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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 319/2005

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SECTION OFFICER (Judl.)

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

ORDER SHEET

Original Application No. 319/05

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) A. Das

Respondent(S) U.O. 1205

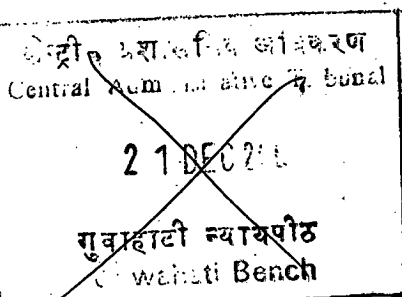
Advocate for the Applicants MR S.C. Biswas, M.K. Mazumdar

Advocate for the Respondent(S) _____
CGSC ✓
Rly St. Counsel

Notes of the Registry Date _____ Order of the Tribunal

22.12.2005

The application is disposed of
at the admission stage itself. in
terms of the order passed in separate
sheets.



mb


Vice-Chairman

This application is in form
is filed/C. F. for As. No. _____
deposited vide I.P. /BD
No. 266 313675
Dated 21.12.05


Dy. Registrar

No steps. W.I.
21/12/05

order
Copy received.

M. Majumdar
Associate
30/12

19.1.06

copy of the order
sent over to the Addl. CGSC.
on 9.1.06.

Contd.....

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.**

O.A. No. 319/2005

DATE OF DECISION: 22.12.2005.

Sri Arjun Das

APPLICANT(S)

Mr. S.C. Biswas

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U.O.I. & Others

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENT(S)

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

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether the judgment is to be circulated to the other Benches?

Judgment delivered by Hon'ble Vice-Chairman.

G. Sivarajan

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 319/2005.

Date of Order : This the 22nd December 2005.

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

Sri Arjun Das
S/o Late Barun Chandra Das
R/o - Bishnu Nagar, Bishnu Rava Ali
P.O. Tezpur
District - Sonitpur, Assam

... Applicant

By Advocates Mr. S.C. Biswas and Mr. M.K. Mazumdar.

- Versus -

1. The Union of India,
 Through the Secretary to the Government of India
 Department of Posts, India
 New Delhi.
2. The Chief Post Master General
 Assam, Meghdoot Bhawan,
 Guwahati - 1.
3. The Superintendent of Post Offices
 Sibsagar Division
 Jorhat - 785 001.
4. The Divisional Secretary
 A.I.P.E.U. - P - III
 Sibsagar Division
 Jorhat - 785 001.

... Respondents.

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

.....

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

Heard Mr. M.K. Mazumdar, learned counsel for the applicant and Mr. A.K. Chaudhuri, learned Addl. Central Government Standing Counsel for the respondents.

2. The applicant is impugning a dismissal order and seeks for reinstatement. The applicant who was a Sub-Postmaster at Jengraimukh Sub Post Office, Majuli, being aggrieved by the aforesaid order has filed this application seeking for quashing the said order and reinstatement in service. The applicant has not produced the dismissal order. That apart the applicant has got a right of an appeal against the dismissal order before the Appellate Authority.

3. Mr. M.K. Mazumdar, counsel for the applicant submits that the applicant has not so far received the dismissal order. Mr. A.K. Chaudhuri, Addl. Central Government Standing Counsel, on the other hand, submits that even according to the applicant, he was informed of the dismissal as early as in November 2004. In the circumstances, if the dismissal order has not been received by the applicant it was for him to approach the concerned authority for a copy of the dismissal order to enable him to file appeal before the Appellate Authority. It is not clear as to why the applicant ^{has not} resorted to such a course. However, without prejudice to the right of the applicant to obtain the dismissal order (if he has not received the same), he may approach the appropriate authority for redressal of his grievance.

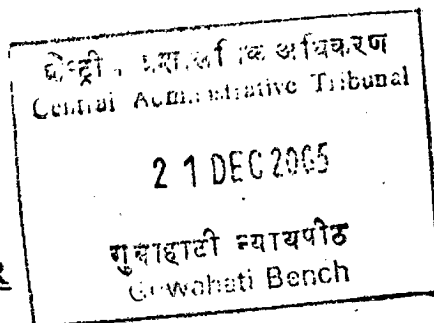
has not

The application is disposed of as above at the admission stage itself. Issue copy of this order to the parties.



(G. SIVARAJAN)
VICE CHAIRMAN

/mb/



DISTRICT: SONITPUR

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

Original application No. 319 /2005

ARJUN DAS

.....APPLICANT.

-Versus-

THE UNION OF INDIA AND OTHERS.

.....RESPONDENT.

I N D E X

Sl. no.	Particulars	Annexure	Page No.
1.	Original Application	-	1-13
2.	Verification	-	14
3.	Copy of suspension order dated: 9/4/1992	I	
4.	Copies of the FIR	II and III	
5.	Copy of the Judgment dated: 31/3/2004	IV and V	
6.	Copy of the Representation dated: 30/08/2004	VI	
7.	Copy of the Pleadings Notice dated: 10/09/2004	VII	
8.	Copy of the reminder dated: dated: 3/11/2004	VIII	
9.	Copy of the impugned order dated: 9/11/04	IX	
10.	Copy of the Representations dated: 9/3/2005 and 10/08/2005	X and XI	

Filed on: November' 2005

Filed by:

Mk Majumdar
Advocate.

DISTRICT: SONITPUR

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

Original application No. /2005

ARJUN DAS

.....APPLICANT.

-Versus-

THE UNION OF INDIA AND OTHERS.

.....RESPONDENT.

SYNOPSIS OF THE CASE

The brief fact of the case is that, the applicant was working under Department of Posts, India since 6-1-79 in various capacities in Arunachal Pradesh and Assam, till 20-4-92. while he was working as Sub-Post Master at Jengraimukh Sub Post Office, Majuli under Sibsagar Division during 1992, the then Superintendent of Post Offices, Sibsagar Division, Mr. A. Behera and P.V. Suganan filed two FIR against the applicant alleging misappropriation of Rs. 3443.50 and Rs. 212,264.52 and the same were registered as Jengraimukh P.S. Case No. 14/92 U/s. 409 IPC and Jengraimukh P.S. Case No. 18/93 U/s. 409 IPC. In this regard, it is stated herein that under Jengraimukh Sub-Post Master, there are 16 Extra-Department Branch Post Office. It was alleged that although the aforesaid alleged misappropriated amount was dispatched to Jengraimukh Sub-Post Office, the previous day from Kumaribari, Extra Department Branch, one of the Branch under Jengraimukh Sub-Post Office, it was found by the Superintendent of Post Offices, that the applicant has not credited the said month in the ledger at Jengraimukh Sub-Post Office. On the basis of the above two FIR, the then Superintendent of Post Offices, Sibsagar Division placed the applicant under suspension with immediate effect vide order dated: 9/4/92 and accordingly he was placed under suspension w.e.f. 20/4/92. On the basis of the above two FIR, two criminal cases were registered being G.R. Case No. 13/92 and G.R. Case No. 61/93, both U/s. 409 IPC and the same proceeded in the Court of Sub-Divisional Judicial

Arjun Das

Magistrate, Majuli. The applicant regularly appeared in those cases. In the above cases, 6 and 7 prosecution witnesses respectively including the Investigating Officer were examined and adduced their evidences. After examining the witnesses, appreciation of evidences and upon hearing the argument, the learned Magistrate held that the prosecution has failed to establish the charges U/s. 409 IPC against the applicant/accused beyond all reasonable doubt and has acquitted the applicant/accused and set him at liberty forthwith vide two Judgments dated: 31/03/2004. immediately after his acquittal by the Criminal Court of the above charges, the applicant furnished the copy of the aforesaid judgments to the Respondent No. 3 and requested for his reinstatement in service. Later on, the applicant came to learn from the office of the Respondent No. 3 that he has been dismissed from service. The applicant made a representation on 30/08/2004 along with the copy of the Judgments to the Respondent No. 3 and Respondent No. 4 by registered posts praying for his reinstatement in service upon acquittal by the Criminal Court of the charges. That applicant was also not paid his salary and other allowances from the date of his suspension. As there was no response, the applicant sent a Notice on 10/09/2004 through his pleader and a reminder on 3/11/2004. in response to his representation dated: 3/11/2004, the Respondent No. 3 formally informed the applicant that he was dismissed from service for violation of Departmental Rules after proceeding under Rule - 14 of CCS (CCA) Rules on acquittal by the Criminal Court and directed the applicant to credit the whole amount alleged to be misappropriated immediately at any Post Office. thereafter the applicant made representations before the Respondent authority praying inter alia for furnishing him the copy of the order of his dismissal from service and to reinstate him in service as he has been acquitted honourably and completely exonerated of the very same charges by the Criminal Court, but the Respondents failed to pay any response. Hence, this application before this Hon'ble Tribunal for redressal of his grievances,

LIST OF DATES:

1) 20-4-92

The applicant was working under Department of Posts, India since 6/1/1979 in various capacities in Arunachal Pradesh and Assam, till 20/4/1992.

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2) 1992

while he was working as Sub-Post Master at Jengraimukh Sub Post Office, Majuli under Sibsagar Division during 1992, the then Superintendent of Post Offices, Sibsagar Division, Mr. A. Behera and P.V. Suganan filed two FIR against the applicant alleging misappropriation of Rs. 3443.50 and Rs. 212,264.52 and the same were registered as Jengraimukh P.S. Case No. 14/92 U/s. 409 IPC and Jengraimukh P.S. Case No. 18/93 U/s. 409 IPC.

3) 9/4/92

on the basis of the above two FIR, the then Superintendent of Post Offices, Sibsagar Division placed the applicant under suspension with immediate effect vide order dated: 9/4/92 and accordingly he was placed under suspension.

[ANNEXURE - I]

4) 31/03/2004

The applicant regularly appeared in those cases. In the above cases, 6 and 7 prosecution witnesses respectively including the Investigating Officer were examined and adduced their evidences. After examining the witnesses, appreciation of evidences and upon hearing the argument, the learned Magistrate held that the prosecution has failed to establish the charges U/s. 409 IPC against the applicant/accused beyond all reasonable doubt and has acquitted the applicant/accused and set him at liberty forthwith vide two Judgments dated: 31/03/2004.

[ANNEXURE - IV]

5) 30/08/2004

Immediately after his acquittal by the Criminal Court of the above charges, the applicant furnished the copy of the aforesaid judgments to the Respondent No. 3 and requested for his reinstatement in service.

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Later on, the applicant came to learn from the office of the Respondent No. 3 that he has been dismissed from service. The applicant made a representation on 30/08/2004 along with the copy of the Judgments to the Respondent No. 3 and Respondent No. 4 by registered posts praying for his reinstatement in service upon acquittal by the Criminal Court of the charges. That applicant was also not paid his salary and other allowances from the date of his suspension.

[ANNEXURE – VI]

6) 10/9/05 and
3/11/2005

As there was no response, the applicant sent a Notice on 10/09/2004 through his pleader and a reminder on 3/11/2004.

[ANNEXURE – VII AND VIII]

7) 9/11/04

In response to his representation dated: 3/11/2004, the Respondent No. 3 formally informed the applicant that he was dismissed from service for violation of Departmental Rules after proceeding under Rule – 14 of CCS (CCA) Rules on acquittal by the Criminal Court and directed the applicant to credit the whole amount alleged to be misappropriated immediately at any Post Office.

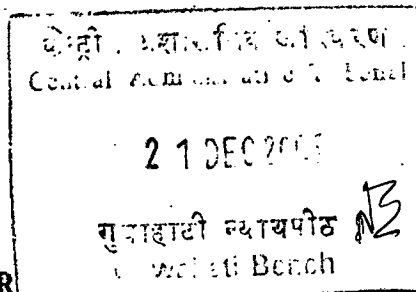
[ANNEXURE – IX]

8) 9/3/2005
and 10/08/05

Thereafter the applicant made representations before the Respondent authority praying inter alia for furnishing him the copy of the order of his dismissal from service and to reinstate him in service as he has been acquitted honourably and completely exonerated of the very same charges by the Criminal Court, but the Respondents failed to pay any response.

[ANNEXURE – X and XI]

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DISTRICT: SONITPUR

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

Original application No. 319 /2005

IN THE MATTER OF:

SRI. ARJUN DAS,

S/o. Late. Barun Chandra Das,

R/o. Bisnu Nagar, Bishnu Rava Ali

P.O. Tezpur,

District: Sonitpur, Assam.

----- APPLICANT.

-VERSUS-

1) THE UNION OF INDIA,

**Through The Secretary to the
Government of India,**

**Department of Posts, India,
New Delhi.**

2) THE CHIEF POST MASTER GENERAL,

**Assam, Meghdoot Bhawan,
Guwahati - 1.**

3) THE SUPERINTENDENT OF POST

**OFFICES, Sibsagar Division,
Jorhat - 785001.**

4) THE DIVISIONAL SECRETARY,

A.I.P.E.U. - P - III

Sibsagar Division,

Jorhati - 785001.

----- RESPONDENTS.

Arjun Das

DETAILS OF APPLICATION -

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

The application is made against order passed by the Superintendent of Post Offices, Sibsagar Division, Jorhat dismissing the applicant from service by an ex-parte Departmental proceeding, as later on communicated vide letter No. Fu - 20/91-92 dated: 9-11-2004 issued by the Superintendent of Post Offices, Sibsagar Division in response to the representation dated: 3-11-2004 of the applicant. The applicant was also asked to credit the alleged misappropriated amount immediately although he was acquitted by the Criminal Court of the same charges. Since no copy of the order of dismissal or its details has been furnished to the applicant, the applicant is unable to annexe the same herewith this application or could furnish its details and this Hon'ble Tribunal be pleased to direct the Respondents to produce the same.

2) **JURISDICTION OF THE TRIBUNAL -**

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

3) **LIMITATION -**

The applicant declares that the application is within the period of limitation under Section - 21 of the Administrative Tribunal Act, 1981.

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4) FACTS OF THE CASE -

- a) That the applicant is a citizen of India, and a permanent resident of Tezpur, in the District of Sonitpur, Assam, and as such he is entitled to all the rights, privileges, and protection as guaranteed under Part - II of the Constitution of India, and the other laws of the country.
- b) That the applicant was working under Department of Posts, India since 6-1-79 in various capacities in Arunachal Pradesh and Assam, till 20-4-92.
- c) That, while he was working as Sub-Post Master at Jengraimukh Sub Post Office, Majuli under Sibsagar Division during 1992, the then Superintendent of Post Offices, Sibsagar Division, Mr. A. Behera and P.V. Suganan filed two FIR against the applicant alleging misappropriation of Rs. 3443.50 and Rs. 212,264.52 and the same were registered as Jengraimukh P.S. Case No. 14/92 U/s. 409 IPC and Jengraimukh P.S. Case No. 18/93 U/s. 409 IPC. In this regard, it is stated herein that under Jengraimukh Sub-Post Master, there are 16 Extra-Department Branch Post Office. It was alleged that although the aforesaid alleged misappropriated amount was dispatched to Jengraimukh Sub-Post Office, the previous day from Kumaribari, Extra Department Branch, one of the Branch under Jengraimukh Sub-Post Office, it

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was found by the Superintendent of Post Offices, that the applicant has not credited the said month in the ledger at Jengraimukh Sub-Post Office.

- d) That, on the basis of the above two FIR, the then Superintendent of Post Offices, Sibsagar Division placed the applicant under suspension with immediate effect vide order dated: 9/4/92 and accordingly he was placed under suspension w.e.f. 20/4/92.

The copy of the suspension order dated: 9/4/92 is annexed herewith and marked as ANNEXURE - I.

The copy of the FIR (two) are annexed herewith and marked as ANNEXURE - II and III respectively.

- e) That, on the basis of the above two FIR, two criminal cases were registered being G.R. Case No. 13/92 and G.R. Case No. 61/93, both U/s. 409 IPC and the same proceeded in the Court of Sub-Divisional Judicial Magistrate, Majuli.

- f) That, the applicant regularly appeared in those cases. In the above cases, 6 and 7 prosecution witnesses respectively including the Investigating Officer were examined and adduced their evidences. After examining the witnesses,

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appreciation of evidences and upon hearing the argument, the learned Magistrate held that the prosecution has failed to establish the charges U/s. 409 IPC against the applicant/accused beyond all reasonable doubt and has acquitted the applicant/accused and set him at liberty forthwith vide two Judgments dated: 31/03/2004.

The copy of the Judgment dated: 31/03/2004 in G.R. Case No. 13/92 is annexed herewith and marked as ANNEXURE - IV.

The copy of the Judgment dated: 31/03/2004 in G.R. Case No. 61/93 is annexed herewith and marked as ANNEXURE - V.

- g) That, the applicant states that immediately after his acquittal by the Criminal Court of the above charges, the applicant furnished the copy of the aforesaid judgments to the Respondent No. 3 and requested for his reinstatement in service. Later on, the applicant came to learn from the office of the Respondent No. 3 that he has been dismissed from service. The applicant made a representation on 30/08/2004 along with the copy of the Judgments to the Respondent No. 3 and Respondent No. 4 by registered posts praying for his reinstatement in service upon acquittal by the Criminal Court of the charges. That applicant was also not paid his salary and other allowances from the date of his suspension. As there was no response, the

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applicant sent a Notice on 10/09/2004 through his pleader and a reminder on 3/11/2004.

The copy of the representation dated: 30/08/2004, Pleader's Notice dated: 10/09/2004 and the Reminder dated: 3/11/2004 are annexed herewith and marked as ANNEXURE - VI, VII, and VIII respectively.

- h) That, in response to his representation dated: 3/11/2004, the Respondent No. 3 formally informed the applicant that he was dismissed from service for violation of Departmental Rules after proceeding under Rule - 14 of CCS (CCA) Rules on acquittal by the Criminal Court and directed the applicant to credit the whole amount alleged to be misappropriated immediately at any Post Office.

The copy of the impugned letter dated: 9/11/04 of the Respondent No. 3 is annexed herewith and marked as ANNEXURE - IX.

- i) That, thereafter the applicant made representations before the Respondent authority praying inter alia for furnishing him the copy of the order of his dismissal from service and to reinstate him in service as he has been acquitted honourably and completely exonerated of the very same charges by the Criminal Court, but the Respondents failed to pay any response.

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Hence, this application before this Hon'ble Tribunal for redressal of his grievances.

The copies of the representations dated: 9/3/2005 and 10/08/2005 of the applicants are annexed here with and marked as ANNEXURE - X and XI respectively.

5) GROUND OF RELIEF -

- 5.1) For that the entire Departmental proceeding against the applicant including the impugned order of dismissal from service and the impugned letter dated: 9/11/2004 of the Respondent No. 3 directing the applicant to credit the alleged misappropriated amount are absolutely illegal, arbitrary, and bad in law in as much as no proceeding as provided under Rule - 14 of the Central Civil Services (Class, Control and Appeal) Rules, 1965 hereinafter called CCS (CCA) Rules, has been followed. The entire Departmental Proceeding purported to be initiated against the applicant resulting in his dismissal from service has been done ex-parte and behind the back of the applicant. The applicant was not furnished any memorandum of charge, show cause notice, opportunity of hearing and to defend himself etc. as such the impugned order of dismissal is liable to be set aside and quashed.

- 5.2) For that, when the applicant has been acquitted honourably and completely exonerated for

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the same set of charges by a competent Criminal Court, it is not expedient on the part of the Disciplinary Authority to initiate or to continue a Departmental inquiry in the very same charges or grounds or evidence which definitely will lead to a similar findings on proper appreciation of facts and evidence. This view has been expressed by the Hon'ble Supreme Court in a catena of cases, and has directed the authority to reinstate the charged employee and allowed full salary. (SCSR Vol - 6 Page - 592, civil Appeal No. 396/80). In the instant case, although the applicant/accused was acquitted honourably and completely exonerated of the charges by the Learned SDJM, Majuli of the charges and the Judgments passed in the Criminal Cases were furnished to the Disciplinary authorities, the authority should not have initiated the Departmental Proceeding and passed the impugned order of dismissal from service, that the in an ex-parte manner, and behind the back of the applicant, in gross violation of Rule - 14 of the CCS (CCA) Rules and should not have also passed the impugned letter dated: 9/11/2004 directing the applicant to deposit/credit the whole alleged misappropriated amount. As such, the impugned order of dismissal and impugned letter dated: 9/11/2004 are liable to be set aside and quashed, and the Respondents be directed to pay the salary and other dues to the applicants to which he is legally entitled immediately.

- 5.3) For that, the impugned order of dismissal of the applicant from service and the impugned letter directing him to credit the alleged

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misappropriated amount immediately are not only illegal, arbitrary, and bad in law, but is also in gross violation of the provision of the Article - 311 (2) of the Constitution of India in as much as the entire Departmental proceedings initiated against the applicant has been done behind his back and without his knowledge in an ex-parte manner, and also under the facts that no charge sheet or information of the charges, show cause notice, proceedings of the inquiry or reasonable opportunity of being heard in respect of those charges has been given to the applicant. As such, impugned order of dismissal and the letter dated: 9/11/2004 are liable to be set aside and quashed.

5.4) For that, the impugned order of dismissal and the impugned letter dated: 9/11/2004 are not only illegal, arbitrary and bad in law, but are also in gross violation of the Principles of natural justice, equity, good conscience, and administrative fairness and as such the same are liable to be set aside and quashed.

5.5) For that, since the applicant was acquitted in both the Criminal cases for the same charges, there was no basis for maintaining the finding in a departmental enquiry and passing the impugned order of dismissal of service and the impugned letter dated: 9/11/2004 directing him to credit the alleged misappropriated amount. The Hon'ble Apex Court has held that the findings recorded in the Departmental inquiry cannot be allowed to stand for the same charges when the

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delinquent was acquitted in the Criminal Cases in M. Paul Anthony's case (Supra), Virendra Kumar Sharma -Vs- State of U.P. and others, 2002 (2) ESC 389 (AII)]. As such, the impugned order of dismissal and the letter dated: 9/11/04 are liable to be set aside and quashed and the Respondents be directed to immediately reinstate the applicant in service with all service benefits.

5.6) For that, the applicant submits that, entire foundation of punishment in disciplinary proceeding being taken away with the finding recorded by the Learned Magistrate, the applicant is entitled for his reinstatement in service with all service benefits.

5.7) For that, the mode and manner in which the entire ex-parte disciplinary proceeding initiated against the applicant by the authority reflects apparent lapses on the part of the disciplinary authority and the same warrants a judicial review by this Hon'ble Tribunal for proper adjudication of the matter and to render justice to the poor applicant by setting aside the impugned order/letter and directing the Respondent authority to immediately reinstate the applicant in service with all service benefits and also not to recover the alleged misappropriated amount from him.

5.8) For that, there is no iota of evidence for convicting the applicant for an offence of misappropriation of amount as has also been held

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in the Criminal cases, as such the impugned order/letter are illegal, perverse malafide, arbitrary, bad in law and are liable to be set and quashed.

5.9) For that, in any view of the matter, the impugned order/letter are illegal, arbitrary, and bad in law and are liable to be set aside and quashed.

5.10) For that, the applicant demanded justice which has been denied to him.

6) **DETAILS OF THE REMEDIES EXHAUSTED** -

There is no remedy under any Rule and this Tribunal is the only forum for redressal of the grievances of the applicant.

7) **MATTER NOT PREVIOUSLY FILLED OR PENDING WITH ANY OTHER COURT** -

The applicant declares that he had not filed any other case in any Tribunal, Court or in any forum against the impugned order.

8) **RELIEF SOUGHT** -

Under the above facts and circumstances, the applicant prays for the following relief -

8.1) That the entire Departmental proceeding, including the impugned order passed by the Superintendent of Post offices, Sibsagar Division dismissing the appellant from service by an ex-

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parte Departmental proceedings, which order not furnished to the applicant, be set aside and quashed.

8.2) That, the impugned letter No. FU. 20/91-92 dated: 9-11-2004 (Annexure No. IX) issued by the Superintendent of Post Offices, Sibsagar Division informing the applicant about his dismissal from service and directing the applicant to deposit/credit the alleged misappropriated amount, be set aside and quashed.

8.3) That, the Respondent authorities be directed to immediately reinstate the applicant in service with retrospective effect from 20/4/92, the date of his suspension from service and other service benefits, and not to recover the alleged misappropriate amount from the appellant.

8.4) That, the Respondent authorities be directed to immediately make payment of arrear salary w.e.f. April' 92 till date and current salary and other arrear dues to which he is legally entitled.

8.5) That, the Hon'ble Tribunal may be pleased to pass any other relief or relieves to the applicant as it deem fit and proper.

9) INTERIM RELIEF PRAYED FOR -

In the interim, it is prayed that pending disposal of the Original Application, the Hon'ble Tribunal may be pleased to stay the operation of the impugned order of dismissal from service and

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the impugned letter dated: 9/11/04 (Vide Annexure No. IX) and direct the Respondent authorities to immediately reinstate the applicant in service and to pay the applicant his arrear dues and salary, etc.

10) This application has been filed through Advocate.

11) **PARTICULARS OF THE POSTAL ORDER -**

I.P.O. No. 266 313675

Date 21.12.05

Payable at _____ Guwahati G.P.O.

12) **LIST OF ENCLOSURES -**

As indexed in the INDEX

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V E R I F I C A T I O N

I, Sri. Arjun Das, S/o. Late. Barun Chandra Das, aged about years, Resident of: Bishnu Nagar, Bishnu Rava Ali, P.O. Tezpur, in the District of Sonitpur, Assam, do hereby verify that the statements made in paragraphs of the accompanying application are true to my knowledge, and belief and that I have not suppressed any material facts.

And, I set my hand on this verification today the 18th day of ^{December} ~~November~~ 2005 at Guwahati.

Arjun Das
Signature of the
Applicant

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Annexure - 1

OFFICE OF THE SUPDT. OF POST OFFICES: SIBSAGAR DIVISION
JORHAT:

Memo No. P4-20/91-92 dated at Jorhat the 9.4.92.

Whereas a disciplinary proceeding against Shri Arjun Das the then SPM Jengraimukh now on leave is under investigation.

Now therefore, the undersigned in exercise of powers conferred by sub Rule (1) of Rule 10 of CCS(CCA) rules 1965 hereby places the said Shri Arjun Das under Suspension with immediate effect.

It is therefore, ordered that this order shall remain in force the Head quarter of Shri Arjun Das shall be at Jengraimukh and the said Shri Arjun Das shall not leave the Head quarter without obtaining the previous permission of the undersigned.

Sd/-A. Behara,
Supdt. of Post offices,
Sibsagar Division.

Copy to:-

1. Shri Arjun Das, SPM Jengraimukh on leave at Jengraimukh for information. The order regarding subsistence allowances admissible to him during the period of his suspension will be issued separately.
2. The Postmaster Jorhat for information and necessary action.
3. P/F.
4. Punishment Register.
- 5-8. Spare.

Supdt. of Post offices,
Sibsagar Division.

*Certified to be true
M. M. Mandal
Jorhat*

ANNEXURE - II.

G.R. No. 13/92

U/s. 409 I.P.C.

P.O. Jengraimukh Sub-Post Office,

D.O. 23/12/91

D.R. 29/04/92

D.A. 30/04/92

Complainant - A. Beherh

Supdt. Of Post Offices,

Sibsagar Division,

Accused - Sri. Arjun Das
Sub-Post Master
Jengraimukh (Majuli)
P.S. Jengraimukh
District: Jorhat.

Hence - U/S. 409 IPC

I/O. S.I. A.K. Bordoloi,
Of Jengraimukh P.S.

Copy of FIR

Office of the Supdt. Of Post Offices - Sibsagar
Division.

From - Supdt. Of Post Offices, Sibsagar,

To,

The Officer in charge,
Jengraimukh Police Station,
P.O. Jengraimukh

No. P4 20/01-92 dated at Jorhat the 9/4/92

Contd...

*certified to be
the original
of the original*

- 16 -

Subject - Alleged misappropriation of Government money
by Sri. Arjun Das, Sub-Post Master, Jengraimukh
(Majuli)

Ref - No previous references.

Sir,

This is regarding misappropriation of Government money by Shri. Arjun Das, Sub-Post Master, Jengraimukh. In course of visit at Jengraimukh Sub-post office by the under signed, it came to notice on verification of account that a sum of Rs. 1000/- being the amount of Savings Bank deposit and another sum of Rs. 703.50 as recurring deposit at Jengrai Kumarbari EDBO on 13/11/1991 were not accounted for at Jengraimukh Sub-Post Office on 23/12/1991. Again there was a cash remittance of Rs. 1740 from the said office on 13/11/91 and the Sub-Post master, Jengraimukh acknowledged the amount in the relative B.O. Daily account, but not accounted for in the B.O. summary. Thus Sri. Arjun Das while working as Sub-Post master at Jengraimukh Sub post office, he misappropriated a sum of Rs. 3443.50 (Rupees Three thousand, four hundred, forty three and paise fifty) only.

I would therefore request you kindly to make an investigation and take cognizance of the case early.

Yours faithfully,

Sd/- illegible

(A. Behera)

Supdt of Post Offices

Sibsagar Division.

Received and registered Jengraimukh P.S. Case No. 14/92 U/s.
409 IPC.

Sd/- Amulya Kr. Bordoloi, S.I.

O/C. Jengraimukh P.S.

29/4/92.

Contd...

- 18 -

- 17 -

ANNEXURE - III.G.R. No. 61/93

U/s. 409 IPC

P.O. Jengraimukh Post Office, Jengraimukh

Mouza - Salmara

½ Kilometre North

D.O. = on 29/4/92, time not noted. Suspended at 1992

D.R. = on 4/7/93 at 8 A.M.

Complainant - Sri. P.V. Sugunan,
Supdt. Of Post office,
Sibsagar Post Office,
Sibsagar Division, Jorhat
P.S. Jorhat,

Accused - Sri. Arjun Das,
Then Sub-Post Master of Jengraimukh
Sub-post office, Majuli, Jorhat.

Offence - U/s. 409 IPC.

I/O. S.I. Bodhen Ch. Bhuyan,
Jengraimukh P.S.

Copy of F.I.R.

P.V. Sugunan,
Superintendent

D.O. No. F4-20/91-92
O/O. the Supdt. Of Post Offices
Sibsagar Division, Jorhat
Date: at Jorhat, the 11.6.93

Dear Shri. Neog,

This is regarding misappropriation of Government
money and non-credit of savings bank deposits after

Contd...

Certified to be
true and correct
M. K. Das

realising from the depositors by Shri. Arjun Das, the then Sub-Post master of Jengraimukh Sub-post office (Majuli).

On preliminary enquiry, it has come to light that the said Shri. Arjun Das has misappropriated a sum of Rs. 2,12,264.52 (Rupees Two Lakhs twelve thousand two hundred sixty four and paise fifty two) only and the amount of misappropriation may also go up when enquiry is completed.

The case was reported to Jengraimukh P.S. (Majuli) and the same was registered under No. 14/92 U/s. 409 IPC on 29/4/92. But, it is found that the delinquent official has not yet been taken into custody and no report from the I/C Jengraimukh P.S. is forthcoming despite being pursued by our concerned Sub-Divisional Inspector of Post offices.

In view of the above, I request you kindly to take up the matter with the said I/C of Jengraimukh P.S. for early submission of the required report; your co-operation in the matter is solicited.

With sincere regards.

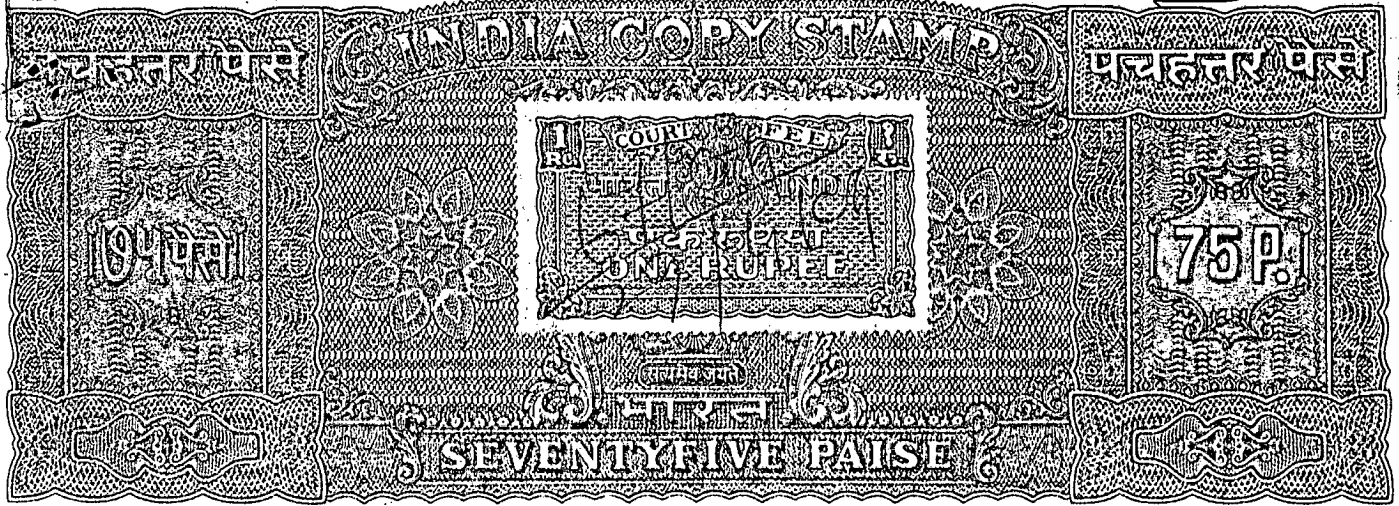
Shri. P.C. Neog,
Supdt. Of Police,
Jorhat.

Yours sincerely,
Sd/- P.V. Sugunan,

Received and registered Jengraimukh P.S. Case No. 18/93 U/s. 409 IPC dated: 4/7/93.

Sd/- Punakanta Saikia, S.I.
O/c. Jengraimukh P.S.
Majuli, Jorhat.

Contd...



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
31/3/04	31/3/04	31/3/04	28/4/04	29/4/04

In the court of Sub-Divisional Judicial Magistrate, :: Majuli.

Case No G.R 13/92

Present :- Sri R. Goswami,

U/S 409 of I.P.C.

S.D.J.M. Majuli.

State

-Vs-

Arjun Das

Evidence recorded on 24.3.03, 29.9.03,

22.12.03, and 22.3.04.

Argument was heard on 22.3.04.

Judgment was delivered on 31.3.04.

Advocates present :-

1. A. Goswami, AP.P. for the prosecution.
2. Shri Horen Borah for the accused.

JUDGMENT

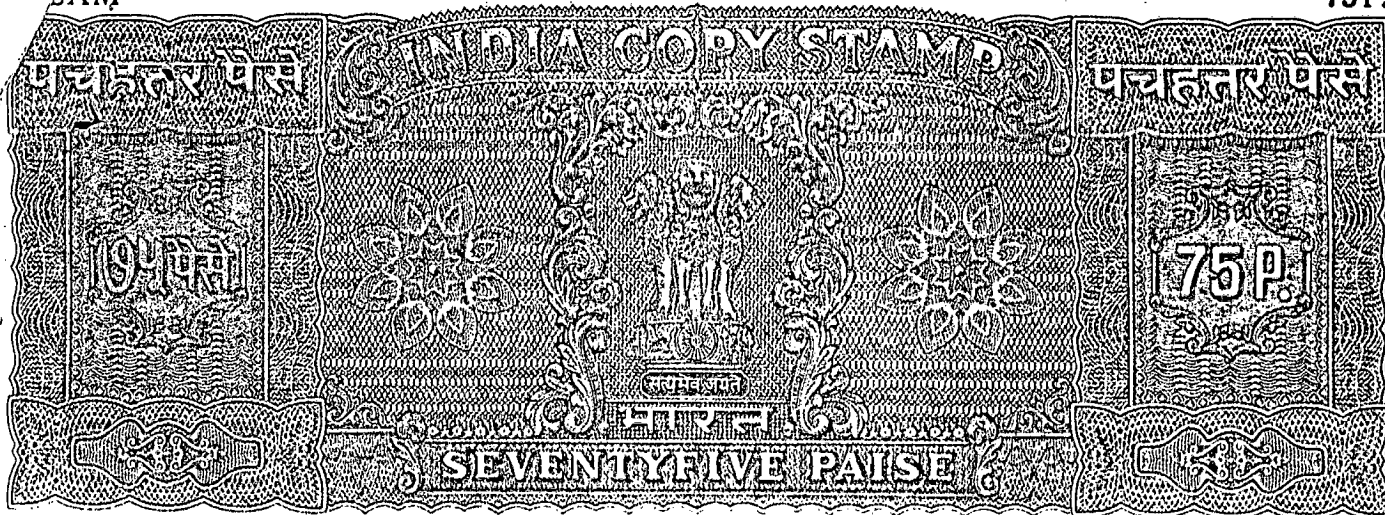
The prosecution case in brief is that on 9.4.92 informant A Behera had lodged a F.I.R. at Jengraimukh P.S. to the effect that Shri Arjun Das ~~while~~ while working as sub-Post Master at Jengraimukh sub-post office had misappropriated a ~~sum~~ sum of Rs 3443.50 p. only.

Upon the above F.I.R. a P.S. case No. 14/92 u/s 409 of I.P.C. was registered. Thereafter the I.O. Bijoy Kalita filed charges-sheet against the accused Arjun Das u/s 409 of I.P.C.

The accused, after having been furnished with copies of relevant documents, the charge U/s 409 of I.P.C. was framed against him.

Const. 21

Copy to be
sent to
Majuli



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

//2//

The accused pleaded not guilty and claimed to stand trial.

The prosecution examined as many as seven pws including the I.O.. The accused pleaded total denial of the incriminating evidence against him. Declined to adduce any evidence.

Heard ld advocates.

Points for Decision :-

Whether the accused Arjun Das in his capacity as Sub-post Master of Jengraimukh sub-post office had been entrusted with Rs 3443.50 p. and he had committed criminal breach of trust in respect of the said sum.

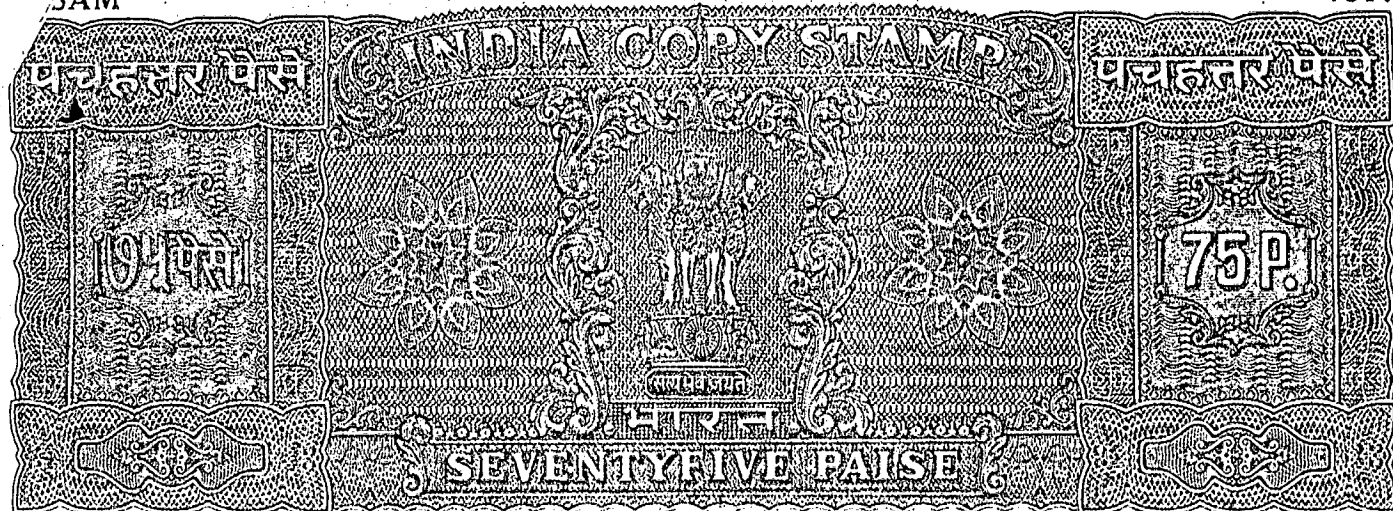
Decisions and reason thereof :-

Now in order to prove the charge u/s 408 of I.P.C. against the accused, the prosecution has to prove the fact of entrustment as one of the material fact.

The evidence on record shows that the prosecution has failed to examine the informant A. Behera and as such very F.I.R. remains unproved. Remaining six pws examined by the prosecution expressed complete ignorance as to the whole case. The pw7 I.O. Bijoy Kalita had proved the charge sheet ext 1 and his signature. ext 1 (1).

The evidence of pw5 Prodip Bhattacharya reveals that he had taken charge from the accused.

Contd. 3.



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
31/3/04	31/3/04	31/3/03	28/4/04	29/4/04

11/3/11

According to pw5 there were some irregularities found in the the pass book and ledger . But those pass books and ledger have not been exhibited in the evidence by the prosecution .

Summing up I find that the prosecution has failed to proved the charge u/s 409 of I.P.C. against the accused beyond all reasonable doubt . The accused Arjun Das is thus acquitted of charge u/s 409 and set at liberty forth with

Given under my hand on this 31st day of March/2004 .

Sd/- Sri R. Goswami,

Sub-Divisional Judicial Magistrate,
Majuli .

31.3.04 (Seal)

Copy type by :-

Sri Dular Das (COPRIS)
29/4/04

Copy compared by :-

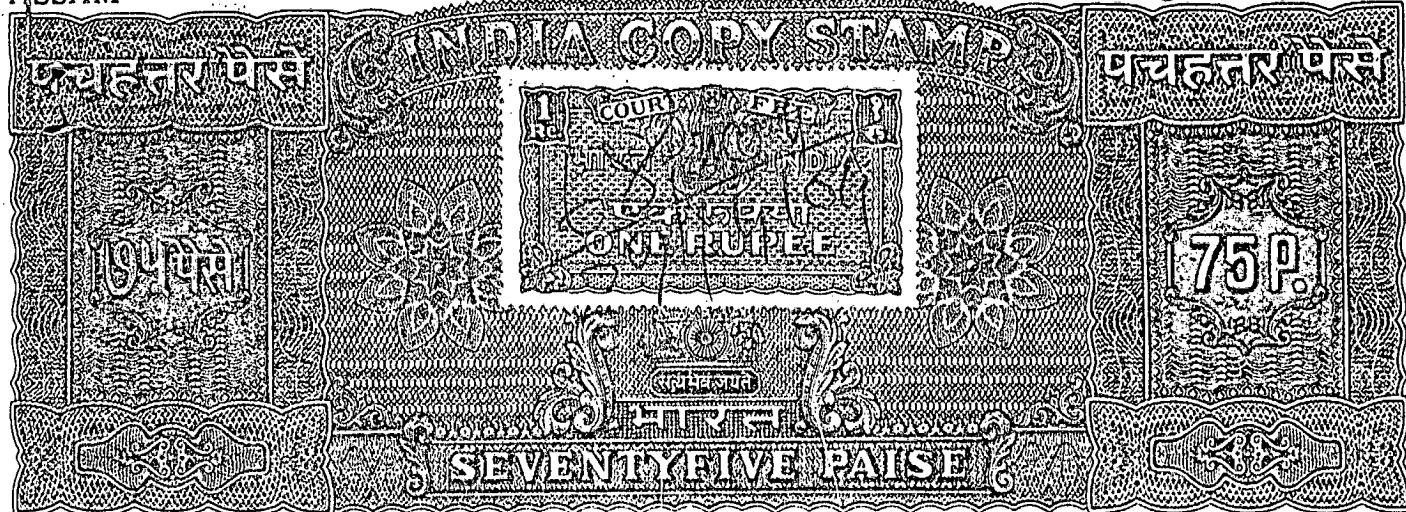
Smt Mallika Dutta (L.D. AssH)
29/4/04

S.D.J. Mr. Abhinav Majhi

Verified to be true copy

Smt Dular Das
29/4/04

S.D.J. Mr. Abhinav Majhi



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
31/3/04	31/3/04	31/3/04	28/4/04	29/4/04

In the court of Sub-Divisional Judicial Magistrate, :: Majuli, Garamur.

Case No. G.R. 61/93

Present :- Sri R. Goswami,

U/S 409 of I.P.C.

S.D.J.M. Majuli.

State

-Vs-

Arjun Das.

Evidence recorded on 28.2.03, 24.3.03,
29.9.03 and 1.12.03 and 22.3.04.

Argument was heard on 16.3.04.

Judgment was delivered on 31.3.04.

Advocates present :-

1. A. Goswami, A.P.P. for the prosecution.
2. H. Borah for the accused.

JUDGMENT

The prosecution case in brief is that on 11.6.93 informant P.V. Suganan, Suptd post office, Sibsagar Division had informed Suptd of Police Jorhat that Arjun Das, Post Master Jengraimukh Sub-Post office had misappropriated Rs 212,264.52 p.

Upon the above information Jengraimukh P.S. had registered a case No. 18/93 U/s 409. Thereafter during investigation a prima facie case u/s 409 of I.P.C. was established against the accused Arjun Das and the I.O. S.I. Bijoy Kalita had submitted charge-sheet accordingly.

The charge u/s 409 of I.P.C. had been framed against accused Arjun Das. The accused Pleaded not guilty and claimed to stand trial.

The prosecution had examined as many as five pws including I.O. and the informant.

Contd.



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

//2//

The accused pleaded total denial of the incriminating evidence against him . Declined to adduce any evidence .

Heard ld advocates .

Points for Decision :-

1. Whether the accused Arjun Das was ^{entrusted} ~~entrusted~~ with Rs. 2,12,264.52 p. in his capacity as the post master of Jengraimukh post office and he had committed criminal breach of trust in respect of the said money ?

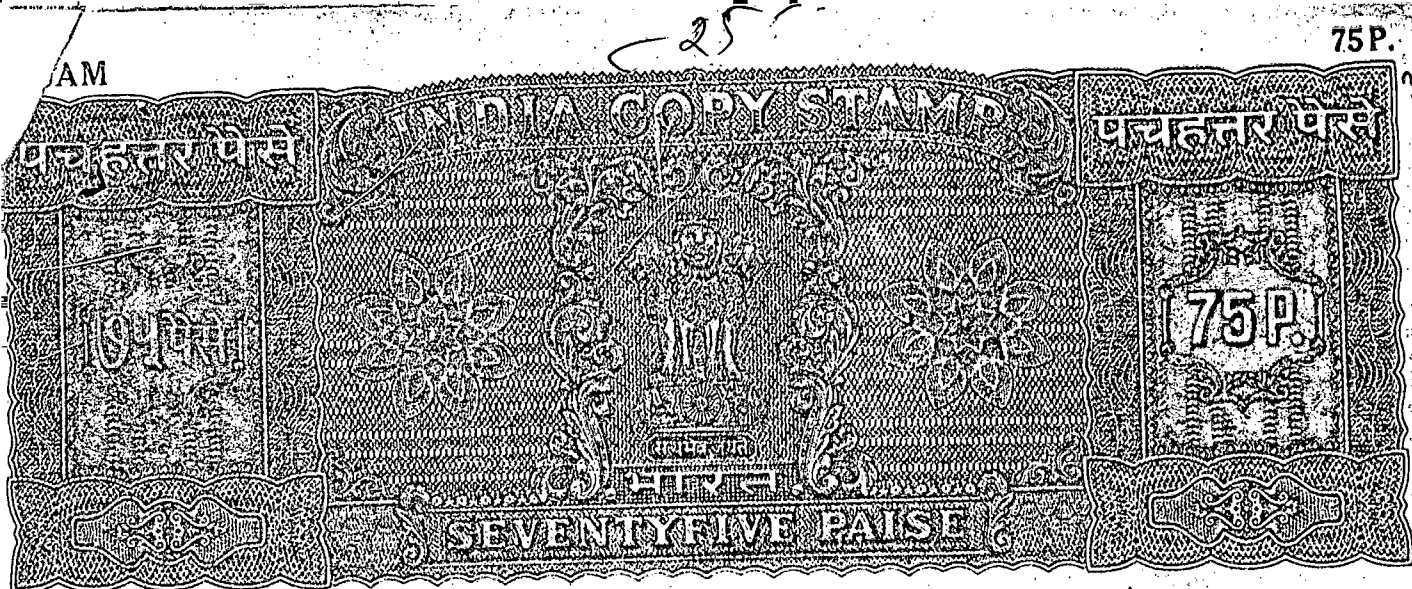
Decisions and reasons thereof :-

In order to base the conviction of the accused on charge of S 409 of I.P.C. the prosecution has to prove following facts .

1. The accused is a public servant .
2. That he was in any manner entrusted with Rs 2,12,264.52 p
3. That the above sum had been entrusted in his capacity as is public servant .
4. That he had committed criminal breach of trust of that property .

Now ~~that~~ the pwl though admitted that the accused was the post master of Jengraimukh post office but then he expressed complete ignorance about the case .

Concl. 3.



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

//3//

The pw2 Dilip Pegu , pw3 Tridip Saikia and pw4 Malbhog Bortha though identified the accused but then they also expressed complete ignorance about the case .

The pw5 P.V. Suganan the informant in the case stated that he had joined as superintendent of post office ,sibsagar Division at Jorhat H.O. on 25.6.1992 . That he had lodged the F.I.F on 11.6.93 on the basis of a verification report of the Inspector of P.O. that a sum of Rs 2,12,264.52 P. had been misappropriated by Arjun Das . Sub-post Master under supervision of Jengraimukh P.O. before the suptd of police Jorhat . According to pw5 he was relieved of his charges on 29.6.94 . The ext 1 was the F.I.R. and ext 1(1) was his signature .

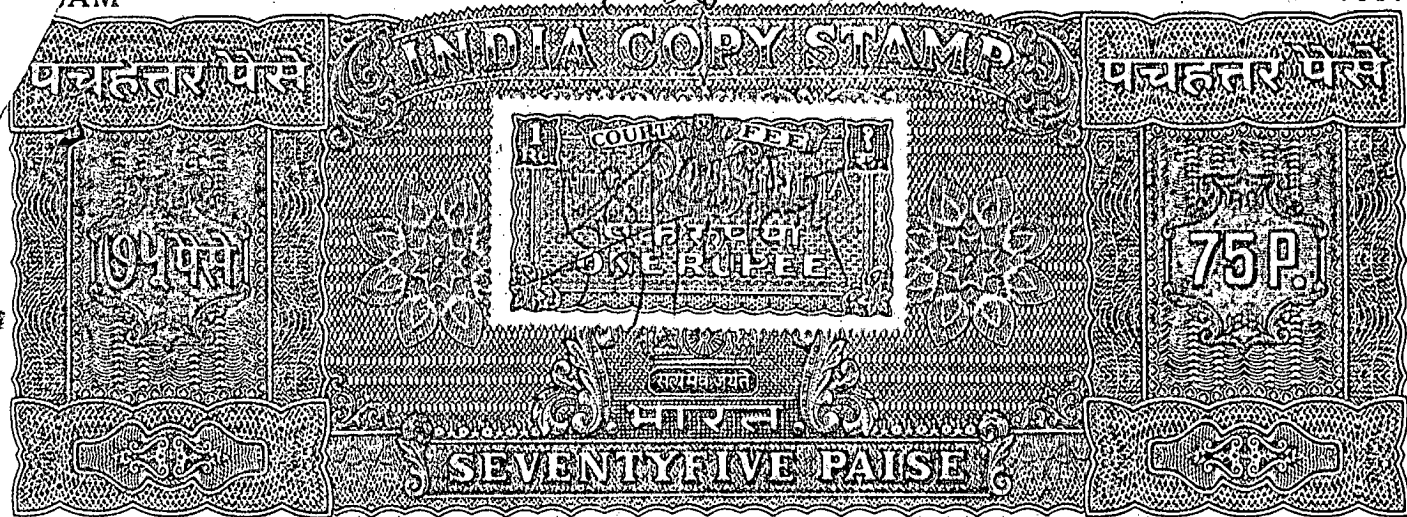
In his cross the pw5 stated that he had personally gone through the record which show misappropriation of above sum by the accused .

The verbal testimony of the pw5 can not be relied up on without the documents related to by the pw5 in his evidence .

Pw6 S.I. Bijoy Kalita the I.O. had submitted the charge-sheet u/s 409 of I.P.C. against the accused . The pw6 proved the charge-sheet as ext 1 and his signature as ext 1 (1) .

Now above in the thread bare discussion of evidence on record .

Concl.



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
31/3/04	31/3/04	31/3/04	28/4/04	29/4/04

11/4/11

The fact that the accused Arjun Das was a sub-post Master of Jengrai post office has not been challenged. But the fact that he was entrusted with Rs 2,12,264.52 P. in his capacity as subpost master of Jengraimukh P.O. could not be established by the prosecution as the informant pw5 though alleged that as per verification report of the Inspector of P.O. he had lodged the ext 1 F.I.R. on 11.6.93. But neither the inspector was examined nor the verification report was exhibited in evidence by the prosecution.

When the fact of entrustment of the sum of Rs 2,12,264.52 p. is not proved definitely the accused is entitled to benefit of doubt.

Summing up I find that the prosecution has failed to establish the charges u/s 409 of I.P.C. against the accused beyond all reasonable doubt. The accused Arjun Das is acquitted of Charge u/s 409 of I.P.C. and set at liberty forthwith.

Given under my hand on this 31st day of March /2004.

Sd/- Sri R. Goswami,
Sub-Divisional Judicial Magistrate,
31.3.04.

Copy type by :-

Sri Dolaram Doley
(Copy/8) 29/4/04
Copy compared by

Santi Mallika Seltu (I.D. Ass't)
29/4/04

Verified to be true copy

Shri Dularam Doley
29/4/04
U D Ass't

Old Sub Div. J. Mag.
Panchganga, Sonapat

-27- Arjun - VI 6 58

To,
The Superintendent of Post Offices,
Sibsagar Division, Jorhat - 785 001

Dated Bishnu Nagar, Tezpur the 30th August/2004

Sub : Reinstatement in service.

Sir,

With due respect and humble submission I beg to state that while I was working as S.P.M. Jengraimukh Sub Post Office under Sibsagar Postal Division, Jorhat I have been placed under suspension and later on dismissed from service on the ground of misappropriation of Govt. money amounting to Rs. 3,443.50 and Rs. 2,12,264.52 p. only. The Department lodged complaint to Jengraimukh P.S. and the Jengraimukh P.S. sent the case to the Sub Divisional Judicial Magistrate, Majuli Court. After several hearing on the above cases the hounourable S.D.J.M., Majuli Court has acquitted me from both the charges brought against me.

I, therefore, request you kindly to reinstate me in the original post at an earliest date and oblige.

My new address is given below.

Yours faithfully,

Enclosures :

Photocopies of
G.R. Case No. 13/92
and G.R. Case No. 61/93.

(Sri Arjun Ch. Das)

Ex. S. P. M.
Jengraimukh Sub Post Office
Majuli

Copy to :

1. Divisional Secretary,
A.I.P.E.U. - P-III
Sibsagar Division, Jorhat - 785 001
for information and necessary action please

(Sri Arjun Ch. Das)

Ex. S. P. M.
Jengraimukh Sub Post Office
Majuli

My new address :

Bishnu Nagar (Bishnu Rava Ali)
P.O. Tezpur,
Dist.- Sonitpur (Assam)

calyngobethu
M. Agindan
A. Sorali

Mr. Someswar Borah

LL.B

28 Dec - VII

BAR LIBRARY
Phone No. 20358

ADVOCATE
TEZPUR BAR ASSOCIATION
Tezpur-784001
(ASSAM)

Ref No.

Date... 10/9/04

Notice Under Section 80 C.P.C.

To,

The Superintendent of Post Offices,
Sibsagar Division, Jorhat
P.O. & P.S. - Jorhat
Dist.- Jorhat - 785 001

Sir,

Under instructions from my client Sri Arjun Ch. Das, S/O Late Barun Ch. Das, resident of Bishnu Nagar, Bishnu Rava Ali, Tezpur Town (Part - I), Mouza : Bhairabpad, P.O. & P.S. Tezpur, District - Sonitpur, Assam, do hereby give you this notice and state as under :

1. That my client Sri Arjun Ch. Das, S/O Late Barun Ch. Das has permanent residence at Bishnu Nagar (Bishnu Rava Ali), Tezpur Town Part-I, P.O. & P.S. Tezpur, District - Sonitpur, Assam.
2. That my client was working under your department since 6.1.1979 in various capacity in Arunachal Pradesh and Assam, till 20.4.1992.

Contd...2

बीमा नहीं NOT INSURED

समाये गये डाक टिकटों का मूल्य रु. 35 प.

Amount of Stamps affixed Rs

एक रजिस्ट्र*

Received a Registered*

दिनेवाले का नाम

Addressed to...

क्रमांक

No. 7607

तारीख मोहर

Date Stamp

पानेवाले अधिकारी के हस्ताक्षर

Signature of Receiving Officer

7 certified to Barun
Mukherjee
Jorhat

बीमा नहीं NOT INSURED

लगाये गये डाक टिकटों का मूल्य रु. 25 प.

Amount of Stamps affixed Rs. 25 P.

एक रजिस्ट्रार * A/15

Received a Registered * A/15

पानेवाले का नाम

Addressed to: 64 pldt of 60

पानेवाले अधिकारी के हस्ताक्षर

Signature of Receiving Officer

क्रमांक 29-

No. 2662

तारीख मंजूर

Date Stamp

पानेवाले अधिकारी के हस्ताक्षर

Signature of Receiving Officer

4/11

Sub: Reinstate of service.

Ref.: My application dated 30.08.04

Sir,

Kindly refer my application dated 30.08.04, but no reply has been received from your end. I therefore request you kindly to reinstate me in my service at an earliest date and oblige.

Your faithfully

Arjun Ch. Das
3/11/04

(Sri Arjun Ch. Das)

Bishnu Nagar (Bishnu Rava Ali)

P.O. Tezpur, 784001

Dist. Sonitpur (Assam)

certified for
Muzaffar
Assam

30
Someswar Borah LL.B

ADVOCATE
BAR ASSOCIATION
Tezpur-784001
(ASSAM)

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Phone No. 20358

Ref No.

Date...10/9/09...

3. That while he was working as Sub-Post Master at Jengraimukh, Majuli, under your division, during 1992, the then Superintendent of Sibsagar Postal Division Mr. A. Behera and P. V. Suganan filed two criminal cases against my client at Jengraimukh, Majuli and the same were registered as Jengraimukh P.S. Case No. G.R. 13/92 U/S 409 and G.R. 61/93 under section 409 I.P.C.
4. That on the basis of the above two F.I.R. the then Superintendent of Sibsagar Postal Division, Jorhat, suspended my client from his service on 9.4.1992 and he is under suspension till today from his duty.
5. That on the basis of above two F.I.R. two criminal cases were registered being G.R. Case No. 13/92 and G.R. Case No. 61/93 Under Section 409 I.P.C. and same were proceeded at S.D.J.M. Court at Garmur, Majuli against my client.
6. That my client Sri Arjun Ch. Das appeared regularly in these two cases at Garmur in the Court of the S.D.J.M., Majuli. In the above cases 6 and 7 witnesses respectively including the I.O. were examined.
7. That after examining the witnesses and hearing the arguments the honourable S.D.J.M., Majuli delivered the Judgements on 31.3.04 of the above two cases and my client was acquitted from both the cases/charges.

By
Someswar Borah
Advocate, Tezpur
10/9/09

Contd...3

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Sl No.

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8. That, be it mentioned that my client is deprived of his salary and other service benefit since 1992 for which he is facing acute financial hardship and mental agony.

9. That after delivery of the judgement of the cases my client has sent two registered letters to you with a request to reinstate him in his service and payment of salary and allowances. Copies of judgement were also sent to you with those letters.

Therefore, I hereby give you this notice and information, under instruction of my client, that you release the salary and allowances to him since 1992 to till today. **WITHIN A PERIOD OF TWO MONTHS** from the date of receipt of this notice and also to reinstate him in his service immediately, otherwise my client's instruction is that, you be informed that he will go to appropriate court of law to recover the dues as mentioned with 12% interest from your department and reinstatement in service.

Enclosures :

Photocopies of
G.R. Case No. 13/92
G.R. Case No. 61/93

Your's faithfully

Sri Someswar Borah
(Sri Someswar Borah)

Advocate,
Tezpur Court, Tezpur

ANNEXURE - IX.

DEPARTMENT OF POSTS: INDIA

From O/o the Supdt. of Post Offices,
Sivasagar Division,
Jorhat - 785001.

To,

Shri. Arjun Das,
Bishnu Nagar, (Bishnu Rava Ali)
P.O. Tezpur - 784001.
District: Sonitpur, Assam.

No. FU-20/91-92 dated: at Jorhat, the 9.11.2004,
Subject: Reinstate of service

Ref: Your application dated: 3/11/2004

Please refer to your application cited above, it is for your information that your prayer now cannot be considered as you was dismissed from service on violation of Departmental Rules after proceeding under Rule - 14 of CCS (CCA) Rules on acquitted by Court which deals with provision of IPC.

In the meantime, you are hereby asked to credit the whole amount of misappropriation immediately at any P.O.'s as W.R. under intimation to his office.

Sd/- illegible
Supdt. of Post Offices,
Sivasagar Division,
Jorhat - 785001.

Contd...

*Relief to be free
under
proviso*

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ANNEXURE - X.

To,

The Superintendent of Post offices,
Sibsagar Division,
Jorhat - 785001.

Dated: 9/3/2005

Subject: Prayer for reinstatement and for release of my pay,
salary, and allowances.

Sir,

With due respect and humble submission, I would like to state that earlier I was working as SPM, Jengraimukh Sub Post Office. I was placed under suspension on 20/4/92 as per order dated: 9/4/1992 and 2 FIR were filed against me U/s. 409 IPC for alleged misappropriation of money. In the both criminal cases, I was acquitted honourably and completely exonerated of the charges by the Hon'ble Magistrate. After my acquittal, I submitted the copy of the judgment of the criminal cases to you prayed for my reinstatement in service and for payment of my arrear salaries and allowances. Later on, I came to learn that I have been dismissed from service for the same charges in an ex-parte manner without affording any opportunity of hearing to me. Even the order of dismissal has not yet been communicated to me.

Therefore, I pray that your honour be kind enough to reinstate me in service at an earliest and pay my arrear due salary and allowances and oblige.

Yours faithfully,
Sd/- Arjun Ch, Das,
Bishnunagar
Bishnu Rava Ali,
P.O. Tezpur,
District: Sonitpur,

Contd...

*Particulars for
M. M. Das
for Sd/-*

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ANNEXURE - XI.

To,

The Superintendent of Post offices,
Sibsagar Division,
Jorhat - 785001.

Dated: 10/8/2005

Subject: Prayer for reinstatement and for release of my pay,
salary, and allowances.

Sir,

With due respect and humble submission, I would like to state that earlier I was working as SPM, Jengraimukh Sub Post Office. I was placed under suspension on 20/4/92 as per order dated: 9/4/1992 and 2 FIR were filed against me U/s. 409 IPC for alleged misappropriation of money. In the both criminal cases, I was acquitted honourably and completely exonerated of the charges by the Hon'ble Magistrate. After my acquittal, I submitted the copy of the judgment of the criminal cases to you prayed for my reinstatement in service and for payment of my arrear salaries and allowances. Later on, I came to learn that I have been dismissed from service for the same charges in an ex-parte manner without affording any opportunity of hearing to me. Even the order of dismissal has not yet been communicated to me.

In this regard, I have earlier made representations before you.

Therefore, I pray that your honour be kind enough to reinstate me in service at an earliest and pay my arrear due salary and allowances and oblige.

Yours faithfully,
Sd/- Arjun Ch, Das,
Bishnunagar
Bishnu Rava Ali,
P.O. Tezpur,
District: Sonitpur,

Contd...

*certified true
copy of the
original
document*