, North Eastern Circle, Survey of India, Shillong.

Examination-in-Chief

Q.1 Please give your introduction?

Ans. I am J. Kharmujai, Plantabler Grade-II, No.29, Party, NEC, Survey of India.

During 1996-1997 I was working in the same post.

✓ Q.2 Who provided you the squad of porters?

✓ Ans. I got it from the Camp Headquarters.

Q.3 Did you see recruitment of porters done at Camp?

Ans. Because I joined the Camp late the recruitment was already done.

Q.4 Did you make advance payment to the porters?

Ans. No.

Q.5 Did you make payment to the porters at the close of the month?

Ans. No.

Q.6 After how many months the payment was made to the porters were paid?

Ans. I do not know.

✓ Q.7 How many porters you had in your camp?

✓ Ans. Eight porters. Four we used to take for field work and four for transportation work.

[Signature]

Attested
[Signature]
Advocate.

Q.8 How did you demand sugar requirement from your Camp Headquarters?

Ans. You used to send a chit to the CO for asking for the sugar.

Q.9 How did the porters make the payment for the supply of sugar?

Ans. During my entire period of two months of my field/Camp I did not receive any money and there was no payment made.

Q.10 Did you travel along with camp personnel to the party Headquarters?

Ans. I traveled along with my camp orderly separately by bus.

Q.11 Who made your payment to your Camp Kalasi or CK Wages?

Ans. CO made it after reaching Shillong.

Q.12 How was the arrear of enhanced wages paid to your porters?

Ans. I am not aware.

Cross-Examination

Q1. Did Shri SK Sen, ACO visited your camp. Did he not bring any disbursement?

Ans: Yes. Shri SK Sen visited my Camp. He brought the disbursement for the porters.

Q2. How did you tell that no disbarment was done during 2 and ½ month?

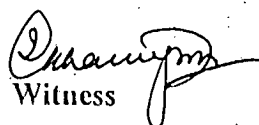
Ans: I do not remember.

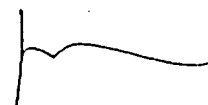
Q.3 Did you paid some advance to the porters?

Ans. I do not remember.

Re-Examination : NIL.

RO&AAC

Witness 


Inquiry Officer



81-
No.N1/SCJ/65
Government of India
Central Vigilance Commission

ANNEXURE - 8
108
DW-1

Subject:- Departmental Inquiry against Shri UN Mishra, Superintending Surveyor, Officer in Charge No.12 Drawing Office, NEC, Survey of India, Shillong.

SHILLONG
22.5.2003

Deposition of Shri PK Sen, OC No.35 Party, Survey of India, NEC Circle, Guwahati.

EXAMINATION -IN-CHIEF

✓ Q.1 Please give your brief description?

Ans. I am PK Sen, Officer -in-Charge, OC No.35 Party, Guwahati. During May, 1997 I was Officer-in- Charge of OC No.29 Party.

Party, NEC, Survey of India, Shillong.

Q.2 Wages of porters for the month of December was drawn under the bill No. 346/FVC dated 15.1.97 and was already disbursed. On what authority you have disallowed the said bill on later stage?

Ans: I was provided with an unsigned and unauthenticated list of porters where date of actual joining of porters were written.

✓ Q3. Did you physically verified the genuineness of the bill and date reflected on it.

✓ Ans: No. I did not verify physically.

Cross-Examination: NIL

Re-Examination: NIL.

RO&AAC

22.5.03
Witness (P.K.SEN)

Inquiry Officer 22/5/03

Attested
Attested

No.NI/SCJ/65
Government of India
Central Vigilance Commission

Subject:- Departmental Inquiry against Shri UN Mishra, Superintending Surveyor.
No.12, Drawing Office, NEC, Survey of India, Shillong.

Present:- Brig. RNB Verma, PO
Shri UN Mishra, CO
Shri B. Mahapatra, Defence Assistant

Daily Order Sheet

SHILLONG
23.5.2003

The Regular Hearing in this case was resumed today as per schedule.

2. The CO was generally examined by the undersigned. With this Oral hearing in this case is concluded.
3. Both the parties are now given time for submission of their written briefs. The PO will submit his written brief to the undersigned with a copy to the CO by 14.6.2003. The CO will submit his written brief to the undersigned by 21st June, 2003.
4. Both the PO/CO should note that if they fail to submit their written briefs in time the report will be finalised by the undersigned without the benefit of their written briefs.
5. Copy of the order sheet alongwith the deposition recorded today(general examination of the Charged Officer by the Inquiry Officer) were handed over to the PO/CO.

PO- Brig RNB Verma
23/5/03
Def. Assistant B. Mahapatra
23/5/03

(B. Mahapatra)

CO- UN Mishra
23/5/03
(UN Mishra)

INQUIRY OFFICER

23/5/2003

[Handwritten signature]

No.N1/SCJ/65
Government of India
Central Vigilance Commission

Subject:- Departmental Inquiry against Shri UN Mishra, Superintending Surveyor
Officer in Charge No.12 Drawing Office, NEC, Survey of India, Shillong - GENERAL
EXAMINATION

SHILLONG

23.5.2003

Article-I

Q1. What are the duties and functions of the Camp Officer?

Ans. Following are the duties and functions of the camp officer.

- i) To ensure work done under him is of good quality
- ii) Complete the work in stipulated time
- iii) Distribution of pay and claims of detachment received from OC Unit
- iv) Examination and scrutiny of work done by the verifiers as well as their claims
- v) Welfare of the personnel working under him.

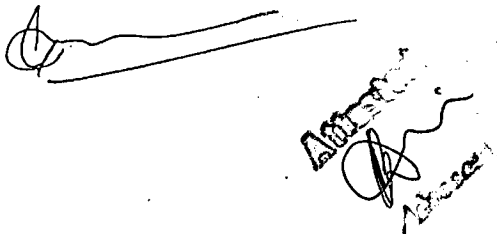
Q2. How was the recruitment of porters done in the Camp HQ?

Ans: Recruitment of porters in the Camp HQ was done by visiting nearby villages and with contacts of local people. This was mainly done by ACO as he was having many years of experience of field in this area.

Q3. Was any Govt. Agency approached for supply of local porters on payment of approved wages as required in the tribal belt beyond inner line area in Arunachal Pradesh?

Ans: No.

Q4. Was any detailed particulars of recruited porters kept in the Camp HQ for scrutiny purposes?



Ahs: Yes.

✓ Q.5. Was any list of porters recruited at Camp HQ much beyond approved strength of squad forwarded to your Party HQ and written approval of competent authority obtained for your camp?

Ans: The additional porters were employed with the verbal approval of OC. Whether OC took approval of competent authority is not known to me. The list of porters communicated to PHQ through muster roll maintained by individual verifiers only!

✓ Q.6 Are you supposed to prepare the muster rolls of the porters working under your Camp, if not, whose duties is to prepare the muster roll?

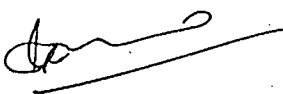
Ans. Preparation of muster roll of porters attached to verifiers is done by individual verifiers. The muster roll of

porters who remain at CHQ is only maintained by Camp Officer.

✓ Q.7 How do you monitor and ensure that a muster roll is correctly prepared and truly reflects the attendance of the porters particularly their physical presence?

Ans: The muster roll is filled up everyday after seeing the porters physically. OC, Camp Officer and ACO visit the verifiers for inspection of their work. At that time also muster roll is checked.

⊗ ✓ Q.8 There is an allegation that as Camp Officer in Arunachal Pradesh during 1996 to April, 1997 you had shown the names of the fictitious porters in the muster rolls and claim of contingent bills on account of wages of the fictitious porters from 12.12.96 to 9.4.96 and charged an amount of Rs.38,720/- as against the actual amount of Rs.34,438/- actually reimbursed to the porters. Thus, you are alleged to have claimed false amount of Rs. 4282/-. What do you have to say in this regard?





Ans: Neither the porters were fictitious nor the claim was false. The claim was drawn by OC after proper verification. The amount ^{& Rs} 38,720 was fully disbursed to the porters. The allegation is baseless.


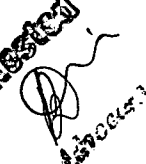
Q.9 There is an allegation that you have claimed a false amount of Rs.22,639/- out of Rs. 84,536/- sent to you towards wages of 72 porters for the month of Jan.1997 as per party's bill No. 371/FVC dated 5.2.1997. The amount actually disbursed by you comes to Rs.61,887/- and the balance amount of Rs.22,639/- has been allegedly pocketed by you. What do you have to say in this regard?

Ans: Whatever the bill drawn by Party Headquarter was disbursed to all the 72 porters and acquittance roll was returned to Party Headquarter (PHQ), So allegation is baseless.

Q.10. There is an another allegation that you have claimed the false amount of Rs.9,600/- out of Rs.22,400/- sent to you for disbursement towards wages of 14 porters at the rate of Rs.1600 per month for the month of Feb.1997 which was drawn under OC No.29 Party's Bill No.457/FVC dated 27.3.1997 and was sent to you vide OC No.29 Party's letter No.124/29-E dated 5.4.97 alongwith A.R.No.674/FVC. It was found that out of 14 porters the payment was made only to 8 porters and the remaining six were reported to have not been employed during the month. How do you explain this?

Ans: The amount drawn by party Headquarter against their muster roll was fully disbursed to the porters for whom it was drawn and Aquittance Roll (AR) was returned to PHQ. The allegation is baseless.

Q.11 There is another allegation that you had claimed a false amount of Rs.40,114/- as against the wages of 53 porters amounting to Rs.84,800/- for the month of Feb.1997 which was drawn under OC No.29 Party's Bill No.10/FVC dated 3.4.1997 and sent to


Attested

23/04/97

you under OC No. 29 Party's letter No.124/29 -E dated 15.4.1997. It was noticed that 25 porters were not at all employed during the month and one porter was employed only for 26 days. Thus, after actually disbursing Rs.44,686 you claimed a false amount of Rs.40114/-. How do you explain this?

✓ Ans: The amount drawn by PHQ was fully disbursed to the porters for whom it was drawn against their muster roll and AR was returned to PHQ. The allegation is baseless.

Article-II

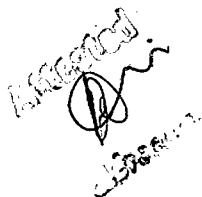
✓ Q.12. It has been alleged that you shifted the squad of two verifiers to CHQ (Hayuliang) in a BRTF vehicle free of cost but raised a false contingent bill for Rs.2000/- towards hiring of private truck for shifting the above squad. How do you justify this?

Ans: BRTF authorities were never contacted for provision of their vehicle. Camp shifting for a distance of 120 Km was done in private vehicle in hilly terrain. It is not possible to obtain any vehicle free of cost which involves consumption of POL, wages of driver etc.

✓ Q.13. There is an allegation that you had falsely claimed an amount of Rs.1500/- showing a total payment of Rs.4500/- as against the actual payment of Rs.3000/- for shifting the Camp store on 4.4.1997 in three hired trucks from CHQ (Hayuliang) to Tezu at an actual payment of Rs.1,100/- per truck for two trucks and raised Rs.800/- for third truck while showing the bill at the rate of Rs.1500/- per truck. How do you explain this?

Ans: It is submitted that three trucks hired on same day for same load for same distance can not be charged differently. The distance from Hayuliang to Tezu is 110 km in hilly





terrain. Considering the distance, terrain and load the charge @ Rs. 1500/- was only nominal and it was accordingly paid. It is also mentioned that about 50 camp personnel also traveled in same trucks thereby saved Rs. $45 \times 50 = 2250/-$ of Govt money which could have been spent on their bus fare otherwise. The allegation is false.

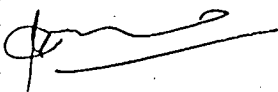
Q.14 On 4.4.1997 a private truck was hired for shifting of Camp stores from Tezu to Alubarighat on actual payment of Rs.2,000/- while fraudulently showing the bill of Rs.2500/-. Thus, you are alleged to have charged Rs.500/- extra in the transaction. Please explain?

Ans: The bill of Rs. 2500/- includes Rs. 500/- ferry charge at Alubarighat also. The truck traveled a distance of about 40km in difficult terrain with 5 ton voluminous load and 25 nos. of camp personnel. Rs. 2500/- charge was quite nominal. The allegation is false.

Q.15. On 10.4.1997 private trucks were reportedly hired for the conveyance of Camp equipment etc. for which Rs.725/- and Rs.500/- respectively were raised on account of ferry charges. No such payment was made to the truck owners as these were included in the negotiated hiring charge of the trucks?

Ans: The truck travelled a distance of about 100km for camp shifting with about 5 ton of Govt. store and also 25 Nos. of camp personnel. Considering the distance and load Rs. 4000/- was paid to truck owner which was quite nominal. No negotiation was done with truck owner to pay Rs. 725/- and Rs. 500/- as ferry charges out of this 4000/-. The ferry charges were paid separately and proper receipt obtained from ferry authorities. The allegation is false.

Article-III



Attested
[Signature]
[Signature]

Q.16. You were required to disburse the arrears of wages to 72 porters sent to you under OC No.29 Party's letter No. 124/29-E dated 5.4.1997 alongwith AR No.686/FVC.

It was found that the payment was made to only six porters at the rate of Rs.164/- . But you claimed false amount of Rs.4632/-. How do you justify this?

Ans: Arrears of wages of porters drawn was fully disbursed to them. How arrear will be paid to some porters and denied to others. There was no complain from anybody regarding non-payment of arrear. The allegation is baseless.

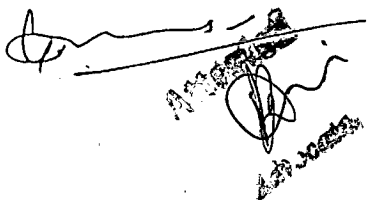
Article -IV

Q.17 You were required to pay bus fare to all contingent paid staff including permanent porters from the place where the porters were discharged upto the place of their recruitment on the closing of the Camp. The fare from Hayuliang to Shillong at the rate of Rs.219/- per porter was shown to have been paid to 37 porters whereas the bus fare at the rate of Rs.150/- was actually paid to only 6 porters who were discharged from Tezu and no fare was paid to the remaining 31 porters. Why?

Ans: It is not possible by an porter to travel from Hayuliang (CHQ) to Shillong without bus fare. The bus fare from Hayuliang to Shillong was 290/- and same was paid to all the porters who were from Shillong on acquittance roll. It is also not possible to pay different bus fare to different porters. There was not complain from any body regarding non payment of bus fare. The allegation is false.

Article-V

Q.18. There is an allegation that you had sold 246 kgs. of sugar in the open market for personal gain out of 400 kgs of sugar purchased from Arunachal Pradesh Government



Ration Shop at the rate of 9 per kg. Thus, you are alleged to have pocketed the money for your personal gain. How do you explain this?

Ans: During about 4 months of my camp I never visited ration shop for procurement of ration including sugar. Neither I distributed ration among the camp staff personally. This work was assigned to ACO and Camp Khalasi. There was no complain from any quarter that any amount of Sugar was sold in open market. Only 400 kgs of sugar was procured in 4 months for staff strength of about 100 people. Therefore, question of any surplus sugar also does not arise. The allegation is false.

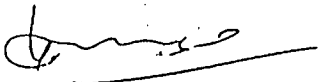
Q19. Did you keep any account of sugar purchased in the camp?

Ans: Yes, only at the time of initial purchase. After distribution by the Camp Khalasi and ACO the money which was spent for procurement was refunded to me.

Q20. How did you manage the disposal of sugar procured from Government Ration Shop at control rate?

Ans: It was disposed amongst the camp personnel only through ACO/ Store Khalasi as per the demand of individual/ individual detachment..

Q20. As a result of reconciliation of retrenched and disallowed amounts from the various bills mentioned in the charge sheet you were asked to refund a total amount of Rs. 79126/- vide letter no. C-16/29-E dated 18 Feb 1999. Consequent upon the receipt of this letter you deposited the entire amount through various challans subsequently on different dates amount to Rs. 79126/-. In case there was no financial irregularities on your part why did you deposit this amount and why did you not protest to next competent authority against the demand of refund made by this office? Did you avail the other

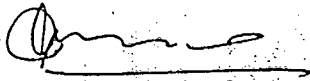




remedies including legal remedies available to you after depositing the above amount so as to get back this amount?

Ans: When OC No. 29 Party (NEC) wrote several letters to me asking me to refund the retrenched amounts from different bills which he disallowed, I protested at several times not to retrench the bills. Since, he did not accept my representations I deposited the retrenched amounts in instalments from my own sources obeying the authority. I have not brought this to the notice of the higher authorities. Neither I have resorted to the legal remedies.

RO&AAC



23/1/03
CHARGED OFFICER



23/1/03
INQUIRY OFFICER

15/03



**A WRITTEN BRIEF OF PRESENTING OFFICER IN THE CASE OF
SHRI U.N. MISHRA, SUPERINTENDING SURVEYOR OF NO.12
D.O.(NEC), SURVEY OF INDIA, SHILLONG.**

A statement of Article of charge framed against Shri U.N. MISHRA, Superintending Surveyor, is as given below :-

ARTICLE - I

That the said Shri U.N. Mishra, Superintending Surveyor while posted as Deputy Superintending Surveyor, No.12 Party (NEC) was attached to No.29 Party (NEC) and appointed as Camp Officer of Camp No.1 during field season 1996-97.

While performing the duties of the Camp Officer in Arunachal Pradesh during the period December, 1996 to April, 1997, the said Shri U.N. Mishra with malafide intention prepared fictitious muster rolls of those porters who were not at all engaged and also prepared muster rolls for much longer period of those porters who were engaged for much shorter period and claimed false contingent bills on account of wages of these porters on various occasions during the period from 12.12.1996 to 09.04.1997. Thus the said Shri U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3(1)(i) &(iii) of CCS (Conduct) Rules, 1964.

ARTICLE - II

That the said Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party(NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No.29 Party (NEC) during the period from December, 1996 to April 1997 raised false bills on various occasions on account of hiring of private trucks for shifting of camps, ferry charges etc. in following events :-

[Handwritten signature and stamp]

-: 2 :-

- (i) On 16.01.1997 he shifted the squad of 2 verifiers from CHQ to Walong in a BRTF vehicle free of cost but raised a false contingent bill towards hiring of a private truck with malafide intention for personal gain.
- (ii) Raised false bills on higher rates on account of hire charges towards shifting of camp from Hayuliang to Tezu on 01.01.1997 and from Tezu to Alubarighat on 12.04.1997, than he actually paid to hired truck for his personal gain.
- (iii) Raised false bills for ferry charges of 2 private trucks hired on 10.04.1997 for conveyance of camp equipments whereas these payments were not at all made as these were included in the negotiated hiring charge of the trucks.

Thus he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.

ARTICLE - III

That the said Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No.29 Party (NEC) during the period from December, 1996 to April, 1997 was required to disburse arrear of wages of 72 porters but he actually made payment to only 6 porters and showed that payment had been made to all of them. Thus he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.


A handwritten signature in dark ink is written over a rectangular stamp. The signature is cursive and appears to read 'U.N. Mishra'. The stamp itself is mostly illegible but seems to contain some official text or a date.

ARTICLE - IV

That the said Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field Camp of No.29 Party (NEC) claimed in contingent bill bus fare paid to 37 porters from Tezu to Shillong on the close of the field, but the payment was made to 6 porters and no fare was paid at all to remaining 31 porters. Thus Shri U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.

ARTICLE - V

That the said Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No.29 Party (NEC) sold 246 Kgs of sugar in the open market at market rate for personal gain, whereas the sugar was purchased from Arunachal Pradesh Govt. Ration Shop for distribution amongst camp personnel. Thus he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.

The regular hearing was held in the premises of North Eastern Circle, Survey of India, Shillong on 21.5.03, 22.5.03 and concluded on 23.5.03. Both P.O. and C.O with his defence assistant were present. Shri S.C. Jarodia, CDI, CVC, New Delhi was present as per schedule.



EVIDENCES

Undermentioned documents marked as prosecution documents No.Ex-S-1; Ex-S-2; Ex-S-3; Ex-S-4; Ex-S-5 are the evidences of charges framed against Shri U.N. MISHRA, Superintending Surveyor, the then Camp Officer of No.29 Party (NEC), Shillong :-

- i) Annexure 'A' showing organisation of Camp No.1.
- ii) Muster Rlls from Dec 1996 to April 1997 submitted by Shri U.N. Mishra, Camp Officer and his 8 Verifiers.
- iii) Contingent Bill No.UNM-13/8 dated 21.04.1997 vide which sub-voucher No.UNM-13/4, 13/5 and 13/6 for Rs.1500/- each towards the hiring of private trucks for shifting of camp equipments from Hayuliang to Tezu were charged. This contingent bill also contains sub-vouchers UNM-13/8 and UNM-13/9 and Rs.725/- and Rs.500/- towards ferry charges and sub-voucher No.UNM-13/15 for Rs.2500/- towards hiring charges of truck No.AR-10-5095 from Tezu to Alubarighat.
- iv) No.29 Party (NEC) Bill No.11/FVC dated for Rs.8640/- containing sub-voucher No.11/1/6 and 11/1/7 for arrears of wages for Dec 1996 and January 1997. AR No.686/FVC dated February 1997 and AR No.Nil/FVC dated 03.04.1997 for payment of arrears to 73 porters.
- v) Contingent Bill No.UNM/13 dated 21.04.1997 containing sub-voucher No.UNM-13/28 for Rs.9570/- for bus fare paid to porters.

In defence of charges levelled against the C.O. he submitted undermentioned documents marked as Ex-D-1; Ex-D-2; Ex-D-3, Ex-D-4; Ex-D-5; Ex-D-6 and Ex-D-7 and taken on record :-

Attested

Associate.

- a) Inspecting Officer's Remarks.
- b) Final Field Programme - 1996-97 (Winter Field) dated 10.12.96.
- c) Inspection Note of Director, North Eastern Circle, Shillong dated 20.3.97.
- d) Letter No.1228/39-C-Genl. dated 29.11.96 issued by O.C. No.9 Party (NEC).
- e) Scale of transport of Govt. and private kit belonging to officers while in the field - Appendix VIII.
- f) Journal of Shri S.K. Sen, ACO for the month of Jan 1997.
- g) Letters dated 20.5.97 from O.C. No.29 Party (NEC), Shillong numbered 392, 398, 396, 397 and 395 issued from file No.27-G-2.

Shri U.N. Mishra, Superintending Surveyor while performing as Camp Officer in No.29 Party (NEC), Survey of India, Shillong was given an Assistant Camp Officer with sufficient field experience to help him in organising and smooth running of his camp in a remote locality of Hayuliang in Arunachal Pradesh during 1996-97. The officer's lack of field experience in the company of scheming, seasoned field hand, who always acted behind the scene, yet at a safe distance, landed him in the state of questionable position. Over the period of time elapsed now, all the personnel involved in this massive fraud have joined hand by conniving and feigning ignorance of statements made in Preliminary Inquiry conducted by Board of Officers duly constituted. They have further attempted to mutually support each other by giving tutored replies with a view to bail out each other by taking shelter of failing memory and falsehood.

Attested
[Signature]
A.C. Sen

However, based on documents available on record and deposition of witnesses and also of charged officer's statement taken from 21.5.03 to 23.5.03 during final hearing at Shillong, representation dated 12.3.01 of the delinquent officer addressed to the Secretary, Deptt. of Science & Technology, New Delhi against the present charge sheet served on him, I wish to bring out salient facts that has surfaced.

ARTICLE - I

The camp of No.29 Party (NEC), Survey of India, at Hayuliang, Arunachal Pradesh, was commenced with approved strength of 40 personnel of porters after obtaining proper sanction of Competent Authority. The required approval for rate of payment of wages was also obtained as per laid down procedure practised in the Department. The camp also had the luxury of presence of an Assistant Camp Officer, though his presence as helping hand has not been seen in work of responsibility shared by him during personal hearing and his deposition.

The dubious role played by seasoned field hand as Assistant Camp Officer, is evident in his active role taken in discussing with his Officer-in-charge for getting the strength of porters increased from 4 each to 8 when neither field hands nor Camp Officer finds it necessary to ask for it: As per his reply against Q.5 in SW-5, ACO had discussed the matter with O.C. before starting the camp at Party HQ and then again he raked it up when the O.C. came for inspection of camp in Jan 97 and made him take hasty decision by giving verbal approval to engage additional porters by recruitment at Camp HQ. None, however, cared to put it in writing although it involved heavy expenditure for which O.C. was not competent.

EX-S.5 Q3 reveals that ACO categorically denies that he recruited any porter in the camp at Hayuliang. He further reconfirms it in his reply to Q. No.4. The officer-in-charge however opines that ACO may have done recruitment in the camp. Q.No.13 Ex-S.4 refers.

Attested

Attorney

Shri U.N. Mishra, the Camp Officer, in his deposition at Ex-GE reveals that recruitment was carried out by going from village to village by ACO. In absence of any recruitment carried out by ACO and CO, the entire strength of 32 porters shown on Muster Roll beyond approved strength of porters becomes fictitious.

Shri U.N. Mishra's reply against Q No.4 in Ex-Gen Exam that the records of porters recruited at Camp Hayuliang was kept with him, and no list of such porters forwarded to PHQ, gives rise to further doubt on credibility of recruitment carried out. Q.No.2 and reply by CO attributes recruitment done mainly by ACO who outright denies it.

(i) Firstly when only verbal approval for recruitment was given, the Camp Officer had more reasons to forward the list of porters recruited (if at all recruited by him or his ACO) to his unit confirming the action taken by him in pursuance of verbal orders. This the Camp Officer has not done and strangely only forwarded the muster rolls of 72 porters for preparation of bill at the end of month by increasing number of porters beyond approved numbers. His pretention that O.C. was to know about recruitment of porters through muster rolls forwarded is out right undermining the authority of his superiors and reveals his intentions of doing things surreptitiously by overlooking rules and regulation of squad strength approved by competent authority.

(ii) No extra tentage to detachments were supplied to accommodate these alleged increased strength of porters in each squad. It is humanly not possible to accommodate such a large team in so limited space of tents provided, record of which is available in Camp Officer's Book. ?

(iii) Permanent Contingent Advance drawn and advance of wages are drawn at the time of commencement of camp, proportionate to the strength of porters and contingent staff of camp. In the present case when the strength of porters was increased almost to double, no demand of extra contingent money has been felt and projected. Obviously there was no undue pressure of timely disbursement to non-existent porters.

24/11/2024
24/11/2024

-: 8 :-

(iv) Ex-D-6 shows nature of duties performed by ACO during the month of Jan 97 duly verified by Shri Mishra, the Camp Officer. ACO has not been involved in any kind of recruitment activity in the camp Hayuliang as reflected in his journal maintained in Jan 97 verified by CO.

(v) Strangely enough even the money drawn as advance of wages has also not been used for the purpose drawn but retained in exclusive custody of the Camp Officer for entire period and even permanent porters recruited at Shillong were deprived of timely payments, leave aside fictitiously shown additional porters.

(vi) Lastly, in the entire episode of increase in the strength of porters from 40 approved, no squad-in-charge has made any demand for increase in the strength of porters for ease of better working or nature of terrain. ACO on his own had been over-enthusiastically pursuing the case of increase in porters' strength initiated by him which reconfirms the scheme that he had in mind.

(vii) The Camp Officer's verification of porters strength shown on muster rolls of each squad inclusive of such unengaged porters is, therefore, shrouded by many unanswerable queries as he surreptitiously verifies only the last page of muster rolls which have subsequently become the main documents on the basis of which the bills have been processed, passed, amount drawn and sent to Camp Officer for disbursing to concerned porters which he does alone by himself by certifying LTIs of porters.

Now since there was no recruitment of porters carried out by CO or ACO at Hayuliang, Arunachal Pradesh, the 32 porters shown did not exist in the squad. The Acquittance Rolls produced as evidence of payments made to all such porters by Camp Officer thus becomes an untrustworthy document and deserve to be rejected.

Attested
Advocate

The Camp Officer in his representation to the Secretary, Deptt of Science & Technology against the present charge-sheet reveals on page No.2. "The delinquent officer was thus not aware of their names; addresses and deployment." Under such circumstances, it is strange that all Left Hand Thumb Impressions of such porters have been identified by the Camp Officer alone and not either by Squad-in-Charge or even by his ACO. His whole-hearted involvement in this gross irregularity, therefore, cannot be ignored.

Shri U.N. Mishra, Superintending Surveyor thus has failed to display absolute integrity as Camp Officer. By producing unreliable muster roll and submitting ARs against payments to fictitious porters he has acted in a manner unbecoming of a Govt. servant.

ARTICLE - II

Survey camps in operational areas beyond Inner Line are planned in such a way that local formations also are kept informed so that necessary assistance from local civil and military formations are availed as and when needed. Shifting of camp, in areas devoid of hired transport system, is either done on man-packed basis or by liaison with various unit and using their spareable vehicles. In this particular case also Shri U.N. Mishra, in his representation to the Secretary, DST states that "The availability of transport on requisition from BRTF was uncertain." The statement, thus confirms that camp officer did have some arrangements as done by all Survey of India Units in such forward areas. However, the transport of BRTF if at all used, should not have been claimed simply because the Camp Officer could note down the vehicle No. and the name of driver which he mentioned in his claim.

The statements recorded during preliminary inquiry by Board of Officers, though they disowned at the time of present hearing, cannot be ignored as the facts are corroborated by other camp personnel.

Amr
Advocate

ARTICLE - III

The arrears of wages of porters was drawn in Shillong under bill No.11/FVC dated 4.4.97 and sent to Hayuliang Camp by D.D. In the meantime, the detachments after completing their work had started moving out of the area by surrendering porters of their squad. Such surplus porters were also discharged; few moved with advance party with ACO who proceeded with camp stores to Tezu and beyond. In absence of porters in the area the Camp Officer's submission of AR duly completed after disbursement is unreliable.

In his own statement dated 12.3.2001 addressed to the Secretary Deptt. of Science & Technoogy, New Delhi against present Charge-Sheet Shri Mishra has confessed that he made payments to few at Shillong (as they had already left the place) on a later day as the money came 2 days before his camp closed. Thus, he failed to make payments to those porters who left the camp before receipt of money from this unit. Completion of such ARs showing entire disbursement is thus not true.

ARTICLE - IV

On completion of work, the squad-in-charge returned to Camp HQ and handed over their records and store to CO. Their squad of porters then became surplus to Camp. Many of the squads-in-charge left the camp with their camp orderlies without receiving their dues. Some of them received their dues at Shillong, as admitted by CO in his representation to Secretary, Deptt. of Science & Technology, New Delhi. However, majority of them were relieved of duties and discharged on becoming surplus much before the dues arrived in the camp.

Arjun
Arjun

The Camp Officer has justified use of trucks for shifting camp stores carried by each truck along with 50 personnel. Ex-Gen Exam. Q.13 and its answer refers. Such personnel, transported by Govt hired trucks do not become eligible for bus fare which the camp officer is aware. As most of the porters discharged travelled by these trucks they were not paid any bus fare as the Camp Officer accommodated them in trucks and showed disbursement of bus fare in the ARs which is not authentic. Ex-GE Q.15 and its answer refers.

ARTICLE - V

i) The camp did not have any weighing machine in the camp for distribution of sugar and collection of proportionate cost. Q.18 SW-5 refers.

ii) CO's statement that his khalasi managing ration informed him of sugar about 200 kgs getting wet due to rain to whom he gave orders for quick disposal. His khalasi brought him the money. His representation to the Secretary, Deptt of Science & Technology, New Delhi confirms the fact on page No.5 line No.6 to 15. The fact was concealed from Inquiry Officer.

iii) Normally ration, if issued to his camp personnel, recovery of cost of ration and sugar used to be from their dues subsequently as and when received. SW-5, Q.14 refers. In this particular case money could be brought by his khalasi who acted on his direction only by selling sugar outside in open market as own personnel were not to pay for such supply in cash.

~~iv)~~ His justifying quantity of sugar bought in camp for entire strength of 100 personnel for 4 months is irrelevant. No system of demand and supply of ration was maintained by Camp Officer. O.C. also did not issue any administrative instructions which are mandatory for O.C. Party to bind his officers.


Invested
20/11/2013

✓(v) Most importantly the strength mentioned is exaggerated which included 32 porters who were not recruited by either CO or ACO or even any field hand at Hayuliang. Hence they were non-existent.

✓(vi) Lastly porters of that area mostly spend on rice, salt and dal apart from their booze. Sugar is not in their list of demand when employed on any squad strength. Drawing sugar from PDS at control rate in huge quantity thus was not in order, and was done for purposes of personal gain.

vii) Buying of 400 kg of sugar in quick succession in consecutive months by using Govt money and then finding it surplus is a well-planned act of CO. The Camp Officer's asking khalasi to dispose it off hastily and receiving the money is a well-executed act. The ACO who was also associated in managing ration in camp was deliberately ignored which confirms his scheme of personal gain by selling sugar in open market.

Hence ACO had reasons to start keeping a note of COs activity in the camp which has finally resulted in investigation.


(R.N.B. VARMA) Brig
Dy. Surveyor General, EZ
Survey of India
13 Wood Street
Kolkata-16
&
Presenting Officer.


Kolkata.

- 103 -

ANNEXURE - 12

To

The Inquiry Officer,
Central Vigilance Commission, New Delhi.

Sub- WRITTEN BRIEF OF CHARGED OFFICER: SHRI UNMISHRA,
SUPERINTENDING SURVEYOR, NO.12 DO(NEC) SURVEY OF
INDIA, SHILLONG.

Ref. - Your No. N1/SCJ/65 dated 23/5/03 and written brief of Presenting Officer received on 13/06/03.

Sir,

While countering the brief of the presenting officer articlewise, I am to state that the interpretations of presenting officer that I failed to display absolute integrity as an officer and done something for personal gain is not correct. Failing to establish the charges by any documentary and oral evidences, he has put forward his contentions with the help of figment of his imaginations which are far from truth. He has also referred some documents which are neither the part of memorandum of chargesheet nor defence exhibit. It appears from his brief that I am to be victim of suspicion, conjecture and surmise.

In the memorandum of chargesheet nothing is quoted about the preliminary inquiry and no document of the inquiry report is annexed to chargesheet. Copy of preliminary inquiry report was also not supplied to the charged officer even when asked by him vide his letter no. C-5/17-A-6(UNM) dated 17/01/02. As such it should not have been referred nor relied by presenting officer during regular hearing and in his written brief. The comments given by the presenting officer in last para at page 5 of his brief is based on his imaginary thought which has no place in such inquiries and not to be quoted in his brief.

Contd... 2/-

Annexed
Advocate

-2-

Since the presenting officer refers the preliminary inquiry time and again in his brief, it is pertinent to humbly submit that the preliminary inquiry was conducted by the then Director, North Eastern Circle (DNEC) without any written or oral complaint based on rumours spread by his ^{coteries} ~~coteries~~ whom he nurtured during his more than a decade long stays at Shillong with vested interest and with full of malignant intention to bring defamation against the charged officer.

The then DNEC himself inspected the field work of the subject camp and cheques for disbursements were issued with his full knowledge by his office only, he should not have been entrusted to hold preliminary inquiry or fact finding inquiry (Ghirrao Lal Srivastava v. state, 1975 Lab. IC 1033), he appointed himself as chairman of inquiry board and selected only one of its member who was not senior in rank to the charged officer, though senior officers were available at the station. He bullied this member to make a tutored report as per his whim and fancy. This member was also lured by the then DNEC by not enhancing his licence fee of govt. accommodation whereas licence fee of other similarly placed officers was enhanced to three times during the preliminary inquiry, documentary evidences of which are available.

It is also submitted that the preliminary inquiry was neither ordered by higher authorities of the department nor any explanation was called from the charged officer prior to the inquiry.

To further torture the charged officer mentally and financially, the then DNEC transferred out shri R.K.Meena, DSS, OC No. 29 Party from 29 Party and posted shri P.K.Sen, Officer Surveyor as OC No. 29 Party in his place. Shri P.K.Sen, OS was not only too junior to me being a group B officer, he was neither involved in field work nor visited the area of work. Inspite of all this, on hidden instructions from the then DNEC, he vigorously retrenched many already passed bills, already paid acquaintance rolls and genuine bills rejecting my representations and protests without any physical verification contravening rules on the subject putting the charged officer in extreme financial hardship. Kindly refer Ex.DW-1, Q2 and Q3 and their answers.

Attested

Attested

ARTICLE I

Article I of memorandum of chargesheet reads as, "while performing the duties of the camp officer in Arunachal Pradesh during the period Dec, 1996 to April, 1997, the said shri U.N. Mishra with malafied intention prepared fictitious muster rolls of those porters who were not at all engaged and also prepared muster rolls of much longer period of those porters who were engaged for much shorter period and claimed false contingent bills on account of wages of those porters on various occasions during the period from 12/12/1996 to 9/4/1997."

The charged officer submits: The muster roll of additional porters who were employed on the verbal order of OC from 16/1/97 to 28/2/97 was maintained by individual verifiers. Ex.S-2, muster rolls prepared by 8 verifiers from 16/1/97 to 28/2/97 refer.

Muster rolls were verified by charged officer being camp officer as he physically found these porters during his inspection of a few verifiers during Feb 1997 and also based on information about their physical presence received from asst. camp officer (ACO) who inspected some of the verifiers in Jan '97 and Feb '97 and also based on information from group D couriers to and from the detachments.

The bill for drawal of money against muster roll was prepared by OC No.29 Party. Ex SW-4, Examination in Chief Q4, Cross Examination Q4 and their answers and Ex SW-3, Examination in Chief Q3 and its answer refer.

40 nos of porters recruited at Shillong were taken on muster roll w.e.f. 12/12/96 i.e. the date of their employment on govt. work and kept on govt work till the date of discharge shown on muster roll. Ex SW-4, cross examination Q2 and its answer refer. Documentary evidence is also available showing the innerline permit of all 40 porters made on 12/12/96 suggesting their employment w.e.f. 12/12/96.

There is no oral or documentary evidence whatsoever suggesting that they were discharged on any other date than that shown on muster roll.

Attention
Advocate

Their dues were paid to them as per the muster roll on proper acquaintance roll with their signature or thumb impression. In the payment of dues the charged officer was also assisted by verifiers and ACO. Ex SW-2, Examination in Chief, Q8 and its answer, Cross Examination Q1 and its answer; Ex SW-6 Cross Examination Q1 and its answer; Ex SW-3 Examination in Chief Q15 and its answer and Ex D-6 (dated 24/1/97 and 25/1/97) refer.

Therefore article I is arbitrarily charged and false.

Contentions of Presenting Officer under this article is countered as following:

1. It is observed, in general, that during the regular hearing of inquiry ACO has given false depositions which is established through documentary and oral evidences:

- (i) It is mandatory to maintain journal by all group C and above employees deployed for field work. Kindly refer Ex SW-5, Cross Examination Q3 where ACO outrightly denies that he maintained any journal, whereas journal written in his own handwriting and signature is an exhibit. Ex D-6 refers.
- (ii) Kindly refer Ex SW-5, Examination in Chief Q6 and Q11 and their answer where he outrightly denies that he was given the task of disbursement, whereas Ex D-6, the journal written in his own handwriting suggests that was assigned this job also which he did also for shri N.G.Das and shri D.C.Bhandari, verifiers' squads on 24/1/1997 and for shri D.N.Dev's squad on 25/1/97.

Shri J. Kharmujai, P/Tr grad II also tells that shri S.K.Sen, ACO visited his camp with disbursement. Ex SW-6, Cross Examination Q1 and its answer refer. But ACO did not put his signature intelligently on acquaintance rolls.

- (iii) ACO was given the responsibility of ration distribution which is exhibited in his journal. Ex D-6 refers. Kindly refer Ex SW-5, Examination in Chief Q13 and its answer. He outrightly says that the camp did not have weighing machine. Then how did he distributed rations among camp personnels without weighing machine? Documentary evidences are available which shows that at least 10 spring balances were there in the camp which were issued from Party Head Quarter (PHQ) to him only for this purpose.

Attested

Advocate

- (iv) Kindly refer Ex SW-5, Examination in chief Q3 and its answer where he outrightly denies that he did recruit additional porters whereas Shri D.N.Dev,P/Tr. GdII in his deposition says ACO gave the name of locally recruited porters and carried them with him to the place of D.N.Dev thereby identified them also. Ex SW-3, Cross Examination Q4 and its answer refer.

Taking into consideration all the above depositions and exhibits, it is amply proved that ACO is telling lies and his statement should not be given any value and taken in to account.

As such contention of presenting officer quoting ACO's statement can not be granted.

It is also submitted that journals are maintained by individuals in the camp are submitted by them to camp officer on the last date of the month. Camp officer puts his signature on it as token of seen which should not be construed as verified.

An individual may not mention all the activities on it which he does on a day.

2. As regards recruitment of 32 porters from 16/1/97 to 28/2/97 which was carried out on verbal order of OC which he gave after discussing the necessity of additional porters with verifiers, he assured to take necessary sanction from DNEC who was the proper authority for such sanction. In his deposition, OC has himself accepted the lapse for not obtaining the sanction timely. Ex SW-4, Examination in Chief Q5 and its answer refer.

It is not possible on part of a junior officer to insist what to be done by higher officers. Further obtaining sanction is communication between OC and DNEC only. Therefore, charged officer should not be blamed for non receipt of necessary sanction from competent authority.

3. Necessity of additional 32 porters is evident from the fact that No.9 Party and No. 12 Party camps doing similar work in nearby areas during same period on much easier and comparatively plain ground with better communication facilities were provided with 8 porters for each verifier. Ex D-3 paras 2,3 and 4 and Ex

100-1003
100-1003
100-1003

D-4 refer. 4 porters each recruited from Shillong and provided to verifiers were not at all adequate during peak camp shifting period which requires to carry 300 kg of voluminous govt store per detachment on head on steep gradients. Ex D-5 refers.

4. As per OC's instruction wages of porters were not paid from the contingent advance money except in case a porter is discharged before the arrival of his dues from PHQ. Only small amount of money for their day to day expenditure was allowed to them from the contingent advance. As regards payment of their wages, muster rolls were sent to OC who made the bills at party headquarter and sent their disbursements. So, there was no need to ask for more contingent advance when additional porters were engaged for one and half month.

5. No complaint was received by charged officer from any quarter regarding non payment of advances to porters in time. No such complaints were lodged to OC and DNEC also during their inspections. Therefore, it should not be doubted that advances to porters were not given in time.

6. It is submitted that no administrative and technical instructions were issued to the charged officer though he was assigned the job of camp officer for first time in his career. Ex SW-4, Cross Examination Q1 and its answer refer.

No procedural flaws was ever pointed out to the charged officer by inspecting officers who inspected his all administrative documents also.

Ex D-1 and Ex SW-4 Cross Examination Q10 and its answer refer. Therefore, contention of PO regarding non verification of all the pages of muster roll is due to absence of administrative instruction and such guidelines.

7. While countering the contention of PO about tentage referring extraneous document 'camp officer book', it is submitted that enough additional tentage

Am
21-11-2011

was available in the camp which was provided to detachments on increase of strength of porters. Ex SW-2 Examination in Chief Q 5 and its answer refer. Some detachments also used deserted and unoccupied huts of army and BRO time to time to keep them light as 8 porters so provided were also not adequate for full load on steep gradients.

8. All the payments of dues of porters were paid in front of the concerned verifier and sometime in the presence of ACO and /or at least one Khalasi of the squad for proper identification. Ex SW-2 ,Examination in Chief Q3 and its answer, Cross Examination Q1 and its answer , Ex SW-3 Examination in Chief Q15 and its answer refer.

On basis of such payments LTI was attested by the charged officer. As dues paid to porters was not taken into the cashbook of concerned verifiers as it was not received detachment wise from party headquarter so concerned verifiers' signature was not taken up.

It is well established from the documents and witnesses produced that 8 porters were kept by each of the 7 verifiers from 16/1/97 to 28/2/97 and 8 porters by one verifier from 16/1/97 to 31/1/97 as per their requirement. During inquiry it was not established that there was any non-existent porter. Rather the lone group D witness also confirms that local people were engaged for work. Ex SW-1, Cross Examination 6 th question from top and its answer refer.

In view of the above submission, article of charge under article I is likely to be dropped.

ARTICLE - II

No shifting of squads of S/Shri D.N.Dev & D.C.Bhandari, verifiers from Hayuling to Walong was done on 16/01/1997 as per the documentary evidence (Journal

of Shri D.N.Dev, P/tr. Grade-II and Shri D.C.Bhandari, P/tr. Grade-II for the month of January 1997) available. Therefore, charge under Article II (i) is false.

Their squads were shifted on 30/12/1996 from Hayuliang to Walong in private truck. SW-1 who was in the squad of Shri D.C.Bhandari travelled in this truck and a material witness corroborates this fact. Ex SW-1, Cross examination Q 3 from top and its answer refer. BRTF authorities were never contacted for their vehicle nor did they provide any.

Allegation under article II (ii) and (iii) has also been arbitrarily charged and retrenchments on the genuine bills have been done arbitrarily without any evidence and verification.

ARTICLE III

Records are available which show that the arrears of wages of porters drawn by O.C. No.29 Party (NEC) under his bill No.11/EVC, dated 04/04/1997 sent to the camp officer (charged officer) in cash and not by D.D. There was no surplus porter as all were deployed for de-induction of detachments at the end of field work from far off places where head load was the only way of transportation. Further, there is no evidence whatsoever that any porter discharged and moved with advance party with ACO. ACO in his deposition did not say that any porter went with him. Ex SW-5, Examination in Chief Q 7 and its answer refer. Therefore, contention of P.O. is totally arbitrary. All the camp personnel moved in batches within an interval of two to three days depending on availability of vehicles while coming from Hayuliang to Shillong halting at Tezu and Mehadeopur for few days each. Therefore, the term advance party has no relevance.

The camp officer was having a very good amount of money with him as contingent advance. The arrears of wages of porters discharged earlier were paid from this amount and it was adjusted with the regular amount which he received late from PHQ.

Attested

Advocate

As whole contingent advance available exhausted in paying arrears and dues of porters who were discharged earlier, and due to late receipt of regular amount from Party Head Quarter, some porters were paid their arrears at PHQ, Shillong also. There is no irregularity in it. There was no complaint of non-payment of arrears to any porter. The porters who left Tezu on 08/04/1997 were given 2(two) days journey time from Tezu to Shillong and thus all porters were effectively discharged with effect from 10/04/1997 only.

The conjecture of P.O. about the truthfulness of ARs. showing disbursement is arbitrary and unfounded.

ARTICLE IV

The contention of P.O. under article IV based on his imagination has no co-relation with ground reality and devoid of any evidence.

It may please be noted that in month of March'97 and April'97, total strength of porters in whole camp was 40 only as additional porters were discharged on 28/2/97. The verifiers were left with only 4 porters each who were not at all adequate for their de-induction with camp stores from far flung places where head load was the only means of transportation. Therefore, permanent porters of earlier relieved one detachment as well porters of camp headquarter were deployed for de-induction of detachments from far off places full of land slides, washed away pack tracks and flooding riverines in 15 to 20 numbers for each detachment. The question of surplus porter does not arise.

Records are available which shows that only one verifier relieved in the month of March'97 (14/3/97) and rest of them were relieved after closing of camp at Hayuliang. Three verifiers alongwith their camp orderlies were relieved from Tezu on

14/3/97

3/4/97 and rest of the verifiers, ACO and rest all camp personnels were relieved from Mahadeopur (Arunachal Pradesh) on 13/4/97 and later dates.

Exhibit S-1 may kindly be referred. Permanent Govt. employees present in the camp as on 29/3/97, the day camp was closing at Hayuliang is as following:

Group C = 8, Group D = 34. Contingent employees present, Camp orderlies = 8, Permanent Porters = 40.

So, nos. of permanent employees and camp orderlies traveled from Hayuliang to Tezu in hired trucks = $8 + 34 + 8 = 50$. This number does not include porters who travelled in bus as there was no space left in trucks which were already full with govt. stores. However, permanent govt. employees and camp orderlies travelled in trucks for safety of govt. stores. Therefore, the contention of P.O. that 50 personnels included porters and they travelled in trucks referring Ex-Gen. Exam Q.13 and its answer is absolutely false.

ARTICLE V

Exhibit S-1 may kindly be referred. Total no. of employees in the camp = 1 CO + 1 ACO + 8 Verifiers + 34 Group "D" + 11 Camp Orderlies + 1 MTD + 40 permanent porters = 96.

In addition to this 32 porters were employed locally. 96 camp personnel were there in the camp for about 4 months and additional 32 for one and half month. Therefore, there is no exaggeration if it is stated that 400 Kg. of sugar was procured for about 100 persons for about 4 months. The 400 Kg. sugar purchased from the Control Dealer as per the permit issued and its availability.

In the entire inquiry proceeding nobody told that he did not get sugar and other ration materials for their consumption in the camp.

400 Kg. sugar purchased in Jan'97 and Feb'97 (200 Kg. each) was sufficient for consumption till April 1997. Therefore, no sugar was procured in March & April '97

Accepted
[Signature]
Advocate

The sugar and other ration items rice and salt were distributed among camp personnel regularly with the help of spring balances. Ex- SW-1, Examination in Chief Q-7 from top and its answer; Ex SW-2, Examination in Chief Q 13 & Q 14 and its answer; Ex-SW-2, Cross examination Q 2 and its answer; Ex SW-4, cross examination Q 8 and its answer, Ex SW-6, Examination in Chief Q 8 and its answer and Ex SW-5, Q 16 and its answer refer.

P.O. has put forward his argument that camp was not having any weighing machine quoting statement of ACO. Then how did ACO distributed the ration among camp personnel as exhibited in his journal of Jan'97 ? Ex D-6 and Ex SW-5 Examination in Chief Q 14 and its answer refer. One statement ridicules the other and therefore argument based on this has no value. There is documentary evidence available to suggest that at least 10 spring balances issued from PHO were available in the camp for this purpose.

Sometimes cost of sugar was recovered from the dues of employees. Ex SW-2, Cross examination, Q 2 and its answer refer. However, employees mostly paid in cash to get the ration sugar from camp and this way cost of sugar was recovered.

When the malicious blame of selling sugar in open market for personal gain was learnt vide memorandum of charge sheet, the charged officer recollecting his memory just conveyed to his disciplinary authority about dampness of sugar which once came to his notice and nothing else with certainty.

It is most humbly submitted that there was inordinate delay in issuing chargesheet and during lapse of this time many vital documents from defence point of view were lost which could have further proved the innocence of the charged officer. Nothing on record can be attributed for delay in issuing the chargesheet which took about 4 years from the date of incident.

Accepted

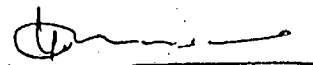
 21/12/2002

That from above submissions it is clear and establishes the innocence of the charged officer. All the articles of charges are baseless and likely to be dropped.

Dated 20/6/03

Place: Shillong

Yours faithfully,




(U.N. Mishra)

Superintending Surveyor

No. 12 DO(NEC)

Survey Of India, Shillong

(Charged Officer)

Attended


Confidential

No.N1/SCJ/65(73)
Government of India
Central Vigilance Commission

Subject:- Departmental Inquiry against Sh. U.N. Mishra, Superintending Surveyor, Survey of India, Shillong.

REPORT

1. INTRODUCTION

1.1 I was appointed as the Inquiry Officer vide Order No. C-14012/01/99-VIG dated 21.06.2001 issued by Sh. S.P. Katnauria, Under Secretary to the Govt. of India, Ministry of Science & Technology, Department of Science & Technology, Technology Bhavan, New Mehrauli Road, New Delhi - 110 016. Sh. G.C. Bairagi, Superintendent Surveyor, OC No. 30 (P) Party (EC), Survey of India, Kolkata was initially appointed as Presenting Officer vide order C-14012/01/99-VIG dated 30th April, 2001 issued by Sh. S.P. Katnauria, Under Secretary to the Govt. of India, Ministry of Science & Technology, Department of Science & Technology, Technology Bhavan, New Mehrauli Road, New Delhi - 110 016. Brig. RNB Verma, Deputy Surveyor General, Eastern Zone, Survey of India, Kolkata was appointed as Presenting Officer subsequently vide order no. C-14012/01/99-VIG dated 19th May, 2003 issued by Sh. Devindar Nath, Under Secretary to the Govt. of India, Ministry of Science and Technology, Department of Science and Technology, Technology Bhavan, New Mehrauli Road, New Delhi - 110 016.

1.2 The Preliminary Hearing in this case was held on 21.12.2001 at New Delhi. Regular Hearing in this case was held on 21st to 23rd May, 2003 at Shillong. On 21.5.2003, 5 prosecution documents were taken on record and marked as Ex.S.1 to Ex.S.5. The depositions of 3 prosecution witnesses were taken on record as SW-1 to SW-3. The hearing was adjourned for 22.5.2003. On 22.05.2003, the deposition of 3 more witnesses were taken on record as SW-4 to SW-6. The remaining prosecution witnesses did not turn up and no

intimation was received from them. With this the prosecution case was closed. The CO filed his written statement of defence with a copy to the PO. The defence case was taken up. 7 defence documents were taken on record and marked as Ex.D-1 to Ex.D-7. CO produced and examined one defence witness -DW-1. The remaining defence witness did not turn up. The CO did not offer himself as his own defence witness. The hearing was adjourned for 23.5.2003. On 23.5.2003, I examined the CO generally. With this the oral hearing in this case was concluded. Written briefs from the PO and CO were received on 16.06.2003 and 25.6.03 respectively.

2.0 **Article of Charge**

2.1 A copy of the article of charge is annexed as Annexure 'A'.

3.0 **Assessment of Evidence**

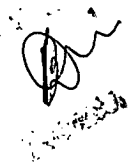
3.1 **Article-I**

3.2 **Case of the Prosecution**

3.3 Shri U.N. Mishra, Superintending Surveyor while performing as Camp Officer in No.29 Party (NEC), Survey of India, Shillong was given an Assistant Camp Officer with sufficient field experience to help him in organising and smooth running of his camp in a remote locality of Hayuliang in Arunachal Pradesh during 1996-97.

3.4 P.O. stated that the camp of No.29 Party (NEC), Survey of India, at Hayuliang, Arunachal Pradesh, commenced with approved strength of 40 personnel of porters after obtaining proper sanction of Competent Authority. The required approval for rate of payment of wages was also obtained as per laid down procedure practised in the Department.

3.5 SW-5's reply to Question No.3 reveals that ACO (SW-5), categorically denies that he recruited any porter in the camp at Hayuliang. He further reconfirms it in his reply to Q. No.4. The officer-in-charge, however, opines that ACO may have done recruitment in the camp (reply given by SW-4 to question no.13).



3.6 Shri U.N. Mishra, the Camp Officer, in his deposition at General Examination reveals that recruitment was carried out by going from village to village by ACO. In absence of any recruitment carried out by ACO and CO, the entire strength of 32 porters shown on Muster Roll beyond approved strength of porters becomes fictitious.

3.7 Shri U.N. Mishra's reply against Q No.4 in Gen. Exam. that the records of porters recruited at Camp Hayuliang was kept with him, and no list of such porters forwarded to PHQ, gives rise to further doubt on the credibility of recruitment carried out. Q.No.2 and reply by CO attributes recruitment done mainly by ACO who outright denies it.

3.8 Firstly when only verbal approval for recruitment was given, the Camp Officer had more reasons to forward the list of porters recruited (if at all recruited by him or his ACO) to his unit confirming the action taken by him in pursuance of verbal orders. This the Camp Officer has not done and strangely only forwarded the muster rolls of 72 porters for preparation of bill at the end of month by increasing number of porters beyond approved numbers. His pretension that O.C. was to know about recruitment of porters through muster rolls forwarded is out right undermining the authority of his superiors and reveals his intentions of doing things surreptitiously by overlooking rules and regulation of squad strength approved by competent authority.

3.9 No extra tentage to detachments were supplied to accommodate these alleged increased strength of porters in each squad. It is humanly not possible to accommodate such a large team in so limited space of tents provided, record of which is available in Camp Officer's Book.

3.10 Permanent Contingent Advance drawn and advance of wages are drawn at the time of commencement of camp, proportionate to the strength of porters and contingent staff of camp. In the present case when the strength of porters was increased almost to double, no demand of extra

f

Attended
by
Advocate

contingent money has been felt and projected. Obviously there was no undue pressure of timely disbursement to non-existent porters.

3.11 Ex-D-6 shows nature of duties performed by ACO during the month of Jan. 97 duly verified by Shri Mishra, the Camp Officer. ACO has not been involved in any kind of recruitment activity in the camp Hayuliang as reflected in his journal maintained in Jan. 97 verified by CO.

3.12 Strangely enough even the money drawn as advance of wages has also not been used for the purpose drawn but retained in exclusive custody of the Camp Officer for entire period and even permanent porters recruited at Shillong were deprived of timely payments, leave aside fictitiously shown additional porters.

3.13 Lastly, in the entire episode of increase in the strength of porters from 40 approved, no squad-in-charge has made any demand for increase in the strength of porters for ease of better working or nature of terrain. ACO on his own had been over-enthusiastically pursuing the case of increase in porters' strength initiated by him which reconfirms the scheme that he had in mind.

3.14 The Camp Officer's verification of porters strength shown on muster rolls of each squad inclusive of such unengaged porters is, therefore, shrouded by many unanswerable queries as he surreptitiously verifies only the last page of muster rolls which have subsequently become the main documents on the basis of which the bills have been processed, passed, amount drawn and sent to Camp Officer for disbursing to concerned porters which he does alone by himself by certifying LTIs of porters.

3.15 Now since there was no recruitment of porters carried out by CO or ACO at Hayuliang, Arunachal Pradesh, the 32 porters shown did not exist in the squad. The Acquittance Rolls produced as evidence of payments made to all such porters by Camp Officer thus becomes an untrustworthy document and deserve to be rejected.

4

3.16 The Camp Officer in his representation to the Secretary, Deptt of Science & Technology against the present charge-sheet reveals on page No.2 "The delinquent officer was thus not aware of their names; addresses and deployment." Under such circumstances, it is strange that all Left Hand Thumb Impressions of such porters have been identified by the Camp Officer alone and not either by Squad-in-Charge or even by his ACO. His whole-hearted involvement in this gross irregularity, therefore, cannot be ignored.

3.17 Shri U.N. Mishra, Superintending Surveyor thus has failed to display absolute integrity as Camp Officer. By producing unreliable muster roll and submitting ARs against payments to fictitious porters he has acted in a manner unbecoming of a Govt. servant.

3.18 **Case of the Defence**

3.19 The CO submitted that the muster roll of additional porters who were employed on the verbal order of OC from 16/1/97 to 28/2/97 was maintained by individual verifiers. **Ex.S-2, muster rolls prepared by 8 verifiers from 16/1/97 to 28/2/97 refer.**

3.20 Muster rolls were verified by charged officer being camp officer as he physically found these porters during his inspection of a few verifiers during Feb 1997 and also based on information about their physical presence received from Astt. Camp Officer (ACO) who inspected some of the verifiers in Jan'97 and Feb.'97 and also based on information from group D couriers to and from the detachments.

3.21 The bill for drawal of money against muster roll was prepared by OC No.29 Party. **SW-4, Examination in Chief Q4, Cross Examination Q4 and their answers and SW-3, Examination in Chief Q3 and its answer refer.**

3.22 40 nos. of porters recruited at Shillong were taken on muster roll w.e.f.12/12/96 i.e. the date of their employment on govt. work and kept on govt. work till the date of discharge shown on muster roll. **SW-4, cross**

Shri Advocate

f

examination Q2 and its answer refer. Documentary evidence is also available showing the innerline permit of all 40 porters made on 12/12/96 suggesting their employment w.e.f. 12/12/96.

3.23 Their dues were paid to them as per the muster roll on proper acquaintance roll with their signature or thumb impression. In the payment of dues the charged officer was also assisted by verifiers and ACO. **SW-2, Examination in Chief, Q8 and its answer, Cross Examination Q1 and its answer ; SW-6 Cross Examination Q1 and its answer ; SW-3 Examination in Chief Q15 and its answer and Ex D-6 (dated 24/1/97 and 25/1/97) refer.**

3.24 C.O. has further stated as regards recruitment of 32 porters from 16/1/97 to 28/2/97 which was carried out on verbal order of OC which he gave after discussing the necessity of additional porters with verifiers, he assured to take necessary sanction from DNEC who was the proper authority for such sanction. In his deposition, OC has himself accepted the lapse for not obtaining the sanction timely. **Ex SW-4, Examination in Chief Q5 and its answer refer.**

3.25 C.O. stated that it is not possible on part of a junior officer to insist what to be done by higher officers. Further obtaining sanction is communication between OC and DNEC only. Therefore, charged officer should not be blamed for non receipt of necessary sanction from competent authority.

3.26 As per OC's instruction wages of porters were not paid from the contingent advance money except in case a porter is discharged before the arrival of his dues from PHQ. Only small amount of money for their day to day expenditure was allowed to them from the contingent advance. As regards payment of their wages, muster rolls were sent to OC who made the bills at party headquarter and sent their disbursements. So, there was no need to ask for more contingent advance when additional porters were engaged for one and half month.

3.27 No complaint was received by charged officer from any quarter regarding non-payment of advances to porters in time. No such complaints were lodged to OC and DNEC also during their inspections. Therefore, it should not be doubted that advances to porters were not given in time.

3.28 It is submitted that no administrative and technical instructions were issued to the charged officer though he was assigned the job of camp officer for first time in his career. **SW-4, Cross Examination Q.1 and its answer refer.**

3.29 No procedural flaws was ever pointed out to the charged officer by inspecting officers who inspected all his administrative documents also.

3.30 **Ex. D-1 and SW-4 Cross Examination Q10 and its answer refer.** Therefore, contention of PO regarding non-verification of all the pages of muster roll is due to absence of administrative instruction and such guidelines.

3.31 While countering the contention of PO about tentage referring extraneous document 'camp officer book', it is submitted that enough additional tentage was available in the camp which was provided to detachments on increase of strength of porters. **SW-2 Examination in Chief Q. 5 and its answer refer.**

3.32 Some detachments also used deserted and unoccupied huts of army and BRO time to time to keep them light as 8 porters so provided were also not adequate for full load on steep gradients.

3.33 All the payments of dues of porters were paid in front of the concerned verifier and sometime in the presence of ACO and /or at least one khalasi of the squad for proper identification. **SW-2, Examination in Chief Q8 and its answer, Cross Examination Q1 and its answer, SW-3 Examination in Chief Q15 and its answer refer.**

3.34 On the basis of such payments LTI was attested by the charged officer. As dues paid to porters was not taken into the cash book of

Attended
Advocate

f

concerned verifiers as it was not received detachment wise from party headquarter so concerned verifiers' signature was not taken up.

3.35 It is well established from the documents and witnesses produced that 8 porters were kept by each of the 7 verifiers from 16/1/97 to 28/2/97 and 8 porters by one verifier from 16/1/97 to 31/1/97 as per their requirement. During inquiry it was not established that there was any non-existent porter. Rather the lone group D witness also confirms that local people were engaged for work. **SW-1, Cross Examination 6 th question from top and its answer refer.**

3.36 In view of the above submission, article of charge under article-I is likely to be dropped.

3.37 **Finding of the Inquiry Officer**

3.38 It has been alleged that Shri UN Mishra, CO, while performing his duties as Camp Officer in Arunachal Pradesh during December, 1996 to April, 1997 prepared fictitious muster rolls of those porters who are not at all engaged and also prepared muster rolls for much longer period of those porters who are engaged for much shorter period and thus claimed false contingent bills on account of wages of these porters on various occasions from 12.12.1996 to 9.4.1997.

3.39 The PO has cited evidence of SW-5 (Q.3) wherein the witness has categorically denied that he recruited any porter in the Camp at Hayuliang. He further confirmed this fact in his reply to Q.4. The CO, in his deposition, during General Examination has revealed that the recruitment was carried out by going from village to village by the ACO i.e. SW-5. Since ACO had categorically denied having recruited any porters in the Camp at Hayuliang it is evident that the entire strength of 32 porters shown on muster roll beyond approved strength of porters was fictitious. This is particularly so when ACO(SW-5) denied having made any recruitments in the Camp. PO has further argued that there was no approval for recruitment for the additional

[Handwritten signature]

[Handwritten signature]
Attended
22/1/97
Advocate

32 porters if at all recruited in the Camp. No extra tentage to detachment was supplied to accommodate the additional porters if at all engaged in the Camp. There was no demand for extra contingent advance for the additional hands recruited. Even the money drawn as advance was not used for the purpose it was drawn but it was retained in the exclusive custody of the Camp Officer for the entire period.

3.40 Lastly, there was no demand from the squad-in-charge for the increased strength of porters. All these arguments adds credibility to the allegation levelled against the CO. The CO, in his defence, has stated that additional porters were employed on the verbal orders of the Officer-in-Charge and the muster rolls were verified by the CO, being the Camp Officer as he physically found these porters during his inspection of a few verifiers during Feb.1997 and also on the basis of the information received from Assistant Camp Officer who inspected some of the verifiers in Jan.97 and Feb.97. This is also based on information given by the Group 'D' officials. The bills for drawal of money against muster roll was prepared by Officer-in-Charge No.29 Party. Their dues were paid to them as per muster roll on proper acquaintance roll with their signature or thumb impression. The CO has also stated that recruitment of 32 porters in question was carried out on the verbal order of Officer-in-Charge for which he had assured to take necessary sanction from DNEC who was the proper and competent authority for such sanction. This sanction was never obtained by OC which creates || doubt for having engaged extra strength of porters in Camp.

✓ 3.41 After having gone through the oral and documentary evidence produced during the Inquiry, it is observed that this is a composite case where the witnesses are also co-charged officers in the same case and all of them have a common interest. It appears that they have all joined hands to prepare fake muster rolls for 32 porters allegedly engaged beyond the approved strength of 40 porters. The documentary and other evidences proves that the strength of 32 porters shown on the muster roll appears to

1)

APC

be fictitious and no such additional porters were engaged in the Camp. Here the evidence given by the ACO, SW-5 is very important who has categorically denied having engaged any extra porters in the Camp. There was no sanction obtained from the Competent Authority for the engagement of extra porters. In view of the oral and documentary evidence discussed by the PO in the foregoing paragraphs the allegation levelled against the CO stands proved. (15)

4.0 **ARTICLE - II**

4.1 **Case of the Prosecution**

4.2 P.O. stated that Survey camps in operational areas beyond Inner Line are planned in such a way that local formations also are kept informed so that necessary assistance from local civil and military formations are availed as and when needed. Shifting of camp, in areas devoid of hired transport system, is either done on man-packed basis or by liaison with various unit and using their sparable vehicles. In this particular case also Shri U.N. Mishra, in his representation to the Secretary, DST states that "The availability of transport on requisition from BRTF was uncertain." The statement, thus confirms that camp officer did have some arrangements as done by all Survey of India Units in such forward areas. However, the transport of BRTF if at all used, should not have been claimed simply because the Camp Officer could note down the vehicle No. and the name of driver which he mentioned in his claim.

4.3 The statements recorded during preliminary inquiry by Board of Officers, though they disowned at the time of present hearing, cannot be ignored as the facts are corroborated by other camp personnel.

4.4 **Case of the Defence**

4.5 No shifting of squads of S/Shri D.N.Dev & D.C.Bhandari, verifiers from Hayuling to Walong was done on 16/01/1997 as per the documentary evidence (Journal of Shri D.N.Dev, P/tr. Grade-II and Shri

Accepted
Ad.

f

D.C.Bhandari, P/tr. Grade-II for the month of January 1997) available. Therefore, charge under Article II (i) is false.

4.6 Their squads were shifted on 30/12/1996 from Hayuliang to Walong in private truck. **SW-1** who was in the squad of Shri D.C.Bhandari travelled in this truck and a material witness corroborates this fact. **Ex SW-1**,

Cross examination Q 3 from top and its answer refer. BRTF authorities were never contacted for their vehicle nor did they provide any.

4.7 Allegation under article II (ii) and (iii) has also been arbitrarily charged and retrenchments on the genuine bills have been done arbitrarily without any evidence and verification.

4.8 **Finding of the Inquiry Officer**

4.9 (i) It has been alleged that Shri, UN Mishra, C.O., had shifted the squad of Shri DN Dev and Shri DC Bhandari on 16.1.1997 from CHQ to their area of work at Walong in a BRTF truck free of cost. CO raised the contingent bill of Rs.2000/- towards hire of private truck for shifting above squad. PO could not produce any documentary evidence to this effect. The CO, in his defence, has stated that squad of Shri DN Dev and Shri DC Bhandari was shifted on 31.12.96 from Hayuliang to Walong in a private truck and not on 16.1.1997. He has cited the evidence of SW-1 who has stated that the shifting was made in a private truck. Hence, this part of the allegation does not stand proved.

(ii) Regarding shifting of Camp from CHQ Hayuliang to Tezu at Rs.1100 for two trucks each and Rs.800 for third truck incurring an actual amount of Rs.3000 against the bill of Rs.4500/- at the rate of Rs.1500 for each truck, the PO could not produce any documentary or oral evidence in support of the charge. In the absence of any documentary or oral evidence to this effect, it is difficult to know the exact amount paid to the transporter by the CO. We have to, therefore, depend on the amount claimed by the CO

Advocate

4

against the bill raised at the rate of Rs.1500/- per truck. Hence, this part of the allegation also does not stand proved.

(iii) Regarding shifting of stores from Tezu to Albarighat on actual payment of Rs.2000 against the raised the bill of Rs.2500/- there is no documentary or other evidence produced by the PO to this effect. Hence this part of the allegation also does not stand proved.

4.10 In view of the above, this charge against the CO does not stand proved.

5.0 Article - III

5.1 Case of the Prosecution

5.2 P.O. stated that the arrears of wages of porters was drawn in Shillong under bill No.11/FVC dated 4.4.97 and sent to Hayuliang Camp by D.D. In the meantime, the detachments after completing their work had started moving out of the area by surrendering porters of their squad. Such surplus porters were also discharged; few moved with advance party with ACO who proceeded with camp stores to Tezu and beyond. In absence of porters in the area the Camp Officer's submission of AR duly completed after disbursement is unreliable.

5.3 In his own statement dated 12.3.2001 addressed to the Secretary Deptt. of Science & Technology, New Delhi against present Charge-Sheet Shri Mishra has confessed that he made payments to few at Shillong (as they had already left the place) on a later day as the money came 2 days before his camp closed. Thus, he failed to make payments to those porters who left the camp before receipt of money from this unit. Completion of such ARs showing entire disbursement is thus not true.

5.4 Case of the Defence

5.5 Records are available which show that the arrears of wages of porters drawn by O.C. No.29 Party (NEC) under his bill No.11/FVC dated 04/04/1997 sent to the camp officer (charged officer) in cash and not by D.D.

There was no surplus porter as all were deployed for de-induction of detachments at the end of field work from far off places where head load was the only way of transportation. Further, there is no evidence whatsoever that any porter discharged and moved with advance party with ACO. ACO in his deposition did not say that any porter went with him. **Ex SW-5, Examination in Chief Q 7 and its answer** refers. Therefore, contention of P.O. is totally arbitrary. All the camp personnel moved in batches within an interval of two to three days depending on availability of vehicles while coming from Hayuliang to Shillong halting at Tezu and Mehadeopur for few days each. Therefore, the term advance party has no relevance.

5.6 The camp officer was having a very good amount of money with him as contingent advance. **The arrears of wages of porters discharged earlier were paid from this amount and it was adjusted with the regular amount which he received late from PHQ.**

5.7 As whole contingent advance available exhausted in paying arrears and dues of porters who were discharged earlier, and due to late receipt of regular amount from Party Head Quarter, some porters were paid their arrears at PHQ, Shillong also. There is no irregularity in it. There was no complaint of non-payment of arrears to any porter. The porters who left Tezu on 08/04/1997 were given 2(two) days journey time from Tezu to shillong and thus all porters were effectively discharged with effect from 10/04/1997 only.

5.8 The conjecture of P.O. about the truthfulness of ARs. showing disbursement is arbitrary and unfounded.

5.9 **Finding of the Inquiry Officer**

5.10 It has been alleged that Shri UN Mishra, CO, was required to disburse arrears of wages to 72 porters but he actually made payment to



Attested

Advocate

only 6 porters and showed that payment had been made to all the 72 porters.

5.11 PO, in his brief, has cited the CO's own statement dated 12.3.2001 given to the Secretary, Department of Science and Technology wherein the CO has confessed categorically that the arrears of wages were actually paid to six porters at CHQ as the amount reached only two days before the closure of the Camp by which date the rest of the porters had already left for PHQ on being detached before 10.4.97 and on return to PHQ, C.O. made payment to them showing the date of payment as on the date, the amount was received at CHQ. Hence, according to CO there was no question of misappropriation of undisbursed amount as alleged. He also stated that the signatures in the A-R can be verified from the records.

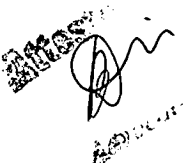
5.12 In view of the explanation given by the CO vide his representation dated 12.3.2001 referred to above the allegation levelled against the CO does not stand proved.

6.0 ARTICLE - IV

6.1 Case of the Prosecution

6.2 P.O. stated that on completion of work, the squad-in-charge returned to Camp HQ and handed over their records and store to CO. Their squad of porters then became surplus to Camp. Many of the squads-in-charge left the camp with their camp orderlies without receiving their dues. Some of them received their dues at Shillong, as admitted by CO in his representation to Secretary, Deptt. of Science & Technology, New Delhi. However, majority of them were relieved of duties and discharged on becoming surplus much before the dues arrived in the camp.

6.3 The Camp Officer has justified use of trucks for shifting camp stores carried by each truck alongwith 50 personnel. Q.13 of General Examination and its answer refers. Such personnel, transported by Govt hired trucks do not become eligible for bus fare which the camp officer is aware. As



most of the porters discharged travelled by these trucks they were not paid any bus fare as the Camp Officer accommodated them in trucks and showed disbursement of bus fare in the ARs which is not authentic. Ex-GE Q.17 and its answer refers.

6.4 **Case of the Defence**

6.5 The contention of P.O. under article-IV based on his imagination has no co-relation with ground reality and devoid of any evidence.

6.6 It may please be noted that in month of March'97 and April'97, total strength of porters in whole camp was 40 only as additional porters were discharged on 28/2/97. The verifiers were left with only 4 porters each who were not at all adequate for their de-induction with camp stores from far flung places where head load was the only means of transportation. Therefore, permanent porters of earlier relieved one detachment as well porters of camp headquarter were deployed for de-induction of detachments from far off places full of land slides, washed away pack tracks and flooding riverines in 15 to 20 numbers for each detachment. The question of surplus porter does not arise.

6.7 Records are available which shows that only one verifier relieved in the month of March'97 (14/3/97) and rest of them were relived after closing of camp at Hayuliang. Three verifiers alongwith their camp orderlies were relieved from Tezu on 3/4/97 and rest of the verifiers, ACO and rest all camp personnels were relieved from Mahadeopur (Arunachal Pradesh) on 13/4/97 and later dates.

6.8 **Exhibit S-1** may kindly be referred. Permanent Govt. employees present in the camp as on 29/3/97, the day camp was closing at Hayuliang is as following:-

- i) Group C =8, Group D =34. Contingent employees present: Camp orderlies =8, Permanent Porters= 40.

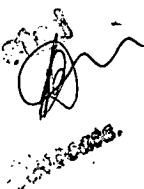


ii) So, nos. of permanent employees and camp orderlies traveled from Hayuliang to Tezu in hired trucks = $8+34+8=50$. This number does not include porters who travelled in bus as there was no space left in trucks which were already full with govt. stores. However, permanent govt. employees and camp orderlies travelled in trucks for safety of govt. stores. Therefore, the contention of P.O. that 50 personnels included porters and they travelled in trucks referring Ex-Gen. Exam Q.13 and its answer is absolutely false.

6.9 **Finding of the Inquiry Officer**

6.10 It has been alleged that Shri UN Mishra, CO, did not pay bus fare to all the porters and the contingent paid staff except to only 6 porters who were discharged from Tezu. The remaining porters were allegedly not paid bus fare although the bus fare from Hayuliang to Shillong @ Rs.290 per porter has been shown as paid to 37 porters. PO has argued that on completion of the work the porters were shifted in the truck which were engaged for shifting the Government stores. Since these porters were transported by Govt. hired trucks they were not eligible for bus fare and no bus fare was paid to these porters by the Camp Officer. The CO completely denied the charge and has stated that bus fare from Hayuliang to Shillong at rate of Rs.290/- was paid to all the porters on acquittance roll and there was no complaint from anybody regarding non-payment of bus fare.

6.11 I have seen the acquittance roll attached to Ex.S.3 for payment of bus fare to the individual porters. A perusal of this acquittance roll indicates that the amount of Rs.290/- alongwith signature or thumb impression has been shown as paid to porters. It is difficult to know at this stage whether the signature appearing on the acquittance rolls in token of having received the payment of bus fare by the individual porters is genuine or fake. No such investigation has been made by the Disciplinary Authority to verify the genuineness of signatures or thumb impressions. Since there is no complaint on record from any of the porters for non-payment of bus fare, applying the principle of preponderance of probability, it can be inferred that the payment have been made to the individual porters. The prosecution could not bring in



any evidence oral or documentary against it. Hence, the allegation levelled against the CO does not stand proved.

7.0 **ARTICLE - V**

7.1 **Case of the Prosecution**

- i) P.O. stated that the camp did not have any weighing machine in the camp for distribution of sugar and collection of proportionate cost. Q.18 SW-5 refers.
- ii) CO's statement that his khalasi managing ration informed him of sugar about 200 kgs getting wet due to rain to whom he gave orders for quick disposal. His khalasi brought him the money. His representation to the Secretary, Deptt of Science & Technology, New Delhi confirms the fact on page No.5 line No.6 to 15. The fact was concealed from Inquiry Officer.
- iii) Normally ration, if issued to his camp personnel, recovery of cost of ration and sugar used to be from their dues subsequently as and when received. SW-5, Q.14 refers. In this particular case money could be brought by his khalasi who acted on his direction only by selling sugar outside in open market as own personnel were not to pay for such supply in cash.
- iv) His justifying quantity of sugar bought in camp for entire strength of 100 personnel for 4 months is irrelevant. No system of demand and supply of ration was maintained by Camp Officer. O.C. also did not issue any administrative instructions which are mandatory for O.C. Party to bind his officers.
- v) Most importantly the strength mentioned is exaggerated which included 32 porters who were not recruited by either CO or ACO or even any field hand at Hayuliang. Hence they were non-existent.
- vi) Lastly porters of that area mostly spend on rice, salt and dal apart from their booze. Sugar is not in their list of demand when employed on any squad strength. Drawing sugar from PDS at control rate in huge quantity thus was not in order, and was done for purposes of personal gain.
- vii) Buying of 400 kg of sugar in quick succession in consecutive months by using Govt. money and then finding it surplus is a well-planned act of CO. The Camp Officer's asking khalasi to dispose it off hastily and receiving the money is a well-executed act. The ACO who was also associated in managing ration in camp was deliberately ignored which confirms his scheme of personal gain by selling sugar in open market.

7.2 Hence ACO had reasons to start keeping a note of COs activity in the camp which has finally resulted in investigation.

7.3 **Case of the Defence**

7.4 **Exhibit S-1** may kindly be referred. Total no. of employees in the camp = 1 CO + 1 ACO + 8 Verifiers + 34 Group "D" + 11 Camp Orderlies + 1 MTD + 40 permanent porters = 96.

7.5 In addition to this 32 porters were employed locally. 96 camp personnel were there in the camp for about 4 months and additional 32 for one and half month. Therefore, there is no exaggeration if it is stated that 400 Kg. of sugar was procured for about 100 persons for about 4 months. The 400 Kg. sugar purchased from the Control Dealer as per the permit issued and its availability.

7.6 In the entire inquiry proceeding nobody told that he did not get sugar and other ration materials for their consumption in the camp.

7.7 400 Kg. sugar purchased in Jan'97 and Feb'97 (200 Kg. each) was sufficient for consumption till April 1997. Therefore, no sugar was procured in March & April'97 .

7.8 The sugar and other ration items rice and salt were distributed among camp personnel regularly with the help of spring balances. **SW-1, Examination in Chief Q-7 from top and its answer; SW-2, Examination in Chief Q 13 & Q 14 and its answer; SW-2, Cross examination Q 2 and its answer; SW-4, cross examination Q 8 and its answer, SW-6, Examination in Chief Q 8 and its answer and SW-5, Q 16 and its answer refer.**

7.9 P.O. has put forward his argument that camp was not having any weighing machine quoting statement of ACO. Then how did ACO distributed the ration among camp personnel as exhibited in his journal of Jan'97? **D-6 and SW-5 Examination in Chief Q 14 and its answer refer.** One statement ridicules the other and therefore argument based on



this has no value. There is documentary evidence available to suggest that at least 10 spring balances issued from PHQ were available in the camp for this purpose.

7.10 Sometimes cost of sugar was recovered from the dues of employees. Ex SW-2, Cross-examination, Q 2 and its answer refer. However, employees mostly paid in cash to get the ration sugar from camp and this way cost of sugar was recovered.

7.11 When the malicious blame of selling sugar in open market for personal gain was learnt vide memorandum of charge sheet, the charged officer recollecting his memory just conveyed to his disciplinary authority about dampness of sugar which once came to his notice and nothing else with certainty.

7.12 It is most humbly submitted that there was inordinate delay in issuing chargesheet and during lapse of this time many vital documents from defence point of view were lost which could have further proved the innocence of the charged officer. Nothing on record can be attributed for delay in issuing the chargesheet which took about 4 years from the date of incident.

7.13 That from above submissions it is clear and establishes the innocence of the charged officer. All the articles of charges are baseless and likely to be dropped.

7.14 **Finding of the Inquiry Officer**

7.15 It has been alleged that the CO namely Shri UN Mishra sold 246 kgs. of sugar in the open market at market rates for personal gain whereas the sugar was purchased from Arunchal Pradesh Government ration shop for distribution among Camp personnel.

7.16 PO has cited CO's representation dated 12.3.2001 which he had given to Secretary, Ministry of Science and Technology in response to the Charge Sheet issued to him. In his representation the CO has stated that the Camp Khalasi has reported that two bags of sugar (approx. 200 kgs.) were

Attested
[Signature]
A. K. S. S. S.

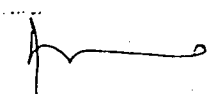
4

dampened following rains in the area and were likely to be unfit for sale unless they were disposed for sale immediately. The CO has admitted that he asked Camp Khalasi in charge of the store to sell it immediately to camp staff. The quantity being huge and there being no adequate response from the Camp staff, the khalasi might have sold it in the open market to avoid loss but the CO received consideration at the rate at which it is supposed to be sold to the camp staff. The CO has also stated that he is not aware whether the Khalasi has sold this sugar at the market rate or not. The CO has admitted his failure to exercise control over sale. PO could not produce any documentary or oral evidence to prove that sugar was sold outside at the market rate. This is no documentary evidence to prove that the sugar was sold in the open market at the rate of Rs.15 per kg by the CO. However, he has definitely failed in exercising control over the sale of sugar by the Camp Khalasi. Therefore, the allegation levelled against the CO stand partly proved.

8.0

FINDINGS

- 8.1 Article -I : Proved. ✓
8.2 Article-II : Not proved.
8.3 Article-III : Not proved.
8.4 Article-IV : Not proved.
8.5 Article-V : Partly proved. ✓


(S.C. Jarodia)
Inquiry Officer
&

Commissioner for Departmental Inquiries

New Delhi
14.07.2003



Statement of Articles of charge framed against Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong.

ARTICLE 1

That the said Shri U.N. Mishra, Superintending Surveyor while posted as Deputy Superintending Surveyor, No. 12 Party (NEC) was attached to No. 29 Party (NEC) and appointed as Camp Officer of Camp No.1 during field season 1996-97.

While performing the duties of the Camp Officer in Arunachal Pradesh during the period December, 1996 to April, 1997, the said Shri U.N. Mishra with mala fide intention prepared fictitious muster rolls of those porters who were not at all engaged and also prepared muster rolls for much longer period of those porters who were engaged for much shorter period and claimed false contingent bills on account of wages of these porters on various occasions during the period from 12-12-1996 to 09-04-1997. Thus the said Shri U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1)(i) & (iii) of CCS (Conduct) Rules, 1964.

ARTICLE-II

That the said Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No. 29 Party (NEC) during the period from December, 1996 to April, 1997 raised false bills on various occasions on account of hiring of private trucks for shifting of camps, ferry charges etc. in following events:-

- (i) On 16-01-1997 he shifted the squad of 2 verifiers from CHQ to Waiong in a BRTF vehicle free of cost but raised a false contingent bill towards hiring of a private truck with mala fide intention for personal gain.
- (ii) Raised false bills on higher rates on account of hire charges towards shifting of camp from Hayuliang to Tezu on 04-04-1997 and from Tezu to Alubarighat on 12-04-1997, than he actually paid to hired truck for his personal gain.
- (iii) Raised false bills for ferry charges of 2 private trucks hired on 10-04-1997 for conveyance of camp equipments whereas these payments were not at all made as these were included in the negotiated hiring charge of the trucks.

Thus he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1) (i) & (iii) of CCS (Conduct) Rules, 1964.

ARTICLE-III

That the said Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No. 29 Party (NEC) during the period from December, 1996 to April, 1997 was required to disburse an sum of wages of 72 porters but he actually made payment to only 6 porters and showed that payment had been made to all of them. Thus he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1)(i) & (iii) of CCS (Conduct) Rules, 1964.

ARTICLE-IV

That the said Shri U.N. Mishra, Superintending Surveyor, O.C.No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field Camp of No. 29 Party (NEC) claimed in contingent bill bus fare paid to 37 porters from Tezu to Shillong on the close of the field, but the payment was made to 6 porters and no fare was paid at all to remaining 31 porters. Thus Shri U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.

ARTICLE-V

partly proved

That the said Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No. 29 Party (NEC) sold 246 Kgs of sugar in the open market at market rate for personal gain, whereas the sugar was purchased from Arunachal Pradesh Govt. Ration Shop for distribution amongst camp personnel. Thus he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.

- x -

[Signature]

To

Confidential

10-11-03

The Secretary to the Govt. of India,
Ministry of Science & Technology,
Dept. of Science and Technology,
Technology Bhavan,
New Mehrauli Road,
New Delhi- 110 016.

(Through proper channel)

Sub.: REPRESENTATION AGAINST FINDINGS OF INQUIRY OFFICER
AND ADVICE OF CVC.

Ref.: Your No. C-14012/01/99-VIG dated 6-10-2003.

Sir,

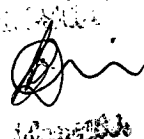
The charged officer has gone through the Inquiry Report and consequent advice of CVC received vide your above O.M.

The Inquiry Officer has proved the charge under Article I and partly proved the charge under article V. Hence this submission is against the findings of IO under these articles.

Article I

It is most humbly submitted that charge under this article can be divided into three parts:

1. The charged officer while performing his duties as camp officer in Arunachal Pradesh during Dec 1996 to April 1997 prepared fictitious muster roll of those porters who were not at all engaged



2. And also prepared muster roll for much longer period of those porters who were engaged for much shorter period

3. And claimed false contingent bills on account of those porters on various occasions during the period from 12-12-1996 to 9-4-1997.

My submission is as following:

1.1. While inviting your kind attention on this part of charge it is stated that 32 additional porters who were on the strength from 16-1-97 to 28-2-97 have been alleged to be fictitious. Muster roll of not even a single such porters have been prepared by the charged officer not even for a single day.

1.2. Records of muster rolls which is annexure to charge sheet shows that muster rolls of these porters were prepared by 8 plane tablers only who were working in the camp from 16-1-97 to 28-2-97.

1.3. Incidentally these 8 plane tablers are co-accused in the same case and charged under identical article of charge. It is learnt that their charge has not been proved in the same inquiry under same inquiring authority though they were taking attendance of these porters on the muster roll daily. It is also learnt that they have been exonerated by CVC. This clearly implies that muster roll of these porters prepared by the 8 plane tablers only is not disputed in same inquiry.

1.4. Therefore, the IO has done great injustice to the CO by proving this charge when it was clearly shown that such muster roll was not at all prepared by CO.

2.1. As regards second part of this article of charge i.e. preparation of muster roll of much longer period of those porters who were engaged for much shorter period, these porters were employed at PHQ at Shillong. Muster roll of these porters were prepared by CO time to time being Camp Officer. They were also handed over to respective plane tablers when they moved to their area of work.

Attested
[Signature]
[Signature]

2.2. In the whole inquiry proceeding not a single oral or documentary evidence has been produced which can prove this part of charge. Neither the PO nor the IO has mentioned any thing pertaining to this charge. So this part of the charge has no locus standi.

3.1. As regards third part of this article of charge i.e. claiming false contingent bill towards the wages of porters, no such bill was prepared by CO. Contingent bills towards the wages of porters were prepared by OC Party in party headquarters (PHQ) at Shillong. Therefore, question of claiming of false contingent bill by CO does arise. There is no evidence that any contingent bill towards wages of porters was prepared by CO. Not even a single contingent bill towards wages of porters has been raised or prepared and claimed by CO. (Ex. SW-4, Cross Exam Q4 and its answer may kindly be referred).

3.2. All payments towards the wages of porters were done on acquittance roll with signature or thumb impression of concerned porters with due identification by planetablers who had employed them. When these acquittance rolls were requested by the CO to produce as defence document same were denied by PO stating them untraceable. (Copy of PO's letter enclosed).

4. In his finding IO has found the statement of ACO (SW-5) where he has denied that he recruited any porter in the camp at Hayuliang which IO emphasizes as most important. In the written brief CO has shown that statements of ACO in the inquiry are full of contradiction and infirmity. Still IO has totally relied on one statement of ACO. In entire inquiry proceeding ACO has never said that there was any fictitious porter in the camp. In fact he had inspected the plane tablers and signed their muster rolls where such disputed porters exist and accepted that these porters were there physically in the strength of planetablers. Muster roll maintained by shri

Attested
[Signature]
Advocate

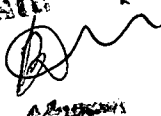
J.Kharmujai, p/tr gdeII dated 23/2/97 & 24/2/97, muster roll of shri S.P.Roy, p/tr gdeII dated 20/2/97 & 21/2/97 and muster roll of shri L.Rajwar, p/tr gdeII dated 22/1/97 may kindly be seen. All have been signed by ACO .Ex. SW-5, cross examination Q5 and its answer may kindly also be referred.

5. By this one statement of ACO the fact who recruited these porters at CHQ is disputed and it does not suggest in any way that additional porters were not in the strength of detachments. Once the porters were physically present as well as on the muster roll, they were either arranged by ACO or planetablers themselves as this responsibility of arrangement of porters was given to them by OC Party who is the authority for such recruitment. (Ex. SW-4, Q12 & 13 and their answer may kindly be referred).

In the existence of these porters recruitment is not the factor because it is simply arranging willing persons for this work without formalities of recruitment as per the practice.

6. It is the sole duty and responsibility of the person who fills the muster roll on daily basis to ensure the physical presence of porters. In the instant case it is the responsibility of none other than the plane tablers who maintained the muster roll.

7. So, on the basis of one statement of ACO who is also a co-accused in the same case analyzing and proving the whole charge is contrary to justice, please. IO has mentioned that it is a composit case and co-accused are the witnesses who have self interest. Why the same yard stick has not been applied for the statement of ACO ? All statements of SWs which are amply in favour of CO have not been taken care of in the analysis of IO. Ex. SW-3, Cross Exam Q4; Ex. SW-4, Exam-in-Chief Q13; Ex. SW-6, Exam-in-Chief Q7 & Cross Exam Q1; Ex. SW-2, Exam-in-Chief Q5 and their answer may kindly be referred.

AT

K. S. Rao

8. SW-1 is not a co-accused. In cross examination he has clearly stated that local people were employed. No staff in the camp belonged to local except these additionally employed porters.

9. The most important point which the charge officer wants to submit that statement of shri S.K.Sen, ACO (SW-5) recorded during preliminary inquiry was deliberately withhold by the presenting officer. It was not supplied to the charged officer despite his repeated requests (Copy of letters to IO pertaining to this aspect has been enclosed for your ready perusal).

It is not that his statement recorded during preliminary inquiry was not traceable as was the case of other very vital documents from defence point of view which were denied to CO on this pretext. It was very much there in the preliminary inquiry report. Copy of preliminary inquiry report was supplied to other co-accused but same was denied to CO. Statement of ACO recorded during preliminary inquiry was the most vital document for CO in absence of which he could not cross examined ACO in effective way.

10. Neither Investigating officer Brigadier P.K.Gupta, the then DNEC who conducted the preliminary inquiry neither the sole another member of two member inquiry board shri R.K.Nigam, DSS was examined in this inquiry who could have given light to the fact regarding who arranged porters in the field.

11. It is submitted that ACO developed serious grudges against the CO due to problem of stores as stores for camp were issued on invoices to ACO. He lost some stores recovery of which was made from CO by the then DNEC arbitrarily. To prove this point CO demanded these invoices but they were denied and was told that they were not traceable.

12 Name of the complainant, on whose complaint, preliminary inquiry was initiated was not disclosed to the CO. This was very essential to cross

[Signature]
14/11/1972

examine the complainant. By initiating a inquiry without any written or oral complaint, CO has been denied not only natural justice, it has flagrantly violated the guidelines issued by CVC in this regard also, please.

13. It is not mandatory for camp staff to live in tents. After about seven years of the incident, it can be verified even today that at many occasions detachments of camp lived in the surplus huts of army, BRO, schools etc. prevalent in the area. Further, invoices on which stores were issued can give the true picture of availability of tents and not any other document.

14. During inquiry no document of evidence was taken on record in respect of supply of tentage, availability of contingent advance, mode and amount of payment of advances to porters, custody of contingent advance etc. where as on basis of these PO has given confusing statements in his written brief which have been taken in to account for proving the charge.

15. Your kind attention is invited to the list of records for this inquiry. Camp officer book has not been included in the list ^{of} documents. CO has not got an opportunity to contradict and explain these irrelevant points raised by P.O. to defend himself during inquiry. He has not got an opportunity to cross examine the witnesses on these points also.

Firstly PO has imported his arguments based on a document Which is not a part of inquiry record. His arguments has no documentary or oral evidence to support and they have been stated arbitrarily. Secondly CO has not got opportunity to explain his arbitrary arguments. Unfortunately, IO has based his finding on these arbitrary arguments of PO's written brief which is totally contrary to justice, please.

16. On the request of permanent porters employed from Shillong as well as some of the group 'D' staff of the camp, their salary paid was kept with the CO

12/05/2013
[Signature]
12/05/2013

being camp officer on good faith as they could not send their salary to their homes due to non existent / poor postal service in the area as well as for safety of their paid salary as camp officer was only having bank account in his name. All these amounts were given to them on closing of camp. As such CO was having sufficient custodial money with him for paying wages/advances to additional 32 porters and he did not find necessity to demand more contingent advance when 28 additional porters were employed for 44 days and 4 for 16 days only. It was not safe to keep too much money in that remote area full of insurgency and hostile tribes.

17. As per the oral instructions of inspecting officers who inspected my camp three times during this field tenure, the money received from PHQ with acquittance roll (AR) for disbursement need not to be taken in cashbook of camp officer. After disbursement of such monies, AR were returned to PHQ. When salaries and wages did not reach the camp officer in time from PHQ, group 'D' staff, camp orderlies as well as porters were paid advances for their day to day expenditure from contingent advance available with CO/ verifiers on separate AR. When their regular salary/wages were received from PHQ, these advances were adjusted and balance monies were paid to them. These petty day to day advances were not reflected in the cash book neither by camp officer nor by verifiers who also paid advances to porters and others. This is a practice also. Under the circumstances, PO's contention that 'advances were also remained in the exclusive custody of CO and not paid to porters in time referring camp officer book which is not a part of list of document of this inquiry and believing same thing by IO in his finding without giving a chance to explain is totally arbitrary and against natural justice.

18. It is the duty of camp officer to disburse amounts correctly to the persons it is meant for. There is no denying this fact that in treacherous terrain devoid of communication facilities he can not do all the disbursements without the help of others. But all the payments were made with due identification of

the persons who employed the porters, i.e. the person who filled their muster roll on daily basis. (Ex SW-2, Exam- In -Chief Q8 and its answer and Ex SW-3 Exam-in-Chief, Q15 and its answer may kindly be referred). No evidence contrary to this has come up during the inquiry. There is no evidence that persons so employed were not paid.

19. Though written approval not obtained, OC Party (SW-4) who was my higher authority, has himself accepted that he gave verbal approval to employ additional porters. (Ex. SW-4, Exam. In Chief Q6 and its answer may kindly be referred). CO has no authority to ask for sanction for additional porters.

20. OC himself inspected the camp in Feb. '97 when these porters were actually at work. He did not asked to take approval in writing.

21. The cashbook of planetablers though asked for by CO was not provided to him. This could have shown the record that some of the planetablers had already started doing camp shifting with the help of local persons on contract basis on very higher rates as 4 (four) porters with them prior to employment of additional porters were not sufficient for the purpose. (this fact is recollected). Therefore, to have a better control on expenditure OC decided to employ additional porters for a minimum period during peak camp shifting requirement and for transportation of rations and minimum jungle clearance etc. for work. No plane tabler ever told in his deposition that he did not require these additional porters. PO on his own saying this in his written brief arbitrarily and IO brings it in his finding which is something not logical.

22. How more porters were required for the detachments of 12 Party and 9 Party working in adjoining sheets during same period on much easier ground and same will not be required for detachments of 29 Party which were working on far far difficult terrain? IO has totally ignored this aspect. The fact that work was

171
[Signature]

completed in all respect with good quality, itself speaks that these porters were engaged. Because it was not possible to complete the work timely without them. (kindly refer DNEC's inspection note marked as EXD-1& EXD-3 and EXD-4 which shows 40 porters were given to 4 planetablers of No.9 Party)

23. The CO in his representation to his disciplinary authority dated 12/2/2001 submitted that CO was not knowing the name and address of porters and their deployment because whatever name was given by them was recorded. Their addresses were not verified on ground as it was not a regular practice during that time. Further they were kept on moving for arranging ration, camp shifting etc. It should not be interpreted that they were not engaged.

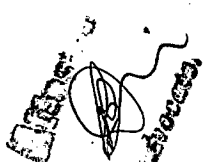
24. The verification of these porters was not done by the new OC of 29 Party shri P.K.Sen, officer surveyor and deliberately retrenched the payments made on acquittance roll on the likely arbitrary instruction of the then DNEC.

25. So, CO refunded the whole retrenched amounts from his own savings and taking loans from relatives and friends once the payment was disputed to avoid blemishes.

26. As CO was an eye shore for the then DNEC because of his extreme biasness and hostility towards CO which is evident how he secretly asked shri P.K.Sen, OS to retrench the amounts without verification. Nobody stopped him to visit the area of camp work and verify the existence of these porters in the camp and settle the matter. Therefore, CO did not find it of any help to represent against retrenchments before him being superior authority to shri P.K.Sen, officer surveyor, O.C.No. 29 Party.

27. Great injustice is being done to CO by doubting the existence of these porters at this stage without proper verification inspite of the fact that disputed amount was retrenched and recovered more than 6 years back, &

172



years prior to initiation of this inquiry. Further, in this inquiry the 8 planetablers who actually employed them on their muster roll have been exonerated (as learnt) as it was not proved that they employed any fictitious porter on their muster rolls.

28. OC has himself accepted his lapse in not obtaining sanction for these porters from competent authority. Obtaining sanction is not the duty of CO. (Ex. SW-4, Exam-In-Chief Q5 and its answer may kindly be referred.)

But having no sanction does not make these porters non engaged. A junior officer should not be punished for lapses on part of his senior officer. Cheques against a bill raised by OC Party is issued by DNEC's office. How a camp officer can know sitting at far flung place that the money which he has received for disbursement has no sanction of competent authority?

29. Malice & Biasness of the then DNEC towards the charged officer:

29.1. During his tenure in Shillong, the then DNEC was doing private business as AMWAY distributor misusing his influence on subordinate employees and also pressurising them. Despite his persuasion to become a member of it, the CO did not become a member of AMWAY because he was not having money which made him vindictive towards CO. He threatened him to see in future. This fact can be verified even today. Many employees are its member made by him.

29.2. The then DNEC did not take the approval of Competent authority for conducting preliminary inquiry against the charged officer and he did so without any written or oral complaint.

A handwritten signature in dark ink is written over a circular official stamp. The stamp contains some text, but it is mostly illegible due to the signature and the quality of the scan.

-11-

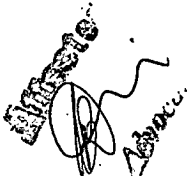
29.3 CO was working in 29 party on verbal instruction of the then DNEC. He was neither posted there nor attached there. This itself shows how verbal instructions were more effective in place of written instructions. Therefore, he could not command same authority over the staff of camp what he is expected to do.

29.4 Towards the end of year 1995, the then DNEC was superceded by a civilian officer who was junior to him as Addl. Surveyor General as per 1989 rule. This made him totally ill tempered and vindictive towards civilian officers. The freshly recruited group 'A' officers became his eye sore. No body else could have been easier prey to his design than the CO who was on probation and totally new to the department not at all conversant with rule and regulations. He sent him as camp officer in most difficult terrain which was his first field exposure as camp officer. He made a plot to show the inefficiency of civilian officers. It seems that a case was made out to be where actually it does not exist at all.

29.5 After this field work, CO was to take over the charge of No. 12 Party where he was actually posted by Surveyor General Of India. One group 'B' officer who was working as OC in no. 12 party was very favourite to the then DNEC. Not to disturb him, DNEC made this plot exactly at the same time with the help of other employees many days after the successful completion of field work with vested interest. (Copy of order of taking over the charge of No. 12 Party enclosed.)

30. Conclusion:

Muster roll of not a single porter out of 32 additionally employed porters which are in question not for a single day has been

A handwritten signature in dark ink is written over a rectangular stamp. The stamp contains some text, but it is mostly illegible due to the signature and the quality of the scan. The signature appears to be written in a cursive style.

prepared by CO. Not a single contingent bill towards the wages of porters has been prepared or claimed by CO. Second part of this article of charge has no locus standi. Fictitiousity of additionally employed 32 porters whose muster rolls have been maintained by 8 plane tablers has not proved in same inquiry.

In view of these facts, proving the charge based on the arbitrary arguments of PO derived from a document which is not a part of the record of inquiry without giving a chance to CO to explain and denying vital documents from defence point of view is contrary to justice, please.

In the above analysis, the CO has proved his innocence. All the govt. money which the charged officer received from office for field work has been reconciled and accounted for. As such there should not have any charge against the CO from the date of reconciliation of bills, but still he is suffering from prolong disciplinary proceedings.

ARTICLE V

In his representation dated 12/3/2001 given to the secretary, M/O Science and Technology in response to the charge sheet issued to him, CO has not stated with certainty that the camp khalasi sold any sugar in open market. The only fact in his notice was dampness of some sugar due to rain.

CO had admitted his failure to control over sale if at all it was done so in open market or outside the camp.

A handwritten signature and the initials 'ADW' are visible in the bottom left corner of the page.

IO also finds that there is no oral or documentary evidence to prove that any sugar was sold outside or in open market at the rate of 15 per kg.

Camp Khalasi who used to issue sugar on payment to camp staff was a prosecution witness. He could not be produced in the inquiry. In absence of his statement or any other evidence, it can not be said that any sugar was sold outside or in open market any time and CO failed in control over sale of sugar.

In view of this submission, it is prayed that this article of charge may please be dropped completely.

PRAYER

Being newly recruited probationer to the department, CO was not at all conversant to the working of camp officer. Neither Technical nor Administrative instructions were issued to him nor any guidance was given by senior authorities. He had absolutely no previous experience of the work of camp officer. Under the circumstances, some omissions are bound to occur inadvertently for which he regrets sincerely. All the disputed amounts were retrenched and thus deposited in Govt. account long back as such everything is accounted for and settled.

The charged officer has carried out all the govt. work assigned to him sincerely and honestly with full vigour to prove his caliber and honesty till today without any blemish. It is further prayed that his performance can be ascertained from his controlling officers of all these years and ACR dossiers etc. He has contributed his best in timely digitization of topo sheets as well as other areas of technological upgradation for the department.

14-11-2001
Dri
Advocate

Therefore, the charged officer prays with all humility that a lenient and upright view may kindly be taken and he may kindly be exonerated from all the charges, please.

Thanking you,

Encl.: As above.

Place: Shillong

Dated 10/11/03

Yours faithfully,



(U.N. Mishra)

Superintending Surveyor,
O.C.No. 12 DO (NEC)
Survey of India, Shillong.
(Charged Officer)

Attest

Attest

0364-224937
GRAM: "SURNOREAST"
FAX 0364-224937
E-Mail soil@sancharnet.in

ANNEXURE-15
MEGHALAYA & ARUNACHAL
PRADESH GDC
POST BOX NO. #89
MALKI, SHILLONG - 793 001

SURVEY OF INDIA
CONFIDENTIAL

No C-280/17-A-6(UNM)

Dated the 06 June, 2005

To

✓
Shri U.N. Mishra,
Superintending Surveyor,
M&Ar.P. GDC,
Survey of India,
Shillong.

Sub:

DISCIPLINARY PROCEEDINGS AGAINST SHRI U.N. MISHRA,
SUPERINTENDING SURVEYOR.

Please find enclosed Department of Science & Technology's Order No.C-14012/01/99-Vig(2) dated 16.05.2005 alongwith a copy of UPSC's advice No.F.3-527/03-S.I. dated 30.11.2004, received vide Surveyor General's letter No.VIG-2083/577-M&AP GDC dated 26.05.2005 for your information.

Receipt of the same may please be acknowledged.

Encl:

As above:

(B.D. SHARMA) BRIGADIER,
DIRECTOR, MEGHALAYA & ARUNACHAL PRADESH GDC

Copy to:

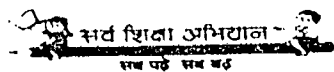
The Surveyor General of India, Dehra Dun w.r. to his letter No. VIG-2083/577-M&AP GDC dated 26.05.2005 for information, please.

Attested
Advocate



भारत सरकार
विज्ञान और प्रौद्योगिकी मंत्रालय
विज्ञान और प्रौद्योगिकी विभाग
टेक्नोलॉजी भवन, महारौली मार्ग
नई दिल्ली 110016

GOVERNMENT OF INDIA
MINISTRY OF SCIENCE AND TECHNOLOGY
DEPARTMENT OF SCIENCE AND TECHNOLOGY
TECHNOLOGY BHAVAN, NEW MEHRAULI ROAD
NEW DELHI 110016



-152-

By Courier

गोपनीय/Confidential GREAT ARC

75 YEARS
CHINA 1949

TELEGRAM

SCIENCE/IT

TELEAX

SCIENTECH

26862819, 26867373,

26862134, 26862122 (H. BAZ)

26869908, 26864570,

26863847, 26862418

No.C-14012/01/99-Vig.(2)

Dated 16.05.2005.

ORDER

WHEREAS disciplinary proceedings under Rule 14 of CCS (CC&A) rules 1965 were initiated against Shri U.N. Mishra, Superintending Surveyor, Survey of India vide Ministry of Science & Technology, Department of Science & Technology's OM No. C-14012/01/99-Vig dated 17.01.2001 on the following articles of charge:

ARTICLE-I

That the said Shri U.N. Mishra, Superintending Surveyor while posted as Deputy Superintending Surveyor, No. 12 Party (NEC) was attached to No. 29 Party (NEC) and appointed as Camp Officer of Camp No. 1 during field season 1996-97.

While performing the duties of the Camp Officer in Arunachal Pradesh during the period December, 1996 to April, 1997, the said Shri U.N. Mishra with malafide intention prepared fictitious muster rolls of those porters who were not at all engaged and also prepared muster rolls for much longer period of those porters who were engaged for much shorter period and claimed false contingent bills on account of wages of these porters on various occasions during the period from 12.12.1996 to 09.04.1997. Thus the said Shri Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3(1) (i) & (iii) of CCS(Conduct) Rules, 1964.

ARTICLE-II

That the said Shri U.N. Mishra, Superintending Surveyor, OC No. 5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No. 29 Party (NEC) during the period from December, 1996 to April, 1997 raised false bills on various occasions on account of hiring of private trucks for shifting of camps, ferry charges etc. in following events:

.....2/-

[Signature]
Secretary

[Signature]

- (i) On 16.01.1997 he shifted the squad of 2 verifiers from CHQ to Walong in a BRTF vehicle free of cost but raised a false contingent bills towards hiring of a private truck with mala fide intention for personal gain.
- (ii) Raised false bills on higher rates on account of hire charges towards shifting of camp from Hayuliang to Tezu on 04.04.97 and from Tezu to Alubarighat on 12.04.97, than he actually paid to hired truck for his personal gain.
- (iii) Raised false bills for ferry charges of 2 private trucks hired on 10.04.97 for conveyance of camp equipments whereas these payments were not at all made as these were included in the negotiated hiring charge of the trucks.

Thus, he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1) (i) & (iii) of CCS (Conduct) Rules, 1964.

ARTICLE-III

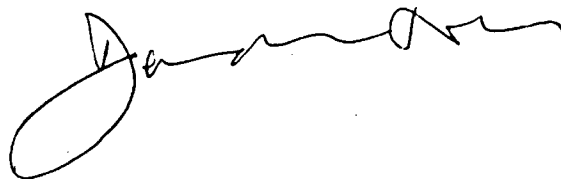
That the said Shri U.N. Mishra, Superintending Surveyor, OC No. 5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No. 29 Party (NEC) during the period from December 1996 to April, 1997 was required to disburse arrear of wages of 72 porters but he actually made payment to only 6 porters and showed that payment had been made to all of them. Thus, he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1) (i) & (iii) of CCS (Conduct) Rules, 1964.

ARTICLE-IV

That the said Shri U.N. Mishra, superintending Surveyor, O.C. No. 5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field Camp of No. 29 Party (NEC) claimed in contingent bill bus fare paid to 37 porters from Tezu to Shillong on the close of the field, but the payment was made to 6 porters and no fare was paid at all to remaining 31 porters. Thus, Shri U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1) (i) & (iii) of CCS (Conduct) Rules, 1964.

.....3/-

Attested
Shri
Advocate



ARTICLE-V

That the said Shri U.N. Mishra, Superintending Surveyor, O.C. No. 5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field Camp of No. 29 Party (NEC) sold 246 Kgs of sugar in the open market at market rate for personal gain, whereas the sugar was purchased from Arunachal Pradesh Govt. Ration Shop for distribution amongst camp personnel. Thus, he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3(1) (i) & (iii) of CCS (Conduct) Rules, 1964.

WHEREAS the said Shri U.N. Mishra in his letter dated 10.11.2003 denied the article(s) of charge against him and desired to be heard in person.

WHEREAS Shri S.C. Jarodia, CDI, Central Vigilance Commission was appointed as the Inquiring Authority to inquire into the charges framed against the said Shri U.N. Mishra vide Ministry of Science & Technology Order No. C-14012/01/99-Vig. Dated 21.06.2001.

WHEREAS the said Inquiring Authority submitted its report dated 14.07.2003 to the Disciplinary authority/President in which he held that the charges against Shri U.N. Mishra vide Article I stand proved whereas Article-II, Article-III and Article-IV do not stand proved. Article-V has partly been proved.

WHEREAS the report of the Inquiring Authority together with findings of the disciplinary authority were referred to the CVC for their second stage advice;

WHEREAS the CVC tendered its second stage advice vide its letter No. 000/SC/T/003 dated 26.09.2003 recommending imposition of suitable major penalty on Shri U.N. Mishra.

WHEREAS the report of the Inquiring Authority together with the second stage advice of CVC along with other relevant papers were forwarded to the said Shri U.N. Mishra to enable him to make his representation/submission, if any, vide Ministry of Science & Technology OM No. C-14012/01/99-Vig dated 06.10.2003;

WHEREAS the said Shri U.N. Mishra submitted his representation dated 10.11.2003 against penalty proposed above;

WHEREAS the Disciplinary Authority after careful examination of the said representation and other related documents, concluded provisional penalty of reduction of pay by three stages for a period of three years on Shri U.N. Mishra.

.....4/-

10/11/2003
Adm. Secy.

[Signature]

WHEREAS the case of the said Shri U.N. Mishra was referred to the UPSC being a Group 'A' officer vide Ministry of Science & Technology's U.O.No. C-14012/01/99-Vig dated 09.07.2004 with all relevant records of the case for advice.

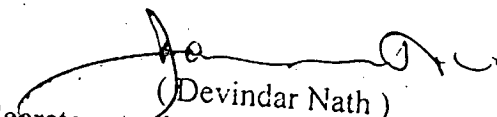
WHEREAS the UPSC vide their letter No. F.3/527/03-S.I dated 30.11.2004 advised that the ends of justice would be met in this case, if the pay of the CO is reduced by three stages for a period of three years with further directions that during the period of such reduction the CO will not earn increments and the penalty will not have the effect of postponing his future increments of pay.

AND WHEREAS, the Disciplinary Authority/President after going through the findings of the Inquiry Report, CVC's advice, Representation of the Charged Officer, Disciplinary Authority's tentative conclusion of proposed penalty and advice of the UPSC, is of the view that ends of justice will only be met by imposing the penalty of reduction of the pay in the time scale of pay of Rs. 10000-325-15200 of Shri U.N. Mishra by three stages for a period of three years with further directions that during the period of such reduction the Charged Officer will not earn increments and the penalty will not have the effect of postponing his future increments of pay.

NOW THEREFORE, the Disciplinary Authority/President orders imposing the penalty of reduction of the pay of Shri U.N. Mishra by three stages in the time scale of pay of Rs. 10000-325-15200 for a period of three years with further directions that during the period of such reduction the Charged Officer will not earn increments and the penalty will not have the effect of postponing his future increments of pay. ✓

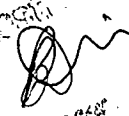
2. A copy of this Order will be placed in the C.R. folder of the said Shri U.N. Mishra, Superintending Surveyor, Survey of India.

(By Order and in the name of the President)


(Devindar Nath)
Deputy Secretary to the Govt. of India
Tel. No. 26519947

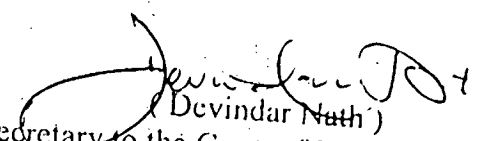
✓
Shri U.N. Mishra,
Superintending Surveyor,
Survey of India,
(Through SOI, Dehradun)

(along with a copy of UPSC letter No. F.3/527/03-S.I dated 30.11.2004)


21/02/2005

Copy to:

1. The Secretary, Central Vigilance Commission, , Block-A, GPO Complex, INA, Satarkata Bhawan, New Delhi - 110023 w.r.t. their letter No. 000/SCT/003 dated 26.09.2003.
2. The Secretary, UPSC, Dholpur House, Shahjahan Road, New Delhi - 110011 w.r.t. their letter No. F.3/527/03-S.I dated 30.11.2004.
3. The Surveyor General, Survey of India, Hathibarkala Estate, Dehradun - 248001. It is requested that original copy of the Penalty Order along with UPSC's advice may be sent to Shri U.N. Mishra under proper receipt. The original receipt from Shri Mishra of the said documents may be furnished to this Department at the earliest.


(Devindar Nath)
Deputy Secretary to the Govt. of India

Attest

Secretary

CONFIDENTIAL



ADVICE OF
UNION PUBLIC SERVICE COMMISSION
IN THE
DISCIPLINARY PROCEEDINGS
AGAINST
SHRI U.N. MISHRA, SUPERINTENDING SURVEYOR,
MINISTRY OF SCIENCE AND TECHNOLOGY.

Advocate
[Signature]
Advocate

संघ : UNISERCOM
ग्राम

Telex : 031-62677
Fax : 011-3385345

CONFIDENTIAL
No. F.3/527/03-S.I

संघ लोक सेवा आयोग

धीलपुर हाउस, शाहजहां रोड

UNION PUBLIC SERVICE COMMISSION

(SANGH LOK SEVA AYOG)

DHOLPUR HOUSE, SHAHJAHAN ROAD

सेवा में
To

नई दिल्ली-110011
New Delhi-110011

The Secretary to the Govt. of India
Ministry of Science & Technology
Department of Science & Technology
Technology Bhavan, New Mehrauli Road,
New Delhi -110016

Dated 30.11.2004

(Attention: Sh. Devindar Nath, Under Secretary)

Subject: Disciplinary proceedings initiated against Sh. U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong.

Sir,

I am directed to refer to your letter No.C-14012/01/99-VIG dated 9.7.2004 on the subject mentioned above and to communicate the advice of the Commission as under.

2. The DA vide their Memo No.C-14012/1/99-Vig. dated 17.01.2001 conveyed to Sh. U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong that it was proposed to hold an enquiry against him under Rule 14 of the CCS (CCA) Rules, 1965 and he was called upon to answer the following Articles of Charge.

Article-1

That the said Sh. U.N. Mishra, Superintending Surveyor while posted as Deputy Superintending Surveyor, No.12 Party (NEC) was attached to No.29 Party (NEC) and appointed as Camp Officer of Camp No.1 during field season 1996-97.

While performing the duties of the Camp Officer in Arunachal Pradesh during the period December, 1996 to April, 1997, the said Sh. U.N. Mishra with malafide

AC-101
Di
10/12/04

B...

intention prepared fictitious muster rolls of those porters who were not at all engaged and also prepared muster rolls for much longer period of those porters who were engaged for much shorter period and claimed false contingent bills on account of wages of these porters on various occasions during the period from 12.12.1996 to 9.4.1997. Thus the said Sh. U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1) (i) & (iii) of CCS (Conduct) Rules, 1964.

Article-II

That the said Shri U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No.29 Party (NEC) during the period from December, 1996 to April, 1997 raised false bills on various occasions on account of hiring of private trucks for shifting of camps, ferry charges etc. in following events:

- i) On 16.1.1997 he shifted the squad of 2 verifiers from CHQ to Walong in a BRTF vehicle free of cost but raised a false contingent bills towards hiring of a private truck with malafide intention for personal gain.
- ii) Raised false bills on higher rates on account of hire charges towards shifting of camp from Hayuliang to Tezu on 4.4.97 and from Tezu to Alubarighat on 12.4.97, than he actually paid to hired truck for his personal gain.
- iii) Raised false bills for ferry charges of 2 private trucks hired on 10.4.97 for conveyance of camp equipments whereas these payments were not at all made as these were included in the negotiated hiring charge of the trucks.

Thus he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1) (i) & (iii) of CCS (Conduct) Rules, 1964.

Article-III

That the said Sh. U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No.29 Party (NEC) during the period from December, 1996 to April, 1997 was required to disburse arrear of wages of 72 porters but he actually made payment to only 6 porters and showed that payment had been made to all of them. Thus he failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1) (i) & (iii) of CCS (Conduct) Rules, 1964.

Article-IV

Attested
Signature
Advocate.

Signature

That the said Sh. U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No.29 Party (NEC) claimed in contingent bill bus fare paid to 37 porters from Tezu to Shillong on the close of the field, but the payment was made to 6 porters and no fare was paid at all to remaining 31 porters. Thus Sh. U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1) (i) & (iii) of CCS (Conduct) Rules, 1964.

Article-V

That the said Sh. U.N. Mishra, Superintending Surveyor, O.C. No.5 Party (NEC), Survey of India, Shillong, while functioning as Camp Officer in the field camp of No.29 Party (NEC) sold 246 kgs. of sugar in the open market at market rate for personal gain, whereas the sugar was purchased from Arunachal Pradesh Govt. Ration Shop for distribution amongst camp personnel. Thus Sh. U.N. Mishra failed to maintain absolute integrity and acted in a manner unbecoming of a Govt. servant and thereby violating Rule 3 (1) (i) & (iii) of CCS (Conduct) Rules, 1964.

2.1 A statement of imputation of misconduct/misbehaviour on the part of the CO in support of the article of charge, a list of documents by which and a list of witnesses by whom the article of charge framed against the CO are proposed to be sustained were also annexed with the Charge Memo.

2.2 The CO, vide his letter dated 12.3.2001 denied the charges. The case was remitted for an open inquiry. The IO, in his report dated 14.7.2003, held Article I as proved, Article V as partly proved and Articles II, III & IV as not proved. The DA accepted the findings of the IO and, vide letter dated 6.10.2003, forwarded a copy of the IO's Report to the CO for his representation, if any. The CO submitted his representation vide letter dated 10.11.2003. After considering the IO's Report, CO's representation and other aspects of the case, the President (Minister, Science & Technology) has tentatively proposed imposition of suitable major penalty on the CO and forwarded the case records to the Commission for advice.

3. The Commission observe that briefly the facts of the case are that the task of verification of blue prints of the land survey within Lohit District of Arunachal Pradesh was entrusted to Unit No.29 Party' of the Survey of India by North Eastern Circle (NEC). The verification was conducted during the field season from December, 1996 to April, 1997 under the supervision of Sh. R.K. Meena, Superintending Surveyor, as Officer-in-Charge (OC) of 'No.29 Party'. For this purpose, a survey camp was set up at Hayuliang with Sh. U.N. Mishra, Dy. Superintending Surveyor (CO), as the Camp Officer, Sh. S.K. Sen, Surveyor, as the Assistant Camp Officer and they were supported by 8 other Group 'C' Div.II personnel as Verifiers. Besides the normal strength of Group 'D' staff, 40 permanent porters were sanctioned (8 Verifiers with 4 porters each and 8 porters with the CO).

187

187

187

Based on some information regarding gross financial irregularities in the field camp, the Director, North Eastern Circle, Survey of India, Shillong, conducted a preliminary inquiry which found irregularities in engagement of porters, hiring of trucks, payment of arrears of wages to porters, payment of bus fare to porters and sale of ration sugar in the open market. Major disciplinary proceedings were recommended to be initiated against the CO.

4. The Commission observe that since Article-II, III and IV have been held as not proved by the IO and the DA has agreed to the same, their advice is restricted only to Article-I and V.

Article-I

5. The Commission observe that the charge against the CO is that in his capacity as Camp Officer, he prepared fictitious muster roll of those porters who have not at all been engaged; prepared muster roll for much longer period of those porters who had been engaged for much shorter period; and claimed false contingent bills on account of those porters on various occasions. It is noticed that both the CO and his Asstt. Camp Officer (ACO) have denied having engaged any additional porters. However, the OC, Shri R.K. Meena, has stated that during one of his visits to Camp Officer in January, 1997, the CO and the ACO had requested him for permission to recruit extra porters. He has, however, added that there was no written communication from either side and the extra porters were engaged on his verbal orders. It is also observed that there is no evidence produced either by the DA or by the CO that the OC had made demands for increase in the strength of porters justifying engagement of additional porters. The PO had rightly observed in his brief that when only verbal approval for recruitment was given, the CO had more reasons to forward the list of porters supposedly recruited to his OC thereby confirming the action taken by him in pursuance of verbal orders. According to practice in the Government offices, oral orders must always be followed by written ones or the officer taking action should seek written orders.

6. The Commission observe that it is evident that the CO did not seek written orders from the OC and forwarded the muster rolls of 72 porters for preparation of bill at the end of month by increasing number of porters beyond the sanctioned strength of 40 porters. It is also observed that there is no evidence produced either by the DA or by the CO to the effect that there was any demand for increasing the strength of porters. It is thus seen that there was no engagement of additional 32 porters at the Camp and the names of all the 32 porters shown in the muster roll were presumably fictitious.

7. The Commission observe that the muster roll of 72 porters was forwarded for preparation of bill under the signature of the CO and he has verified the left thumb impressions of such porters and also signed the Acquittance Rolls. The plea of the

[Handwritten signature and initials]

[Handwritten signature]

CO that this being his first assignment as Camp Officer, he was fully dependent on his superiors and juniors for administrative and financial procedures is untenable. He cannot be absolved of his responsibility by merely stating this. The CO should have also applied his mind when, according to him, he was misguided by his immediate superior (OC) and subordinate (ACO). The charge under this Article is held as proved against the CO.

Article-V

8. The Commission observe that the charge against the CO is that he sold 246 kgs. of sugar purchased from Arunachal Pradesh Government Ration Shop, in the open market for personal gain. The CO has stated that on being informed by the Camp Khalasi that two bags of sugar had become damp due to rains, he asked the Camp Khalasi in charge to sell the same immediately among camp staff. He has contended that there being no response from the camp staff, the Khalasi might have sold the sugar in the open market to avoid loss. The CO has admitted that he received the sale proceeds at the rate at which it was supposed to be sold to the camp staff. The PO could not produce any documentary or oral evidence to prove that the sugar was sold at the open market rate. However, as the IO has observed the CO has definitely failed in exercising control over the sale of sugar by the Camp Khalasi. The Commission observe that to this extent the charge may be held as proved.

9. 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 the ends of justice would be met in this case if the pay of the CO is reduced by three stages for a period of three years with further directions that during the period of such reduction the CO will not earn increments and the penalty will not have the effect of postponing his future increments of pay. They advise accordingly.

10. A copy of the order passed by the Ministry in this case may be sent to this Office for Commission's perusal and records.

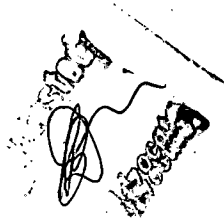
11. The case records as per the list are enclosed. The receipt of these may kindly be acknowledged.

Yours faithfully,



(Bachchan Kujur)
Under Secretary

- Encl. 1. Case records as per list attached.
2. Two spare copies of this letter.



190

[Handwritten signature]

GUWAHATI BENCH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI

Filed by

the respondents

*Through Grantee Binaya
Sr. Clerk*

O.A. NO. 300 OF 2005

Sri U.N. Mishra

..Applicant

-vs-

Union of India & Ors...Respondents

The written statement on behalf of
the Respondents above named-

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHENETH:

1. That with regard to the statements made in paragraph 1 of the instant application the answering respondents beg to state that in the President is the appointing authority in this case and the Memo was issued as per Rules which clearly indicate the applicant's guilt in the matter, hence his plea is not true and unacceptable.

2. That with regard to the statements made in paragraph 2 and 3 of the application the answering respondents beg to offer no comment.

Contd...P/-

3. That with regard to the statements made in paragraph 4.1 of the application the answering respondents beg to state that the averment of the applicant is not correct, hence the same are denied. An Enquiry Officer and a Presenting Officer was appointed to find out the fact/truth of the case as he denied the charges framed on him. In the subject matter the Enquiry officer's report is based on all the available records which clearly enlighten the applicant's guilt in the matter.

4. That with regard to the statements made in paragraph 4.2 of the application the answering respondents beg to offer no comment.

5. That with regard to the statements made in paragraph 4.3 to 4.5 of the application the answering respondents beg to state that those are matter of records and the respondents do not admit anything which are not borne out of records.

6. That with regard to the statements made in paragraph 4.6 of the application the answering respondents beg to state that these are matter of records and the respondents do not admit anything which is not borne out of record.

Contd...P/-

[3]

7. That with regard to the statements made in paragraph 4.7 of the application the answering respondents beg to state that since all the above decisions were taken considering the real fact of minimising the expenses and to avoid any unwanted/difficult situation during the field work hence there was nothing wrong. But since the porter were not actually appointed therefore, the plea of the applicant is baseless and denied as concocted false, baseless and unmotivated.

8. That as regard to the statements made in paragraph 4.8 of the application the respondents beg to state that the plea of the applicant cannot be accepted. Since he was the camp officer and it was his duty to ensure about the presence of all the partners whether engaged at site or at camp Head Quarter before signing/claiming their wages.

9. That with regard to the statements made in paragraph 4.9 of the instant application the respondents beg to state that those are untrue, false and incorrect hence the same are denied. It is denied that the additional porters were engaged and it is further denied that only after the due sanction and approval of officer incharge. It is clear from the enquiry report against the charged officer that no approval or sanction was obtained from the competent authority. It was also

Contd...P/-

found that there was no demand from the squad incharge for the increased strength of porters.

10. That with regard to the statements made in paragraph 4.10 of the application the respondents beg to state that the matter came to the notice of the authority little late, by the time he got promotion does not reveal that the disciplinary action cannot be initiated against him. The charged officer was served memorandum of charges based on the facts/records.

11. That with regard to the statements made in paragraph 4.11 to 4.14 of the application the answering respondents beg to state that these are matter of records and the answering respondent does not admit anything which is not borne out of records.

12. That with regard to the statements made in paragraph 4.15 of the instant application the respondents beg to state that the averment of the applicant is not correct. Since the event was held in field camp and it do take time to find out the truth. All the Govt. instructions and norms of inquiry proceedings were followed as per rules therein.

13. That with regard to the statements made in paragraph 4.16 of the application the respondents beg to state that the averment of the applicant is not

Contd...P/-

[3]

correct and hence the same are denied. As per his statement Shri S.K. Sen ACD had recruited 4 porters additional for each plane tabler on verbal orders of the officer incharge for which he assured to the necessary sanction from DNEC, but as per inquiry report no such sanction was obtained. The applicant was the camp officer, how a subordinate employee Shri A.K. Sen, ACD, who has no power to do any work without permission of camp officer, can recruit said porters. He can not escape from his responsibilities by taking the said plea.

During the course of inquiry Shri S.K. Sen, Assistant Camp officer categorically denied having engaged any extra porters in the camp. No sanction was obtained from the competent authority for engaging the extra porters but still their wages were claimed by the applicant. Hence it clearly shows that this is a composite case where the witnesses were also co-charged in the same case and all of them had a common interest and they all had joined hands to prepare fake muster rolls of additional porters beyond the approved strength.

The averment of the applicant that he was not connected with collection or disbursement of ration is not correct. It is amply clear from the enquiry report that no administrative instructions were issued by D.C. Party in this regard, but buying a huge quantity of sugar (400 kg) in quick succession in consecutive months by using Govt. money and then finding it surplus as his well planned act. Since he himself had asked his khalsi

Contd...P/-

[6]

to dispose of it hastily and received the money, was a well executed act. The ACO who was also associated in managing the ration in camp was deliberately ignored who confirms his plan of personal gain by selling sugar in open market. It will also not out of way to mention here that porters of that area mostly depend on rice, salt and dal apart from their bronze. Sugar is not in their list of demand when employed on any squad strength. Hence drawing sugar from PDS at Control rate in huge quantity was not required and this was done for the purpose of personal gain.

14. That with regard to the statements made in paragraph 4.17 to 4.20 of the instant application the respondents beg to state that the averment of the applicant is not correct. Since the result of the enquiry comes out only after completion of all the proceedings, hence his statement to the effect that during the course of enquiry there was nothing to prove his guilt is absolutely wrong. He had produced the records and some witnesses towards proving his innocence could not even satisfy their point of innocence.

The applicant was penalised only on the basis of final report of Inquiry Officer which was based on material facts and witnesses and is enough to prove his guilt and involvement in the matter. The report was also sent to the applicant for his comments/representation but the applicant failed to prove his innocence due to lack of any supportive evidences.

Contd...P/-

15. That as regard to the statements made in paragraph 4.21 and 4.22 of the application the respondents beg to state that those are mater of records and the respondents do not admit anything which are not borne out of records.

16. That with regard to the statements made in paragraph 4.23 of the application the respondents beg to state that the averment of the applicant is not correct. Two other officers namely Shri A.K. Meena, Superintending Surveyor, and Shri S.K. Sen, ACD who were involved in the recruitment of the porters were also charge sheeted and awarded punishment. The preliminary enquiry was conducted to determine whether any prima facie cases against the persons involved in the case. To provide preliminary enquiry report was not considered essential by the respondents as the regular enquiry report was sent to the applicant. Therefore, no irregularities were committed during the proceedings.

17. That with regard to the statements made in paragraph 4.24 and 4.25 of the application the respondents beg to state that the statements are false and hence denied. All the muster rolls regarding wages of porters were verified and signed by the camp officer i.e. the applicant, clearly shows his direct involvement in the matter. The averments of the applicant that the findings of the Enquiry officer are perversive and bias

[8]

is not correct and hence denied. Findings of I.O. are based on material facts and witnesses therefore the Article No.1 and V of the charges framed against the applicant were proved beyond do not.

18. That as regard to the statements made in paragraph 4.26 of the application the respondents beg to state that for initiation of disciplinary proceedings in the cases wherein Group "A" Officers are involved, it is mandatory to obtain the advice of the CVC. It is denied that the entire proceeding was initiated and concluded as per direction of CVC.

19. That with regard to the statements made in paragraph 4.27 of the application the answering respondents beg to state that the disciplinary authority acted as per the existing rules in the subject matter and accordingly CVC's advice was obtained. Before imposing any penalty on the applicant the UPSC has also been consulted in this case.

20. That as regard to the statements made in paragraph 4.28 of the application the answering respondents beg to state that the applicant's statement to the effect that disciplinary authority, CVC and even UPSC have not analyzed the records and have intentionally imposed penalty on him is not correct and hence denied. The penalty imposed on the applicant was decided only

Contd...P/-

[9]

after going through the enquiry report along with all records/supportive documents and the govt. instructions/orders to be followed in such cases. Hence all the blames made by the applicant on Disciplinary Authority CVC and UPSCC are baseless and denied.

21. That with regard to the statements made in paragraph 4.29 of the application the answering respondents beg to state that the averment of the applicant is not correct, hence denied. The Disciplinary proceedings were initiated as per existing rules and regulations in the matter. The disciplinary authority after considering all the relevant records and applying their mind came to the conclusion to impose major penalty on the applicant.

22. That in respect of the statements made in paragraph 4.30 of the application the answering respondents beg to state that those are incorrect and unmotivated. The field hands (P/Trs) were working under camp officer, therefore, any fault/mistake or irregularities committed by the field hands (P/Trs) the Camp Officer is fully responsible. All the officers involved in this case were dealt in accordance with existing rules. Some plane tablers (Group-C) have been exonerated from the charges because of lack of substantial evidence as per finding of Inquiry Report. Therefore, the case of applicant i.e. Shri Miera, Group-A officer cannot be compared with them.

Contd...P/-

23. That with regard to the statements made in paragraph 4.31 of the application the answering respondents beg to state that the applicant's averment that the incident occurred in 1996 and 1997 and thereafter he was promoted to the post of Superintending Surveyor and so his integrity can not be doubted is wrong. The preliminary enquiry was undertaken only after the matter came to the notice of the authorities and even if he was promoted in between, does not reveal that he can not be guilty.

24. That with regard to the statements made in paragraph 4.32 of the application the answering respondents beg to state that the same are false, concocted, untrue and incorrect statements and hence the same are denied. It is denied that vital documents, as well as, witnesses were not furnished to the applicant.

25. That in respect of the statements made in paragraph 4.33 of the application the answering respondents beg to state that the averments of the applicant are not correct, hence the same are denied. The applicant was the camp officer and was responsible to provide requisite material/stores etc. as and when required by them. He must ensure that the items/records are properly reaching to the field hands but he failed to do so.

Contd...P/-

26. That with regard to the statements made in paragraph 4.34 of the application the answering respondents beg to state that the preliminary enquiry was conducted to determine whether any prima facie cases against the persons involved in the case. To provide preliminary enquiry report was not considered essential as the regular enquiry report was sent to the applicant. Therefore, no irregularities were committed during the proceedings.

27. That with regard to the statements made in paragraph 4.35 of the application the answering respondents beg to state that the same are false, incorrect and motivated. The report of Inquiry Officer is based on material facts and witnesses which was sent to the applicant for his comments/representation but he failed to prove his innocence due to lack of any supportive evidence.

28. That with regard to the statements made in paragraph 4.36 and 4.37 of the application the answering respondents beg to state that those are incorrect, false and motivated the Disciplinary Authority analysed all the facts and findings and took decision duly applying their mind. The UPSC and CVC are the independent Authorities, they considered all the relevant records independently and provided their advices to the disci-

Contd...R/-

[12]

plinary authority. The applicant was given ample opportunity to represent against the charge levelled on him. The averment of the applicant that UPSC and CVC and Disciplinary Authorities are biased is totally false.

29. That with regard to the statements made in paragraph 4.38 of the application the answering respondents beg to state that the applicant's averment that the report of Enquiry Officer was on presumption is not correct. The findings of Enquiry Officer were based on material facts and witnesses.

30. That with regard to the statements made in paragraph 4.39 of the application the answering respondents beg to state that the preliminary enquiry was conducted to determine whether the prima facie case exists against the official involved in the matter. However, a copy of the regular enquiry report whose findings were based on material facts and witnesses was sent to the charged officer (the applicant).

31. That with regard to the statements made in paragraph 4.40 of the application the answering respondents beg to state that the applicant's statement to the effect that "the proceeding in question has been initiated at the behest of some vested interested group and same has been initiated belatedly only with the sole purpose to deprive the applicant from his legitimate

Contd...P/--

claim or promotion to the next higher grade" is totally incorrect and false. The proceeding was initiated little lately because the matter came to the notice of authority little late.

32. That with regard to the statements made in paragraph 5.1 to 5.3 of the application the respondents beg to state that the grounds set forth in these paragraphs are baseless and have basically no legal standing and hence denied by the answering respondents. The respondents submit that none of the grounds of the instant application is maintainable in law as well as on facts of the case and as such the application is liable to be dismissed.

33. That with regard to the statements made in paragraph 6 of the application the answering respondents have no comment.

34. That with regards to the statements made in paragraph 7 of the application the respondents beg to state that the same are within the personal knowledge of the applicant hence the respondents can not admit or deny the same.

35. That with regards to the statements made in paragraph 8 and 9 of the instant application the respondents beg to state that in view of the facts and circumstances mentioned above, the applicant is not entitled to any relief or interim relief as prayed for and the application is liable to be dismissed.

VERIFICATION

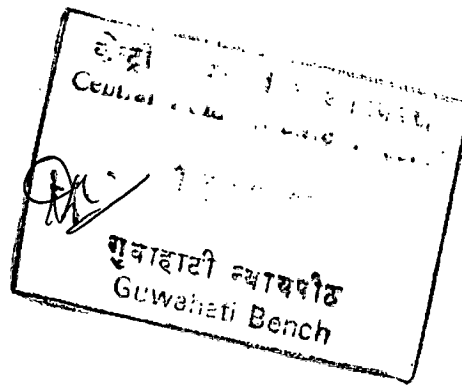
I, Sri. P.K. GANGULY, S/o Late S.K. GANGULY
aged about years, R/o ..GANESHGURI.CHARIALI, GUWAHATI
District ..KAMRUP. and competent officer of the
answering respondents, do hereby verify that the state-
ment made in paras 1 to 31 are true to my
knowledge and those made in paras being
matters of record are true to my information derived
therefrom which I believe to be true and the rents are
my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 12th day
of September 2006 at Guwahati.

P.K. Ganguly
Signature

P. K. Ganguly

DIRECTOR
ASSAM & NAGALAND GDC
GUWAHATI-6



204
Filed by:-
The Applicant
Through
Hridip Kr. Das.
Advocate
13/11/06

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.300 of 2005.

U.N.Mishra
..... Applicant.

AND

Union of India & ors
..... Respondents.

REJOINDER

1. That the applicant has received the copy of the written statement filed by the respondents. The applicant has understood the contents of the same. save and except the statement which are admitted herein below, other statement made in the written statement may be treated to be total denial by the applicant. The statements which are not borne on records are also denied and the respondents are put to the strictest proof thereof.

2. That with regard to the statement made in para 1 of the written statement, the applicant denies the correctness of the same and begs to state that the proceeding in question which has culminated in issuance of the impugned order shows total non-application of mind by the respondents and same is also violative of the provisions of Rules and law holding the field.

3. That with regard to the statement made in para 2 of the written statement filed by the respondents the applicant does not offer any comment on it.

4. That with regard to the statement made in para 3 of the written statement the applicant while denying the contentions and reiterating the contentions made in the O.A begs to state that the respondents while proceeding against him by issuing the vague and indefinite charge sheet has violated the provisions of the rules guiding the field and without any fault of him imposed him a harsh punishment. The respondents have violated the settled principles of law and without affording him the reasonable opportunity of hearing concluded the proceeding with the impugned penalty order.

5. That with regard to the statement made in para 4 of the written statement the applicant does not offer any comment on it.

6. That with regard to the statement made in para 5 of the written statement the applicant begs to reiterate and reaffirm the statement made in the O.A.

7. That with regard to the statement made in para 6 of the written statement the applicant reiterates and reaffirms the statement made in the O.A.

8. That with regard to the statement made in para 7 of the written statement the applicant while denying the wild allegations made against him begs to rely and refer upon the records as well as the pleadings in the OA and begs

to state that the engagement of porters were made as per the decision taken in this regard and having regard to the fact situation prevailing at that point of time. The decision of engagement of additional porters was given by the Officer-in-Charge to complete the work to Sri S.K.Sen, the Asstt Camp Officer. The applicant under any circumstances not connected with the said decision and/or engagement of additional porters.

9. That with regard to the statement made in para 8 of the written statement the applicant while denying the contentions made therein begs to state that duties and responsibilities of a Camp Officer is to ensure smooth functioning of the camp and completion of the assigned task within stipulated time. In fact the Officer-in-charge instructed Sri S.K.Sen, the Asstt Camp Officer to engage additional porters.

10. That with regard to the statement made in para 9 of the written statement the applicant while reiterating and reaffirming the statement made above begs to state that the Superintending surveyor Sri R.K.Meena, was duty bound to obtain sanction from the Director and in his deposition he made it clear (Ref page 71 of the O.A). It is therefore the applicant is not at all concerned about the engagement of porters and the charge brought against him is totally baseless. The enquiry officer failed to take in to consideration that aspect of the matter and submitted the report which clearly shows his non-application of mind. The enquiry officer proceeded totally in a wrong premise and traveled beyond the charge as well as the records available

in the proceeding. Appendix VI of the delegation of power to the officers of the Survey of India indicates that even the CO has got full power of carriage of records, instrument and field equipments which covers the deployment and payment of wages to the porters and as such the charge of having acted without the sanction does not arise at all. On these score alone the entire proceeding as well as the impugned order is liable to be set aside.

11. That with regard to the statement made in para 10 of the written statement the applicant begs to state that to put hurdle on his promotion the charge sheet was issued with an ulterior motive with some vague and indefinite charge. The respondents to save their skin made the applicant ~~shape~~ goat and same will be revealed from the facts narrated above as well as in the OA and as such entire proceeding along with the impugned order is liable to be set aside. In fact the alleged incident was known to the head of the Dept. in the 1st week of May 1997 itself which will be revealed from the preliminary enquiry report itself. The applicant was promoted having judged the outstanding service records in Dec 1998 and hence the respondents have of their own virtually estopped from reopening the issue again. Law in this regard is well settled and the respondents have acted contrary to said settled law.

12. That with regard to the statement made in para 11 of the written statement the applicant while reiterating and reaffirming the statement made above as well as in the OA begs to state that the statement made by the respondents are not correct and they are put to the strictest proof thereof.

13. That with regard to the statement made in para 12 of the written statement the applicant begs to state that the statement of the respondents have clearly goes to show that the impugned action taken against the applicant with a vindictive attitude to harass him. The respondents without following the due procedure as laid in the rules have proceeded in the matter with a predetermined mind and issued the impugned order which is violative of the principles of natural justice and as such their action is not at all sustainable in the eye of law. It is noteworthy to mention here that the preliminary enquiry was conducted without the knowledge of the Disciplinary authority and it was conducted without their being any complaint. The so called preliminary enquiry was completed on 2.5.97 and after that no investigation was done. The report of the said inquiry report was taken into consideration. The respondents however, even after repeated requests made by the applicant did not supply him the copy of the inquiry report where as the copy of the same has been served to others and there by the applicant has been deprived of his legitimate right of placing defence.

14. That with regard to the statement made in para 13 of the written statement the applicant while reiterating and reaffirming the statements made above as well as in the OA begs to state that the enquiry proceeding has been designed to put the applicant in a disadvantageous situation and to put the liability on him. In fact he had nothing to do with the engagement of the additional porters and purchase. The duty caste on him was quite different and the aforesaid engagement of additional porters and the additional purchase

has been done as per the decision of the higher authority by the subordinate officers. In fact regular proceedings have been initiated against each of them and they have been held guilty of the charges. In such a situation there can be no doubt that the applicant was not connected with the allegations leveled against him. Apart from that the allegation regarding purchase of excess quantity of sugar is also not correct and far from truth. Having regard to the official capacity at no point of time the applicant was involved in such purchase and in fact during the course of enquiry the matter was duly placed before the enquiry officer but the said enquiry officer.

15. That with regard to the statement made in paragraph 14 of the written statement the applicant while denying the contention made therein begs to state that the averment relating to following the procedure as prescribed in the rules by the respondents during the enquiry proceeding is totally incorrect. The enquiry officer in his report miserably failed to take into consideration the procedural irregularities that has been committed during the enquiry proceeding and the said authority while preparing the enquiry report has failed to record even the materials on record resulting perverse finding on the issue.

16. That with regard to the statement made in paragraph 15 of the written statement the applicant does not admit anything contrary to the relevant record of the case.

17. That with regard to the statement made in paragraph 16 of the written statement the applicant begs to state that the respondent have admitted the fact that the officers namely Sri R.K.Meena, Supdt. Surveyor and Sri S.K.Sen, Asstt. Camp Officer were involved in the allegation leveled against the applicant. The respondents have also admitted the fact that there has been procedural irregularities by not providing the adequate opportunity to the applicant in placing his defence and on this score alone entire proceeding is required to be set aside and quashed along with the impugned orders.

18. That with regard to the statement made in paragraph 17 of the written statement the applicant denying the statement made therein begs to state that the allegations leveled against the applicant is not at all true. The respondents themselves made enquiry and it was found that other officials are guilty of the charges and the applicant is no way connected with the allegation leveled against him. The fact can be revealed from the enquiry proceeding.

19. That with regard to the statement made in paragraph 18 & 19 of the written statement the applicant while reiterating and reaffirming the statement made above as well as in the OA begs to state that entire proceeding was initiated as per the dictation of the CVC and UPSC and as such same is not at all sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to direct the respondents to produce records pertaining to the entire proceeding at the time of hearing of this case.

20. That with regard to the statement made in paragraph 20 and 21 of the written statement the applicant while denying the contentions made therein begs to state that all the procedures as laid down in the rules have been violated and thereby caused serious prejudice to the defence of the applicant in the enquiry proceeding and as such same is liable to be set aside and quashed.

21. That with regard to the statement made in paragraph 22 of the written statement the applicant while denying the contentions made therein begs to state that as per the schedule of power and duty the applicant is no way connected with the alleged charges and the enquiry report submitted by the Inquiry Officer is totally perverse as the analysis reflected therein does not indicate any application of mind by the said officer.

22. That with regard to the statement made in paragraph 23 of the written statement the applicant begs to state that the respondents have admitted the fact that the proceeding initiated against him was an after thought and in no stretch of imagination the integrity of the applicant can be doubted.

23. That with regard to the statement made in paragraph 24 of the written statement the applicant that

during the course of enquiry the respondents have committed serious procedural irregularities and the resultant action is therefore can not be said to be legal.

24. That with regard to the statement made in paragraph 25 of the written statement the applicant begs to state that the schedule of power and duties and responsibilities entrusted to him does not contemplate any such action and it is therefore the respondents are put to the strictest proof thereof.

25. That with regard to the statement made in paragraph 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35 of the written statement the applicant while reiterating and reaffirming the statement made above as well as in the OA begs to state that the materials on record and the impugned order clearly indicates the vindictive attitude of the respondents and total non application on their part in holding the applicant guilty of the charges for which the OA is required to be allow imposing heavy cost on the respondents.

- 16 -

215

VERIFICATION

I, Shri Upendra Nath Mishra, son of Shri Abadh Kishore Mishra, aged about 41 years, at present working as Superintending Surveyor, Survey of India, Shillong, do hereby solemnly affirm and verify that the statements made in paragraphs 1-7, 12, 16, 22-23 are true to my knowledge and those made in paragraphs 8-11, 13-15, 17-21, 24 and 25 are also matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 13th day of Nov. 2006.

Upendra Nath Mishra

Signature.