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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 38/2005

R.A/C.P No.

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SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 38105
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicants: R.N. Das
Respondents U.O.I. Gov.

Advocates for the Applicant Mr. S. Sarma, Mr. U. Das, Mrs. B. Devi

Advocates of the Respondents Addl. C.G.S.C. Mr. A.K. Chaudhuri

Notes of the Registry Date _____ Order of the Tribunal _____

This application is filed/G.R. No. _____
deposited vide P. No. 265/1126/05
Dated 3.2.05

1/15/05
1/c Dy. Registrar
PAI

Steps taken

Present: Hon'ble Mr. M.K. Gupta,
Member(J), Hon'ble Mr. K.V. Prahladan,
Member(A).

Heard learned counsel for
the applicant. Admit. Issue notice
on the respondents at the cost of
the applicant. The respondents to
file reply within 6 weeks.

List on 5.4.05.

Member(A)

Member(J)

lm

05.04.2005

Mr. A.K. Chaudhuri, learned
Addl. C.G.S.C. for the respondents
seeks time for filing written
statement. Post on 5.5.2005.

Vice-Chairman

mb

Order dt. 16/2/05
issuing to learned
advocate for applicant.

22/2

4-4-05
NO reply - for record
Billed.

The notices for
resp. Nos. 324
issued by the learned
advocate for applicant
by Speed post on
19/3/05.

5.5.2005

Ms. B. Devi, learned counsel on
behalf of Mr. S. Sarma, learned counsel
for the applicant is present. Mr. A.
K. Chaudhuri, learned Addl. C.G.S.C.
submits that some more time is requi-
red to file the written statement.
post on 6.6.2005.

K. B. Chaudhuri
Member

B. Devi
Vice-Chairman

bb

6.6.2005

Mr. A. K. Chaudhuri, learned Addl.
C.G.S.C. submits that this case and
O.A. 37/2005 are connected and that
written statement will be filed shortly
Post on 29.6.2005.

K. B. Chaudhuri
Member

B. Devi
Vice-Chairman

bb

29.6.2005

Ms. B. Devi, learned counsel for
the applicant and Mr. A. K. Chaudhuri,
learned Addl. C.G.S.C. for the respond-
ents submit that the case can be posted
for hearing. post on 09.08.2005 for
hearing.

B. Devi
Vice-Chairman

mb

W/s Submitted by 9.8.05.
The Respondent Nos. 1, 2, 3 & 4.

Mr. S. Sarma learned counsel for
the applicant prays for short adjournment-
Post the matter for hearing on
9.9.05.

K. B. Chaudhuri
Member

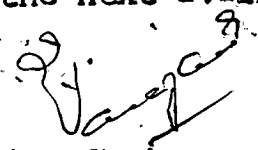
B. Devi
Vice-Chairman

lm

① W/s have been filed

B. Devi
8.8.05

9.9.05. Post the matter before the next available Division Bench.


Vice-Chairman

lm

5-10-05

① Wls has been filed.

M

6.10.2005 Mr.S.Sarma, learned counsel for the applicant seeks for an adjournment. Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. for the respondents has no objection. post on 11.11.2005.


Member


Vice-Chairman

bb

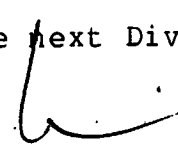
11.11.2005. Post before the next Division Bench.



Vice-Chairman

bb

9.3.2006 Present: Hon'ble Shri B.N. Som, Vice-Chairman (A)
Hon'ble Shri K.V. Sachidanandan, Vice-Chairman (J)

The learned counsel for the parties are not present. Post before the next Division Bench.


Vice-Chairman(J)


Vice-Chairman(A)

nkm

9.8.2006 Mr.M.U.Ahmed, learned Addl.C.G.

S.C. submits that earlier late A.K. Chaudhuri, was appearing in the matter and since he is no more now he is appearing in the matter and restructuring the same and hence he needs some more time to get ready with the matter. let it be done.

post on 31.8.2006.


Member (A)


Vice-Chairman

bb

No Reply has been filed.

M
8.3.06

No Reply has been filed.

M
8.8.06

No Reply has been filed.

M
30.8.06

24-
O.A. 38 of 05

31.8.06.

Post the matter on 9.9.06.

No Refrainder has
been filed

Vice-Chairman

lm

21
18.9.06.

19.09.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

No Refrainder has
been filed

Post on 03.11.2006.

Vice-Chairman

/mb/

21
6.11.06.

7.11.2006

DR matter. Post on 28.11.2006.

No Refrainder has
been filed

Vice-Chairman

bb

29.11.06.

Post the matter after two weeks.

21
27.11.06.

Vice-Chairman

lm

26.2.07

pleadings complete

25.4.07

Copy of the budget
handed over to the
Advocates for the
parties.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.37 of 2005

And

Original Application No.38 of 2005

Date of Order: This the 27th day of February 2007

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman

The Hon'ble Smt Chitra Chopra, Administrative Member

I. O.A.No.37/2005

Shri Deba Kanta Phukan,
S/o Late Keshram Phukan,
Technical Assistant Grade II(2),
Office of the Director, Regional Research Laboratory,
Jorhat-785006.Applicant

By Advocates Mr S. Sarma and Ms B. Devi.

• - versus -

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of Science and Technology,
New Delhi.
2. The Director General
Council of Scientific and
Industrial Research (CSIR),
Anusandhan Bhawan,
2, Roffi Marg, New Delhi-11001.
3. The Director,
Regional Research Laboratory (RRL),
Jorhat-785001.
4. The Administrative Officer,
Regional Research Laboratory,
Jorhat-785001.

.....Respondents

By Advocate Mr M.U. Ahmed, Addl. C.G.S.C.

II. O.A.No.38/2005

Shri Ram Nath Das,
 S/o Late Bhadreswar Das,
 Working as Technical Assistant, Grade III(3),
 Office of the Director,
 Regional Research Laboratory,
 Jorhat-785006.

.....Applicant

By Advocates Mr S. Sarma and Ms B. Devi.

- versus -

1. Union of India, represented by the
 Secretary to the Government of India,
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 New Delhi.
2. The Director General
 Council of Scientific and
 Industrial Research (CSIR),
 Anusandhan Bhawan,
 2, Roffi Marg, New Delhi-11001.
3. The Director,
 Regional Research Laboratory (RRL),
 Jorhat-785001.
4. The Administrative Officer,
 Regional Research Laboratory,
 Jorhat-785001.

.....Respondents

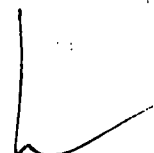
By Advocate Mr M.U. Ahmed, Addl. C.G.S.C.

.....

ORDER (ORAL)

K.V. SACHIDANANDAN (V.C.)

Since common questions of law and facts are involved, the applications are taken up together and disposed of by a common order with the consent of the parties.



2. The applicants were imposed penalty vide order dated 16.09.1999 reducing their pay for one year. Disciplinary proceedings were initiated against the applicants alongwith others. The statement of article of charge framed against the applicants are reproduced as under:

O.A.No.37/2005

"Article I

That Shri D.K. Phukan while functioning as Tech.II(1) during the period September, 1989 has applied for All India LTC to visit Kanyakumari for the block year 1986-89. He was sanctioned LTC and thereof as due and admissible under the LTC Rules. An amount of Rs.3,225.00 (Rupees Three thousand two hundred and twentyfive only) was accordingly drawn by him as LTC advance.

WHEREAS Shri D.K. Phukan, Tech. II(1) obtained false and fictitious Local Excess Fare Ticket bearing EFT No.693175 and got verified the same in support of his journey on LTC.


WHEREAS Shri D.K. Phukan, Tech. II(1) had submitted the LTC final bill No.1854/LTC/Adj./89 and got it passed for an amount of Rs.4,206.00 (Rupees Four thousand two hundred and six only) from Accounts Section without performing the journey.

WHEREAS Shri D.K. Phukan, Tech. II(1) /his family members did not perform the journey on LTC and accordingly submitted an application to the Competent Authority for returning the LTC amount drawn by him and regretted for his misconduct."

O.A.No.38/2005

"Article I

That Shri Ram Nath Das, Tech.Asstt.III(1) while functioning as Tech. Asstt. III(1) during the period September, 1989 has applied for All India LTC to visit "Goa" (Panaji) for the block year 1986-89. He was sanctioned LTC and thereof as due and admissible under the LTC Rules. An amount of Rs.12,250.00 (Rupees Twelve thousand two hundred and fifty only) was accordingly drawn by him as LTC advance.



WHEREAS Shri Ram Nath Das, Tech. Asstt. III(1) obtained false and fictitious Local Excess Fare Ticket bearing EFT No.693153 and got verified the same in support of his journey on LTC.

WHEREAS Shri Ram Nath Das, Tech. Asstt. III(1) had submitted the LTC final bill No.1549/LTC/Adj./89 and got it passed for an amount of Rs.13,644.00 (Rupees Thirteen thousand six hundred and fortyfour only) from Accounts Section without performing the journey.

WHEREAS Shri Ram Nath Das, Tech. Asstt. III(1) /his family members did not perform the journey on LTC and accordingly submitted an application to the Competent Authority for returning the LTC amount drawn by him and regretted for his misconduct."

3. The applicants originally submitted their written reply on 06.10.1997 wherein the applicants had admitted the charge. After completion of the disciplinary proceedings penalty was imposed. Being aggrieved by the action of the respondents, the applicants filed different O.A.s (O.A.No.316/2001 & O.A.No.317/2001) before this Tribunal and this court, after considering the entire aspects of the matter disposed of the said O.A.s by a common order dated 23.05.2002, the operative portion of which is reproduced below:

"For the reasons cited above the impugned orders are set aside. The disciplinary authority may now initiate with the measures indicated in Sub rule (5) (a) of Rule 14 of the CCS (CCA) Rules, 1965 as amended and record its findings on the charge after taking such evidence as it may think fit and act in the manner laid down in Rule, including Rule 15.

The applications are accordingly allowed. There shall however be no order as to costs."

4. Thereafter, a de novo trial was initiated by the respondents, but the applicants made a request before the authority for granting four weeks time for filing of written reply on the ground of non-availability of their lawyer. The averment of the applicants is

W ✓


that without granting such time their claim was rejected by the impugned order dated 22.04.2004. The applicants preferred appeal dated 21.05.2004 (Annexure-9) which was rejected.

5. The applicants' case is that no reasonable opportunity was given to them and it is against the spirit of the direction given by the Tribunal in the earlier O.A.s. Aggrieved by the said action of the respondents the applicants have file the present O.A.s seeking the following reliefs:

"To set aside and quash the impugned orders dated 22.4.04 and 13.10.04 and to exonerate the applicant from all the charges providing all the consequential service cover and other consequential benefits flowing there from alongwith arrear salary, seniority etc."

6. The respondents have filed detailed written statements contending that the judgment of the Tribunal in the earlier O.A.s filed by the applicants was duly considered and appropriate action within the legal framework of the judgment was taken. In reply to the submission of the applicants that only four weeks time was provided to them to represent and the extension of time sought was not provided to the applicants, the respondents have stated that the plea of the applicants is not itself a testimony of the fact that reasonable time of four weeks was provided and since there was no valid ground for further extension of time, the action taken by the respondents was fairly within the framework of the rules. Annexure-1 dated 20.02.2004 to the written statement of the respondents will reveal that the applicants have made a categorical admission, which cannot be retrieved. Since the applicants have admitted the guilt the chargesheet issued under Rule 14 of the CCS (CCA) Rules, 1965 was clear and strictly as per the scheme of the rules as required. The

10 chargesheet contained Annexures of the article of charge, statement of imputation of misconduct or misbehaviour and the list of oral and documentary evidence in support of the articles of charge. The Tribunal directed the Disciplinary Authority to initiate with the measures indicated in Sub Rule 5 (a) of Rule 14 of CCS (CCA) Rules and record its findings on the charge after taking such evidence as it may think fit and act in the manner laid down in Rule including Rule 15. As per the directions of the Tribunal proceedings were initiated and decision taken by the Disciplinary Authority. The respondents vide order dated 26.11.2002 expressed their decision regarding holding of De novo enquiry as per the directions of the court. The said order clearly stated that the order of imposing the penalty of reduction to a lower stage in the time scale of pay for a period of one year is no more in existence. This is without prejudice to further action as per Rules in agreement with the Tribunal's order. The order of the Disciplinary Authority was passed on the admission of guilt by the applicants and therefore neither oral enquiry was considered necessary nor directed by the Tribunal. What the Tribunal had directed the Disciplinary Authority was to consider the evidence against the applicants and take appropriate action as per Rule 14 of the CCS (CCA) Rules, 1965. Since the reply dated 06.10.1997 of the applicants was a clear admission of guilt, at no stage thereafter, even after opportunity was provided, the applicants never retracted back on their admission of the charges leveled against them. The penalty imposed by the Disciplinary Authority which stands merged in the modified order of the Appellate Authority was based on evidence and commensurate with the gravity of the charge of fictitious LTC claims which is grave misconduct for a Government servant. Therefore, the



action taken by the respondents was to uphold the rule of law and to punish the persons found guilty of misusing Government money.

7. We have heard Mr S. Sarma, learned counsel for the applicants and Mr M.U. Ahmed, learned Addl. C.G.S.C. and have given due consideration to the arguments, evidence and materials placed on record.

8. The learned counsel for the applicants submitted that the decision of the Tribunal is very clear as to grant of further opportunity to the applicants, which was not complied with and further opportunity sought by the applicants for further four weeks time was also denied. Therefore, the De novo proceedings initiated was an empty formality and by not granting any opportunity to the applicants the respondents have acted illegally and in violation of the order of the Tribunal.

9. The learned counsel for the respondents, on the other hand, argued that the first four weeks time was granted and when the applicants prayed for further four weeks time it was not granted since the reasons stated by the applicants were not convincing and the respondents proceeded as per the records and materials available.

10. It is an admitted fact that the respondents had allowed LTC advance to the applicants which was not availed by them and they have refunded the amount subsequently. Some of the colleagues of the applicants who have not refunded the amount earlier were directed to refund the same by show cause notice and proceedings had been initiated against them including the applicants by common notice. They approached this Tribunal by filing O.A.No.s316, 317 and

318 of 2001 and after elaborate discussion this Tribunal came to a finding that the matter should be remanded back to the Disciplinary Authority for adopting the measures indicated in Sub rule (5) (a) of Rule 14 of the CCS (CCA) Rules, 1965 and record its findings on the charge after taking such evidence as it may think fit and act in the manner laid down in Rule, including Rule 15. For better elucidation Sub rule (5) (a) of Rule 14 and Rule 15 are quoted below:

"(5) (a) On receipt of the written statement of defence, the Disciplinary Authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers if necessary to do so, appoint under sub-rule (2), an Inquiring Authority for the purpose, and where ass the articles of charge have been admitted by the Government servant in his written statement of defence, the Disciplinary Authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15."

"15. (1) The Disciplinary Authority, if it is not itself the Inquiring Authority may, for reasons to be recorded by it in writing, remit the case to the Inquiring Authority for further inquiry and report and the Inquiring Authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 14, as far as may be.

(2) The Disciplinary Authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the Disciplinary Authority or where the Disciplinary Authority is not the Inquiring Authority, a copy of the report of the Inquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Inquiring Authority on any article of charge to the Government servant who shall be required to submit, if he so desires, his written representation or submissions to the Disciplinary Authority within fifteen days, irrespective of whether the report is favourable or not to the Government servant.

(2-A) The Disciplinary Authority shall consider the representation, if any, submitted by the Government servant and record its findings

before proceeding further in the matter as specified in sub-rule (3) and (4).

- (3) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in Clauses (i) to (iv) of Rule 11 should be imposed on the Government servant, it shall, notwithstanding anything contained in Rule 16, make an order imposing such penalty:

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the Disciplinary Authority to the Commission for its advice and such advice shall be taken into consideration before making any order imposing any penalty on the Government servant.

- (4) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry is of the opinion that any of the penalties specified in Clauses (v) to (ix) of Rule 11 should be imposed on the Government servant, it shall make an order imposing such penalty and it shall not be necessary to give the Government servant any opportunity of making representation on the penalty proposed to be imposed.

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the Disciplinary Authority to the Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty on the Government servant."

11. The gist of Rule 15 is that an opportunity should be given to the Government servant. It is borne out from records that the reason for seeking adjournment was that the applicants' lawyer was not available. The learned counsel for the applicants has now submitted that since the applicants' lawyer was not doing well he could not be present and the applicants made representation for adjournment which was not granted. Further it is borne out from the

records that the earlier punishment imposed on the applicants was based on the alleged admission made by the applicants. It is well known to the legal parlance that normally an admission made par se cannot be a reason for culmination of a punishment. Admissions can be made by a delinquent on different circumstances like undue influence, coercion, threat etc. That may be the reason why this Tribunal had remanded the matter for fresh enquiry, that too a De novo trial. The word 'De novo' indicates that a fresh trial is to be initiated, needless to say that all opportunities should be given to the applicants and the materials available in the record should be put to test and proved. It appears from the pleadings and materials placed on record that the applicants had not been given an opportunity as directed by this Tribunal for a fresh opportunity to cross-examine the witnesses and evidence produced and therefore we are of the view that the impugned orders had been passed not in strict compliance of the order passed by the Tribunal in the earlier O.A.s. The Tribunal while passing the earlier orders was very specific on the ground that the procedural reasonableness is introduced to promote justice and prevent miscarriage of justice. Fairness is ensure by adhering to the rule of the game. The procedure enjoined in Part VI did not rule out an enquiry. Sub rule (5) (a) of Rule 14 itself indicates that when all the article of charges have been admitted by the Government servant in his written statement in defence, the Disciplinary Authority is required to record his findings on each charge after taking such evidence as may think fit and act in the manner laid down in Rule 15. Rule 5 (a) did not rule out recording of evidence. It has conferred the discretion on the authority to take such evidence as it may think fit. The statutory rule as envisaged in Sub rule 18 of Rule 14 also cast the

duty on the authority to question the delinquent officer on the circumstances appearing against him. Therefore, the very direction that was given by the Tribunal is for recording evidence and for relying on such evidence, which has not been done in this case. We find that the procedure that has been adopted by the respondents is not in conformity with the rules laid down.

12. We are fully aware that we are not sitting in appeal on the decision of the Departmental Authorities. The Hon'ble Supreme Court in a celebrated decision reported in 1994 (6) SCC 651 in Tata Cellular Vs. Union of India and others has held that scope of judicial review lies on the decision making process and the merit of the decision itself is not reviewable as the court does not sit as an appellate authority while exercising power of review. Therefore, we are of the considered view that the direction of the Tribunal in the earlier O.A.s has not been complied with and there is ab initio arbitrariness, irregularities and illegality in the impugned orders passed by the respondents. Therefore, we have no hesitation in setting aside the order dated 22.04.2004 and the Appellate Order dated 13.10.2004 for the reasons stated above and we do so accordingly and liberty is given to the respondents to proceed afresh De novo, if the respondents so desire.

The Original Applications are allowed to the extent indicated above. No order as to costs.

Sd/ VICE CHAIRMAN
Sd/ MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.37 of 2005

And

Original Application No.38 of 2005

Date of Order: This the 27th day of February 2007

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman

The Hon'ble Smt Chitra Chopra, Administrative Member

I. O.A.No.37/2005

Shri Deba Kanta Phukan,
S/o Late Keshram Phukan,
Technical Assistant Grade II(2),
Office of the Director, Regional Research Laboratory,
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By Advocates Mr S. Sarma and Ms B. Devi.

- versus -

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New Delhi.
2. The Director General
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Industrial Research (CSIR),
Anusandhan Bhawan,
2, Roffi Marg, New Delhi-11001.
3. The Director,
Regional Research Laboratory (RRL),
Jorhat-785001.
4. The Administrative Officer,
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Jorhat-785001.

.....Respondents

By Advocate Mr M.U. Ahmed, Addl. C.G.S.C.

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II. O.A.No.38/2005

Shri Ram Nath Das,
S/o Late Bhadreswar Das,
Working as Technical Assistant, Grade III(3),
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Regional Research Laboratory,
Jorhat-785006.

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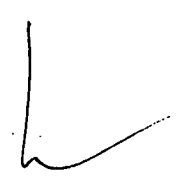
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ORDER (ORAL)

K.V. SACHIDANANDAN (V.C.)

Since common questions of law and facts are involved, the applications are taken up together and disposed of by a common order with the consent of the parties.



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WHEREAS Shri D.K. Phukan, Tech. II(1) obtained false and fictitious Local Excess Fare Ticket bearing EFT No.693175 and got verified the same in support of his journey on LTC.


WHEREAS Shri D.K. Phukan, Tech. II(1) had submitted the LTC final bill No.1854/LTC/Adj./89 and got it passed for an amount of Rs.4,206.00 (Rupees Four thousand two hundred and six only) from Accounts Section without performing the journey.

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"Article I

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WHEREAS Shri Ram Nath Das, Tech. Asstt. III(1) /his family members did not perform the journey on LTC and accordingly submitted an application to the Competent Authority for returning the LTC amount drawn by him and regretted for his misconduct."

3. The applicants originally submitted their written reply on 06.10.1997 wherein the applicants had admitted the charge. After completion of the disciplinary proceedings penalty was imposed. Being aggrieved by the action of the respondents, the applicants filed different O.A.s (O.A.No.316/2001 & O.A.No.317/2001) before this Tribunal and this court, after considering the entire aspects of the matter disposed of the said O.A.s by a common order dated 23.05.2002, the operative portion of which is reproduced below:

"For the reasons cited above the impugned orders are set aside. The disciplinary authority may now initiate with the measures indicated in Sub rule (5) (a) of Rule 14 of the CCS (CCA) Rules, 1965 as amended and record its findings on the charge after taking such evidence as it may think fit and act in the manner laid down in Rule, including Rule 15.

The applications are accordingly allowed. There shall however be no order as to costs."

4. Thereafter, a de novo trial was initiated by the respondents, but the applicants made a request before the authority for granting four weeks time for filing of written reply on the ground of non-availability of their lawyer. The averment of the applicants is



that without granting such time their claim was rejected by the impugned order dated 22.04.2004. The applicants preferred appeal dated 21.05.2004 (Annexure-9) which was rejected.

5. The applicants' case is that no reasonable opportunity was given to them and it is against the spirit of the direction given by the Tribunal in the earlier O.A.s. Aggrieved by the said action of the respondents the applicants have filed the present O.A.s seeking the following reliefs:

"To set aside and quash the impugned orders dated 22.4.04 and 13.10.04 and to exonerate the applicant from all the charges providing all the consequential service cover and other consequential benefits flowing there from alongwith arrear salary, seniority etc."

6. The respondents have filed detailed written statements contending that the judgment of the Tribunal in the earlier O.A.s filed by the applicants was duly considered and appropriate action within the legal framework of the judgment was taken. In reply to the submission of the applicants that only four weeks time was provided to them to represent and the extension of time sought was not provided to the applicants, the respondents have stated that the plea of the applicants is not itself a testimony of the fact that reasonable time of four weeks was provided and since there was no valid ground for further extension of time, the action taken by the respondents was fairly within the framework of the rules. Annexure-1 dated 20.02.2004 to the written statement of the respondents will reveal that the applicants have made a categorical admission, which cannot be retrieved. Since the applicants have admitted the guilt the chargesheet issued under Rule 14 of the CCS (CCA) Rules, 1965 was clear and strictly as per the scheme of the rules as required. The

chargesheet contained Annexures of the article of charge, statement of imputation of misconduct or misbehaviour and the list of oral and documentary evidence in support of the articles of charge. The Tribunal directed the Disciplinary Authority to initiate with the measures indicated in Sub Rule 5 (a) of Rule 14 of CCS (CCA) Rules and record its findings on the charge after taking such evidence as it may think fit and act in the manner laid down in Rule including Rule 15. As per the directions of the Tribunal proceedings were initiated and decision taken by the Disciplinary Authority. The respondents vide order dated 26.11.2002 expressed their decision regarding holding of De novo enquiry as per the directions of the court. The said order clearly stated that the order of imposing the penalty of reduction to a lower stage in the time scale of pay for a period of one year is no more in existence. This is without prejudice to further action as per Rules in agreement with the Tribunal's order. The order of the Disciplinary Authority was passed on the admission of guilt by the applicants and therefore neither oral enquiry was considered necessary nor directed by the Tribunal. What the Tribunal had directed the Disciplinary Authority was to consider the evidence against the applicants and take appropriate action as per Rule 14 of the CCS (CCA) Rules, 1965. Since the reply dated 06.10.1997 of the applicants was a clear admission of guilt, at no stage thereafter, even after opportunity was provided, the applicants never retracted back on their admission of the charges leveled against them. The penalty imposed by the Disciplinary Authority which stands merged in the modified order of the Appellate Authority was based on evidence and commensurate with the gravity of the charge of fictitious LTC claims which is grave misconduct for a Government servant. Therefore, the

action taken by the respondents was to uphold the rule of law and to punish the persons found guilty of misusing Government money.

7. We have heard Mr S. Sarma, learned counsel for the applicants and Mr M.U. Ahmed, learned Addl. C.G.S.C. and have given due consideration to the arguments, evidence and materials placed on record.

8. The learned counsel for the applicants submitted that the decision of the Tribunal is very clear as to grant of further opportunity to the applicants, which was not complied with and further opportunity sought by the applicants for further four weeks time was also denied. Therefore, the De novo proceedings initiated was an empty formality and by not granting any opportunity to the applicants the respondents have acted illegally and in violation of the order of the Tribunal.

9. The learned counsel for the respondents, on the other hand, argued that the first four weeks time was granted and when the applicants prayed for further four weeks time it was not granted since the reasons stated by the applicants were not convincing and the respondents proceeded as per the records and materials available.

10. It is an admitted fact that the respondents had allowed LTC advance to the applicants which was not availed by them and they have refunded the amount subsequently. Some of the colleagues of the applicants who have not refunded the amount earlier were directed to refund the same by show cause notice and proceedings had been initiated against them including the applicants by common notice. They approached this Tribunal by filing O.A.No.s316, 317 and

318 of 2001 and after elaborate discussion this Tribunal came to a finding that the matter should be remanded back to the Disciplinary Authority for adopting the measures indicated in Sub rule (5) (a) of Rule 14 of the CCS (CCA) Rules, 1965 and record its findings on the charge after taking such evidence as it may think fit and act in the manner laid down in Rule, including Rule 15. For better elucidation Sub rule (5) (a) of Rule 14 and Rule 15 are quoted below:

"(5) (a) On receipt of the written statement of defence, the Disciplinary Authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers if necessary to do so, appoint under sub-rule (2), an Inquiring Authority for the purpose, and where ass the articles of charge have been admitted by the Government servant in his written statement of defence, the Disciplinary Authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15."

"15. (1) The Disciplinary Authority, if it is not itself the Inquiring Authority may, for reasons to be recorded by it in writing, remit the case to the Inquiring Authority for further inquiry and report and the Inquiring Authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 14, as far as may be.

(2) The Disciplinary Authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the Disciplinary Authority or where the Disciplinary Authority is not the Inquiring Authority, a copy of the report of the Inquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Inquiring Authority on any article of charge to the Government servant who shall be required to submit, if he so desires, his written representation or submissions to the Disciplinary Authority within fifteen days, irrespective of whether the report is favourable or not to the Government servant.

(2-A) The Disciplinary Authority shall consider the representation, if any, submitted by the Government servant and record its findings

before proceeding further in the matter as specified in sub-rule (3) and (4). 22

- (3) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in Clauses (i) to (iv) of Rule 11 should be imposed on the Government servant, it shall, notwithstanding anything contained in Rule 16, make an order imposing such penalty:

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the Disciplinary Authority to the Commission for its advice and such advice shall be taken into consideration before making any order imposing any penalty on the Government servant.

- (4) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry is of the opinion that any of the penalties specified in Clauses (v) to (ix) of Rule 11 should be imposed on the Government servant, it shall make an order imposing such penalty and it shall not be necessary to give the Government servant any opportunity of making representation on the penalty proposed to be imposed.

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the Disciplinary Authority to the Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty on the Government servant."

11. The gist of Rule 15 is that an opportunity should be given to the Government servant. It is borne out from records that the reason for seeking adjournment was that the applicants' lawyer was not available. The learned counsel for the applicants has now submitted that since the applicants' lawyer was not doing well he could not be present and the applicants made representation for adjournment which was not granted. Further it is borne out from the

records that the earlier punishment imposed on the applicants was based on the alleged admission made by the applicants. It is well known to the legal parlance that normally an admission made par se cannot be a reason for culmination of a punishment. Admissions can be made by a delinquent on different circumstances like undue influence, coercion, threat etc. That may be the reason why this Tribunal had remanded the matter for fresh enquiry, that too a De novo trial. The word 'De novo' indicates that a fresh trial is to be initiated, needless to say that all opportunities should be given to the applicants and the materials available in the record should be put to test and proved. It appears from the pleadings and materials placed on record that the applicants had not been given an opportunity as directed by this Tribunal for a fresh opportunity to cross-examine the witnesses and evidence produced and therefore we are of the view that the impugned orders had been passed not in strict compliance of the order passed by the Tribunal in the earlier O.A.s. The Tribunal while passing the earlier orders was very specific on the ground that the procedural reasonableness is introduced to promote justice and prevent miscarriage of justice. Fairness is ensure by adhering to the rule of the game. The procedure enjoined in Part VI did not rule out an enquiry. Sub rule (5) (a) of Rule 14 itself indicates that when all the article of charges have been admitted by the Government servant in his written statement in defence, the Disciplinary Authority is required to record his findings on each charge after taking such evidence as may think fit and act in the manner laid down in Rule 15. Rule 5 (a) did not rule out recording of evidence. It has conferred the discretion on the authority to take such evidence as it may think fit. The statutory rule as envisaged in Sub rule 18 of Rule 14 also cast the

duty on the authority to question the delinquent officer on the circumstances appearing against him. Therefore, the very direction that was given by the Tribunal is for recording evidence and for relying on such evidence, which has not been done in this case. We find that the procedure that has been adopted by the respondents is not in conformity with the rules laid down.

12. We are fully aware that we are not sitting in appeal on the decision of the Departmental Authorities. The Hon'ble Supreme Court in a celebrated decision reported in 1994 (6) SCC 651 in Tata Cellular Vs. Union of India and others has held that scope of judicial review lies on the decision making process and the merit of the decision itself is not reviewable as the court does not sit as an appellate authority while exercising power of review. Therefore, we are of the considered view that the direction of the Tribunal in the earlier O.A.s has not been complied with and there is ab initio arbitrariness, irregularities and illegality in the impugned orders passed by the respondents. Therefore, we have no hesitation in setting aside the order dated 22.04.2004 and the Appellate Order dated 13.10.2004 for the reasons stated above and we do so accordingly and liberty is given to the respondents to proceed afresh De novo, if the respondents so desire.

The Original Applications are allowed to the extent indicated above. No order as to costs.

Sd/ VICE CHAIRMAN
Sd/ MEMBER (A)

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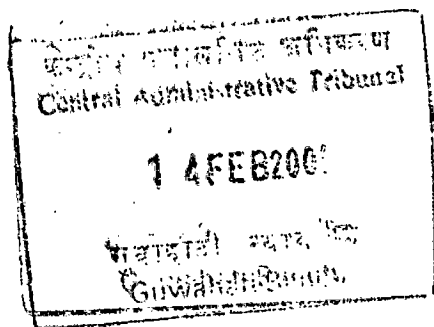
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORIGINAL APPLICATION NO. 38/05

- 1.(a) Name of the applicant: R.N. Das
- b) Respondents: Union of India & Ors.
- c) No. of Applicant:
2. Is the Applicant in the proper form: YES/NO
3. Whether name & designation and Address of 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 annexures parties are impleaded: YES/NO
8. Whether English translation of documents in the language: YES/NO
9. Is the application is in time: YES/NO
10. Has the Vakalatnama/M. NO/ of Appearance/Authorisation filed: YES/NO
11. Is the application by IPO/BD/For Rs. 50/- 206 117640
12. Has the application is maintainable: YES/NO
13. Has the impugned order original duly attested been filed: YES/NO
14. Has the ligible copies of the annexures duly attested filed: YES/NO
15. Has the Indes of 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 the interim relief is prayed for: YES/NO
20. In case of condonation of delay is filed is it support: YES/NO
21. Whether this case can be heard by ~~SINGLE BENCH~~/DIVISION BENCH.
22. Any other points:
23. Result of the scrutiny with initial of the scrutiny clerk :
The application is in order

SECTION OFFICER

1/c Deputy Registrar
15.2.05



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Title of the case : O.A. No. 38 of 2005

Between

Shri Ram Nath Das..... Applicant.

AND

Union of India & ors Respondents.

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Filed by : Asha Das

Regn.No.:

File : WS7\RAM

Date :

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. No..... of 2005

Shri Ram Nath Das.

..... Applicant.

AND

Union of India & ors.

..... Respondents.

SYNOPSIS

That the applicant in the instant application is aggrieved by the action on the part of the respondents in issuing the impugned order issued vide Memo No.RLJ-18(92)-Vig./97 dated 22.04.04 issued by the Director RRL, Jorhat and the order issued vide Memo No.15-21(32)/2004 -vig dated 13.10.04. The respondents way back in 1997 (26.07.97) issued a memorandum of chargesheet indicating the charge of submitting false LTC bills under Rule 14 of CCS(CCA) Rules 1965. The applicant submitted his reply and the respondents solely basing on the same issued an order dated 16.9.99 imposing a penalty of reduction of pay for a period of one year. Against the said order dated 16.9.99, the applicant preferred appeal but same evoked no result in positive. Situated thus, the applicant assailing the legality and the validity of the said order dated 16.9.99, preferred OA No.317/01 before, the Hon'ble Tribunal. In fact the aforesaid proceeding was initiated at the instance of CBI

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authority and the alleged incident in question was for the years 1986-89. The Hon'ble Tribunal on 23.05.02 after hearing the parties to the proceeding was pleased to set aside the impugned orders and directed the respondents to initiate de-novo proceedings against the applicant by recording evidence etc as indicated in the Rules. However, the respondents did not hold any enquiry as directed by the Hon'ble Tribunal and all on a sudden issued an order dated 30.01.04 proposing to impose a penalty of reduction of rank for a period of 3 years. However an opportunity was provided to the applicant to represent his case. The applicant accordingly submitted his a representation dated 12.02.04 praying for 4 weeks time to file reply as indicated in the order dated 30.01.04. The respondents however, did not consider his such representation praying for time and rejected the same by an order dated 20.02.04. The respondents thereafter issued the impugned order dated 22.04.04 (Disciplinary Authority) imposing the penalty of reduction of rank by 5 stages for 3 years. As per the provision contained in the Rules, the applicant submitted an appeal dated 21.05.04 before the appellate authority and the same was rejected by the said appellate authority by the impugned order dated 13.10.04, however with some modification. Hence this application.

3/
Filed by
the applicant through
Alsha Das
Advocate
9/2/05

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

G.A.No. of 2005

BETWEEN

Shri Ram Nath Das
S/o Late Bhadreswar Das
At present working as Technical Assistant, grade III(3)
In the office of the Director Regional Research Laboratory
Jorhat-785006.

..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt.of India,
Ministry of Science and Technology,
New Delhi.
2. The Director General
Council of Scientific and Industrial Research (CSIR)
Anusandhan Bhawan,
2, Roffi Mag,
New Delhi-110001.
3. The Director, Regional Research Laboratory (RRL)
Jorhat-785001.
4. The Administrative Officer
Regional Research Laboratory
Jorhat-785001.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is made against the impugned
orders issued vide memo No.RLJ-18(92)- Vig/97 dated 22.4.04
issued by the Director RRL Jorhat (Disciplinary Authority),
and the order issued vide memo No.15-21(32)/2004 -Vig dated

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13.10.04 issued by the Director General CSIR, New Delhi (Appellate Authority).

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 application is aggrieved by the action on the part of the respondents in issuing the impugned order issued vide Memo No.RLJ-18(92)-Vig./97 dated 22.04.04 issued by the Director RRL, Jorhat and the order issued vide Memo No.15-21(32)/2004 -vig dated 13.10.04. The respondents way back in 1997 (26.07.97) issued a memorandum of chargesheet indicating the charge of submitting false LTC bills under Rule 14 of CCS(CCA) Rules 1965. The applicant submitted his reply and the respondents solely basing on the same issued an order dated 16.9.99 imposing a penalty of reduction of pay for a period of one year. Against the said order dated 16.9.99, the applicant preferred appeal but same evoked no result in positive. Situated thus, the applicant assailing the legality and the validity of the said order dated 16.9.99, preferred OA No.317/01 before, the Hon'ble Tribunal. In fact the

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aforesaid proceeding was initiated at the instance of CBI authority and the alleged incident in question was for the years 1986-89. The Hon'ble Tribunal on 23.05.02 after hearing the parties to the proceeding was pleased to set aside the impugned orders and directed the respondents to initiate de-novo proceedings against the applicant by recording evidence etc as indicated in the Rules. However, the respondents did not hold any enquiry as directed by the Hon'ble Tribunal and all on a sudden issued an order dated 30.01.04 proposing to impose a penalty of reduction of rank for a period of 3 years. However an opportunity was provided to the applicant to represent his case. The applicant accordingly submitted his a representation dated 12.02.04 praying for 4 weeks time to file reply as indicated in the order dated 30.01.04. The respondents however, did not consider his such representation praying for time and rejected the same by an order dated 20.02.04. The respondents thereafter issued the impugned order dated 22.04.04 (Disciplinary Authority) imposing the penalty of reduction of rank by 5 stages for 3 years. As per the provision contained in the Rules, the applicant submitted an appeal dated 21.05.04 before the appellate authority and the same was rejected by the said appellate authority by the impugned order dated 13.10.04, however with some modification.

This is the crux of the matter for which the applicant has filed this OA. Detailed facts leading to the case is narrated below.

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

4.3. That the applicant while was working as Tech-Asstt.III(1) under the Regional Research Laboratory (in short RRL) Jorhat, availed the facility of LTC advance. However, the respondents taking the clue, issued a memorandum of chargesheet vide Memo No.RLJ-18(92) dated 26.9.97 under Rule 14 of CCS(CCA) Rules. the only charge leveled against him was regarding the submission of false LTC claim without there being any factual disclosure.

A copy of the said memorandum of charges dated 26.9.97 is annexed herewith and marked as Annexure-1.

4.4. That the applicant submitted a representation dated 3.10.97 in response to the chargesheet but the respondents without taking in to consideration the said representation and without holding any enquiry as required under the Rules, issued an order vide Memo No.RLJ-18(92)-Vig/97 dated 16.9.99 imposing a penalty of reduction of pay by Rs.175.00 from Rs.6725.00 to 6,550.00 in the time scale of pay of Rs.5500/- 175- 9000/- for a period of one year with effect from 1.10.99 with a further direction that he will not earn increment of pay during the period of reduction and on expiry of this period, the reduction will not have the effect of postponing his further increment of pay.

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A copy of the order dated 16.9.99 is annexed herewith and marked as Annexure-2.

4.5. That the applicant immediately on receipt of the said order dated 16.9.99 submitted a representation before the said order. The aforesaid representation was followed by the reminder dated 16.1.01 but same evoked no result in positive. Situated thus the applicant served a legal notice to the respondents. However same also failed to evoke any positive response from the respondents. Finally the applicant preferred an original application before this Hon'ble Tribunal which was registered and numbered as OA No.317/01. The applicant in his said original application apart from other grounds took the ground of delay in initiation of the proceeding as well as the ground of not holding any regular enquiry as contemplated under the CCS(CCA) Rules 1965. The Hon'ble Tribunal on 23.5.02 while taking up some other similar matter involving same issue along with the OA 317/01 allowed the Original Applications directing the respondents to initiate de-novo proceeding from the stage of issuance of the charge sheet with a further direction to hold regular enquiry as contemplated under the rules. The Hon'ble Tribunal taking into consideration all the relevant rules including Rule 14 as well as 15 of the said rules, set aside the order dated 16.9.99 along with other impugned orders.

A copy of the said judgment and order dated 23.5.02 is annexed herewith and marked as Annexure-3.

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The applicant craves leave of this Hon'ble Tribunal to produce the representations dated 14.10.99 and 16.1.01 and the legal notice at the time of hearing of this case.

4.6. That the applicant immediately thereafter apprised the respondents about the judgment and order dated 23.5.02. The respondents accordingly issued an order dated 26.11.02 restoring back the pay and allowances of the applicant. The respondents by the said order also expressed their decision regarding holding of a de-novo enquiry as per the direction contained in the said judgment.

A copy of the said order dated 26.11.02 is annexed herewith and marked as Annexure-4.

4.7. That the respondents pursuant to the aforesaid order dated 26.11.02 issued an order dated 19.12.02 refixing the pay of the applicant. In terms of the aforesaid order dated 19.12.02 the pay of the applicant was restored back to his original position without there being any effect of reduction. The aforesaid action was taken by the respondents in terms of the judgment of the Hon'ble Tribunal. Since the impugned orders imposing penalty have been set aside the respondents in compliance with the said direction issued the aforesaid orders dated 26.11.02 as well as 19.12.02. However so far as the direction relating to holding of an regular enquiry was never complied with.

The applicant craves leave of this Hon'ble Tribunal to produce the copy of the order dated 19.12.02 refixing the pay of the applicant at the time of hearing of this case.

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4.8. That as stated above the respondents in compliance with the judgment and order dated 23.5.02 restored back the pay of the applicant to his original position but the other part of the direction regarding holding of a regular enquiry has never been conducted. No presenting officer and enquiry officer was appointed to hold the regular enquiry as directed by the Hon'ble Tribunal. It is pertinent to mention here that the Hon'ble Tribunal by its judgment dated 23.5.02 clearly indicated regarding holding an enquiry and recording of its findings after taking evidence in terms of the CCS(CCA) rules 1965. However no enquiry was held and all on a sudden the respondents issued an order vide memo no.RLJ-18(92)-Vig./97 dated 30.1.04 expressing a proposal for imposing a penalty of reduction of pay by five stages from Rs.7900 to Rs.6900 in the pay scale of Rs.6500-200-10500 for a period of 3 years with further direction that he will not earn increment during the period of reduction and after the expiry of the said period, the reduction will have the effect of postponing his future increments. By the said order dated 30.1.04 the respondents have provided with an opportunity to make a representation within 15 days.

A copy of the said order dated
30.1.04 is annexed herewith and
marked as Annexure-5.

4.9. That immediately on receipt of the said order dated 30.1.04, the applicant preferred a representation dated 12.2.04 praying for 4 weeks time to make detailed representation. The applicant in the said representation narrated clearly the reasons as to why the aforesaid

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detailed representation could not be filed within time.

A copy of the said representation dated 12.2.04 is annexed herewith and marked as Annexure-6.

4.10. That the respondents however failed to take into consideration the actual fact of the case relating to the delay in submitting the representation by the applicant. The applicant in his representation 12.2.04 in para 4 clearly stated that the counsel who appeared for him before the Hon'ble Tribunal in earlier proceeding was out of station and the relevant records of the case were in his custody and as such the applicant prayed for 4 weeks time to file such representation. However the respondents by an order dated 20.2.04 rejected the prayer made by the applicant on the ground that non availability of his lawyer is not a ground to seek adjournment or time. The said authority miserably failed to take into consideration the actual fact or reason as to how records were in his possession.

A copy of the said order dated 20.2.04 is annexed herewith and marked as Annexure-7.

4.11: That the respondents i.e. the disciplinary authority the Director RRL Jorhat thereafter issued the impugned order dated 22.4.04 imposing a penalty of reduction of pay by five stages from 7900 to 6900 in the pay scale of Rs.6500- 200- 10500 for a period of 3 years with a further direction that he will not earn increments of pay during the period of such reduction and after expiry of the period the

reduction will have the effect of postponing his future increments. Alongwith the said punishment the disciplinary authority also forfeited with 2 sets of LTC concurrently due to the applicant.

A copy of the impugned order dated 22.4.04 is annexed herewith and marked as Annexure-8.

4.12. That the applicant on receipt of the aforesaid impugned order dated 22.4.04 submitted an appeal before the Appellate Authority. In the said appeal dated 21.5.04 the applicant has taken various grounds with a prayer to setting aside of the impugned order dated 22.4.04.

A copy of the aforesaid appeal dated 21.5.04 is annexed herewith and marked as Annexure-9.

4.13. That the applicant thereafter submitted a reminder to his earlier appeal dated 21.5.04 on 13.7.04.

A copy of the aforesaid reminder dated 13.7.04 is annexed herewith and marked as Annexure-10.

4.14. That the concern authority however refused to forward the reminder submitted by the applicant and to that effect an order dated 9.8.04 has been issued.

A copy of the said order dated 9.8.04 is annexed herewith and marked as Annexure-11.

4.15. That thereafter the Appellate Authority issued an order vide memo no.15-21(32)/2004-Vig. dated 13.10.04 rejecting the appeal preferred by the applicant.

Done on

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However the said Appellate Authority amended/alterd the impugned order dated 22.4.04 reducing the pay of the applicant by 3 stages keeping other stipulations as it is.

A copy of the said impugned order dated 13.10.04 is annexed herewith and marked as Annexure-12.

4.16. That the applicant begs to state that the authorities of CBI way back in the year 1989-90 conducted an enquiry and started investigation regarding the LTC matters pertaining to the office of the Director RRL Jorhat. Accordingly the said CBI authority after recording the statement of the applicant along with the others, in the year 1991 submitted an enquiry report with a direction to the Director to initiate proceeding against the applicant along with others. It was only after such direction the authorities of RRL Jorhat initiated proceeding against the applicant along with some others. However in a pick and choose basis proceedings in respect of most of them were dropped whereas the proceeding initiated in respect of few others including the applicant continued. Apparently the aforesaid proceeding was initiated at the behest of the CBI authority basing only on the preliminary enquiry conducted by the CBI without there being any further proceeding. The contents of the preliminary enquiry as well as the statements made by him before the CBI authority were taken into consideration as a only piece of evidence without there being any independent proceeding. It is therefore the entire proceeding initiated by the respondents are liable to the set aside including the impugned orders.

4.17. That the applicant begs to state that during the course of earlier proceeding i.e. OA No.317/01, the respondents placed the fact that the RRL authority only acted as per the dictation of the CBI and the statements recorded before the CBI authority were taken into consideration as the only piece of evidence. In this connection it is noteworthy to mention here that any statement recorded at the time of preliminary enquiry as well as the preliminary enquiry report can not be taken into account during the course of regular enquiry without affording opportunity to the delinquent. Sub Rule 18 of Rule 14 envisages that the authority is required to question the delinquent officer on the circumstances appearing against him. Instead of adhering to this mandatory provision of the Rules the respondents concluded the proceeding by issuing the impugned order dated 22.4.04 which is not sustainable in the eye of law and same is liable to be set aside and quashed.

4.18. That the applicant begs to state that the Hon'ble Tribunal in its earlier proceeding while recording disinfirmities directed the RRL authorities to conduct a de-novo proceeding and to record the evidences in terms of the rules and provision evidences in terms of the rules and provision contained in the CCS (CCA) Rules but from the impugned action on the part of the respondents, it is crystal clear that no enquiry was held and no finding was recorded. In this connection it is pertinent to mention here that CCS(CCA) Rules clearly indicates that the materials available as well as the statements made during preliminary enquiry can only be taken into consideration provided same

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has been explained to the delinquent at the time of regular hearing. Apart from that there is also a requirement of the rule that the authority before whom such statement is made is required to be examined regarding the correctness of the same. In the instant case the statement recorded before the SP CBI has been taken into consideration whereas the applicant was never allowed to confront with the said statement during the course of hearing nor the SP CBI was made as a listed witness to proof the correctness of the statement during the course of hearing. It is worth mentioning that the respondents not to speak of recording the evidence even no daily hearing/enquiry proceeding as required under the rules as well as the direction contained in the judgment of this Hon'ble Tribunal was held. On this score alone the proceeding is liable to be set aside along with the impugned orders.

4.19. That the applicant begs to state that the respondents have acted illegally with a malafide intention to harras him. It is pertinent to mention here that the applicant through his application dated 12.2.04 prayed for time to make effective representation against the proposal of penalty as communicated to him by the memorandum dated 30.1.04 but same was rejected by the respondents vide communication dated 20.2.04. The grounds stated in the said order dated 20.2.04 clearly indicates the fact that the respondents have not applied their mind. From the evaluation of facts and the sequence of events it is clear that the respondents have conducted the enquiry with an ulterior motive to harras the applicant not only by inflicting punishment but also by various other means including denial

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of his due promotion for next promotional grade. In this connection it is noteworthy^a to mention here that the present applicant who is due for promotion for the next higher grade and for which his case was duly considered by the petitioner was kept on the sealed cover due to pendency of the aforesaid departmental proceeding. To that effect the respondents have issued an order dated 8.1.04 intimating him about the said decision.

A copy of the said order dated 8.1.04 is annexed herewith and marked as Annexure-13.

4.20. That the applicant begs to state that the respondents have willfully and deliberately violated the direction contained in the judgment passed by this Hon'ble Tribunal in OA No.317/01 in issuing the impugned orders and as such same are not sustainable and liable to be set aside and quashed. The Hon'ble Tribunal while noticing the irregularities directed the respondents to follow the procedure as laid down in the CCS (CCA) Rule but the said direction was never complied with. The impugned appellate order dated 13.10.04 more particularly in para D the respondents have indicated that they evaluated the evidences which is not factually correct. Since no regular proceeding was initiated by appointing IO and PO the question of evaluation of evidence does not arise. On the other hand if such evidences were evaluated, admittedly same has been done behind the back of the applicant. The aforesaid inaction on the part of the respondents has violated Art. 14 of the Constitution of India and as such the impugned orders are not sustainable in the eye of law.

21. That the applicant begs to state that both the impugned orders have been issued violating the settled proposition of law without affording the petitioner and the respondents opportunity of hearing and as such same are not sustainable in the eye of law.

22. That the applicant begs to state that the respondents have acted illegally and with an malafide intention in proceeding departmentally against the applicant. The aforesaid fact can be established from the fact that earlier vide order dated 16.9.99 the respondents reduced the pay of the applicant by one stage for one year basing on the same charge and subsequently making a graze for approaching the Hon'ble Tribunal penalty has been increased. Even assuming but not admitting if the charges is taken to be proved against the applicant the penalty imposed on him is shockingly disproportionate. More so when under similar fact situation other similarly situated employees have been exonerated from the same set of charge.

4.23. That the applicant begs to state that the respondents taking into consideration the aforesaid impugned order started the deduction and the applicant by the aforesaid action has been suffering irreparable loss and injury. It is under this peculiar fact situation the applicant prays for an interim order directing the respondents not to effect the deduction/reduction of pay during the pendency of the Original Application by suspending the operation of the impugned orders dated 22.4.04 and 13.10.04.

Answer

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4.24. That this application has been made bonafide and to secure ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondents are not at all sustainable in the eye of law and as such same is liable to be set aside and quashed.

5.2. For that the respondents have acted contrary to the provisions of rules in proceeding departmentally against the applicant and as such same is liable to be set aside and quashed.

5.3. For that the respondents have violated various provisions contained in the rule in issuing the impugned orders dated 22.4.04 and 13.10.04 and as such same are liable to be set aside and quashed.

5.4. For that the respondents have acted in violation of the direction contained in the judgment passed in OA No.317/01 and passed the impugned orders which is not at all sustainable and as such same are liable to be set aside and quashed.

5.5. For that the respondents have acted with an ulterior motive in issuing the impugned orders and as such same are not sustainable in the eye of law and are liable to be set aside and quashed.

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5.6. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to 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 the 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:

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

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and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the impugned orders dated 22.4.04 and 13.10.04 and to exonerate the applicant from all the charges providing all the consequential service cover and other consequential benefits flowing there from along with arrear salary, seniority etc.

8.2. Cost of the application.

8.3. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Under the facts and circumstances stated above the applicant prays for an interim order directing the respondents not to make any recovery/reduction in terms of the impugned orders dated 22.4.04 and 13.10.04 by suspending its operation.

10.

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

1. I.P.O. No. : 20 G 117640
2. Date : 3/2/05
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

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VERIFICATION

I, Shri Ram Nath Das, aged about years, son of Late Bhadreswar Das, at present working as Technical Assistant, grade III(3) in the office of the Director Regional Research Laboratory, Jorhat, do hereby solemnly affirm and verify that the statements made in paragraphs 2, 3, 4, 2, 4, 17 & 5 to 12 are true to my knowledge and those made in paragraphs 1, 4, 1, 4, 2, 4, 16 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 8th day of Feb. of 2005.

Ram Nath Das.
Deponent

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A

REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(Council of Scientific & Industrial Research)

No. RLJ-18(92)-Vig./97

SEPTEMBER 1997

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri Ram Nath Das, Tech. Asstt. III(1) under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge. A statement of imputations of misconduct or misbehaviour in support of which the article of charge is proposed to be sustained is enclosed.

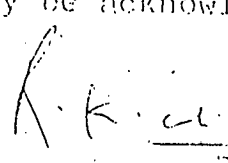
2. Shri Ram Nath Das, Tech. Asstt. III(1) is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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.

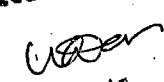
4. Shri Ram Nath Das, Tech. Asstt. III(1) is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 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 Ram Nath Das, Tech. Asstt. III(1) is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri Ram Nath Das, Tech. Asstt. III(1) is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.

6. The receipt of the Memorandum may be acknowledged.


R. K. MATHUR 24/9/97
Acting Director

Attested


Advocate.

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ANNEXURE I

Statement of articles of charge framed against
Shri Ram Nath Das, Tech. Asstt. III(1)

Article I

That Shri Ram Nath Das, Tech. Asstt. III(1) while functioning as Tech. Asstt. III(1) during the period September, 1989 to visit "GOA" (Panaji) has applied for All India LTC for the block year 1986-89/1990-91. He was sanctioned LTC and thereof as due and admissible under the LTC Rules. An amount of Rs. 12,250.00 (Rupees Twelve thousand two hundred and fifty ----- only) was accordingly drawn by him as LTC advance.

WHEREAS Shri Ram Nath Das, Tech. Asstt. III(1) obtained false and fictitious Local Excess Fare Ticket bearing EFT No. 693153 and got verified the same in support of his journey on LTC.

WHEREAS Shri Ram Nath Das, Tech. Asstt. III(1) had submitted the LTC final bill No. 1549/LTC/Adj./89 and got it passed for an amount of Rs. 13,644.00 (Rupees Thirteen thousand six hundred and fortyfour ----- only) from Accounts Section without performing the journey.

WHEREAS Shri Ram Nath Das, Tech. Asstt. III(1) /his family members did not perform the journey on LTC and accordingly submitted an application to the Competent Authority for returning the LTC amount drawn by him and regretted for his misconduct.

Attested

[Signature]
Advocate.

Statement of imputation of misconduct or misbehaviour
in support of the articles of charge framed against
Shri Ram Nath Das, Tech. Asstt. III(1)

Article I

That the said Shri Ram Nath Das, Tech. Asstt. III(1)
obtained false and fictitious Local
Excess Fare Ticket bearing EFT No. 693153 dt. 03/01/90 11/10/82
and got verified the same in support of his journey on LTC.
Shri Ram Nath Das, Tech. Asstt. III(1) had
also submitted the LTC final bill No. 1549/LTC/Adj./89 dt. 03/01/90
and got it passed for an amount of Rs. 13,844.00
(Rupees Thirteen thousand six hundred and fortyfour --- only)
from Accounts Section without performing the journey. This
act was a misconduct committed by the said Shri Ram Nath Das,
Tech. Asstt. III(1)

NOW, THEREFORE, by the above misconduct of the said
Shri Ram Nath Das, Tech. Asstt. III(1) failed to
maintain absolute integrity and devotion to duty and thus
contravened the provisions of CCS (Conduct) Rules, 1964 as
made applicable to Council Servant.

Attested

C. D. S.
Advocate.

List of documents by which the articles of charge framed against Shri Ram Nath Das, Tech. Asstt. III(1) are proposed to be sustained. - - - - -

1. Copy of sanction of LTC O.M.No.RLJ-13(342)-Estt/77 dated 19/09/89.
2. Copy of his application submitted to Office for recovery of the LTC amount
3. Copy of LTC final bill No.1549/LTC/Adj./89 dt.03/01/90.

Attested

u@n
Advocates.

List of documents by which the articles of charge framed against Shri Ram Nath Das, Tech. Asstt. III(1) are proposed to be sustained.

1. Copy of sanction of LTC O.M.No.RLJ-13(342)-Estt/77 dated 19/09/89.
2. Copy of his application submitted to Office for recovery of the LTC amount
3. Copy of LTC final bill No.1549/LTC/Adj./89 dt.03/01/90.

Attended

user

REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(Council of Scientific & Industrial Research)

RJ-13(342)-Estt/77

Dated 19.9.89

OFFICE MEMORANDUM

Sub:- Grant of leave to Shri Ran Nath Das, Tech. Asst III(1)

With reference to his/her application dated 15.9.89 the Director/
Administrative Officer, RRL, Jorhat has been pleased to grant leave to

Shri Ran Nath Das as follows:-

Earned leave/ H.P.L. from 11.10.89 to 24.10.89 - 14 days

with permission to prefix 10th Oct '89

and suffix X

2. He/She has also been granted L.T.C. & advance thereof, for the block
year 1986-89 for visiting NGOAS (Panaji) in respect of the
following members of his/her family who are actually dependent on him and
residing with him as per the declaration given by him.

Sl.No.	Name of the person	Age	Relationship
--------	--------------------	-----	--------------

1.	Shri Ran Nath Das.		Self
2.	Shri Bhadrinar Das.	47 Yrs	father
3.	Mrs. Mupa Das.	20 Yrs	wife
4.	Shri M. Das	16 Yrs	brother
5.	Miss S. Das	(above 12 years)	sister
6.	Miss H. Das		
7.			
8.			
9.			

3. Further as per instructions issued by the office on 10.12.01 & 21.1.86,
he/she is directed to produce the Rly. tickets to the A.O./S.O. (G) before
commencing the onward journey within 10 days from drawal of L.T.C. advance for
verification and return. 50% of the advance will be paid in the 1st instance
and the balance will be released by the Cashier after verification of the tickets
for outward journey, a second bill will be prepared after verification of the
tickets for outward journey.

4. L.T.C. adjustment bill should be preferred within one month of the
completion of return journey failing which the amount of advance will be
recovered from the officer/official in lump sum and even after the recovery
of advance if the L.T.C. claim is not preferred within a period of three months
from the date of completion of return journey the claim shall stand forfeited
or be deemed to have been relinquished.

SECTION OFFICER, 20/9/89

Shri Ran Nath Das
Tech. Asst III RRL, Jorhat

Copy to:- 1. Accounts Section. 2. Bills Section.

Attested

Advocate.

SECTION OFFICER 20/9/89

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Annexure 8

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REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(Council of Scientific & Industrial Research)

No.RLJ-18(92)-Vig./97

SEPTEMBER 16, 1999

O R D E R

WHEREAS Shri Ram Nath Das, Gr.III(2) was served with a Memorandum of Charge along with a Statement of articles of charge, Statement of imputation of misconduct or misbehaviour in support of the articles of charge and a List of documents by which the articles of charge framed against were proposed to be sustained to hold an inquiry against him/~~xxx~~ under Rule 14 of the CCS (CCA) Rules, 1965, vide Memo of even number dated 26th September, 1997 and was directed to submit a written statement of his/~~xxx~~ defence within the stipulated time and also to state whether he/~~xxx~~ desired to be heard in person.

AND WHEREAS Shri Ram Nath Das, Gr.III(2) has submitted a written statement of his/~~xxx~~ defence dated 03/10/97 whereby Shri Das has accepted the charges levelled against him/~~xxx~~ willingly and without any force/condition denecessitating the authority to hold any formal inquiry. Thus, as a well-settled principle of law, Shri Das's admission of guilt is explicit, unambiguous, unqualified and unequivocal in terms of the charges levelled against him/~~xxx~~.

AND WHEREAS on the face of the facts and circumstances of the case and on careful consideration of it vis-a-vis his/~~xxx~~ written statement, the undersigned holds that the articles of charge levelled against him/~~xxx~~ are proved beyond doubt.

IT IS, THEREFORE, ORDERED that the pay of Shri Ram Nath Das be reduced by Rs.175.00 from Rs. 6,725.00 to Rs.6,550.00 in the time scale of pay of Rs.5,500-175-9,000/- for a period of one year with effect from the 1st day of October, 1999. It is further directed that Shri Das will not earn increment of pay during the period of reduction and on the expiry of this period, the reduction will not have the effect of postponing his/~~xxx~~ future increments of pay.

IT IS FURTHER DIRECTED that regarding forfeiture/disallowance of future LTC, a separate order will be issued to him shortly.

JSSZ
(Jagir Singh Sandhu)
DIRECTOR

To

✓ Shri Ram Nath Das,
Gr.III(2)
RRL, Jorhat-6.

Attested
Advocate

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Annexure - 3
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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 316 of 2001

with

Original Application No. 317 of 2001

with

Original Application No. 318 of 2001.

Date of decision : This the 23rd day of May, 2002.

The Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.

The Hon'ble Sri K.K.Sharma, Member (A).

Original Application No. 316 of 2001.

Sri Deba Kanta Phukan
Son of Sri Kesha Ram Phukan
Technician II (2)
Regional Research Laboratory,
Jorhat, Assam.

By Advocate Mr. H. Rahman.

...Applicant

-versus-

1. The Union of India
(Represented by the Secretary,
Ministry of Science & Technology
Government of India, New Delhi).

Director General,
Council of Scientific and
Industrial Research Anusandhan Bhawan,
2, Rafi Marg, New Delhi-110001.

3. The Director,
Regional Research Laboratory
Jorhat-785006.

4. Administrative Officer,
Regional Research Laboratory
Jorhat-785006

...Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

Original Application No. 317 of 2001.

Shri Ram Nath Das,
Son of Late Bhadreswar Das,
Technical Assistant III (2).
Regional Research Laboratory
Jorhat, Assam.

...Applicant

By Advocate Mr. H. Rahman.

-versus-

Contd....

Attested

H. Rahman
Advocate.

1. The Union of India,
(Represented by the Secretary,
Ministry of Science & Technology,
Government of India
New Delhi).
2. Director General,
Council of Scientific and Industrial
Research Anusandhan Bhawan,
2 Rafi Marg, New Delhi-110001.
3. The Director,
Regional Research Laboratory,
Jorhat-785006.
4. Administrative Officer,
Regional Research Laboratory,
Jorhat-785006.

...Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

Original Application No. 318 of 2001

Sri Brojendra Nath Deuri Phukan
Son of Late Moni Ram Deuri Phukan
Technician II (3),
Regional Research Laboratory,
Jorhat, Assam.

...Applicant

By Advocate Mr. H. Rahman.

-versus-

1. The Union of India,
(Represented by the Secretary,
Ministry of Science & Technology,
Government of India
New Delhi).
2. Director General,
Council of Scientific and Industrial
Research Anusandhan Bhawan,
2 Rafi Marg, New Delhi-110001.
3. The Director,
Regional Research Laboratory,
Jorhat-785006.
4. Administrative Officer,
Regional Research Laboratory,
Jorhat-785006.

...Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

Contd...

Attested

Wan

Advocate.

ORDER

CHOWDHURY J. (V.C.)

All the three applications were taken up together for disposal since common question of fact and law are involved. In all the three applications the applicants assailed the order of penalty dated 16.9.1999 reducing their pay for one year. A disciplinary proceeding was initiated against all the applicants. Allegations are also same and similar. Statement of Article of Charge framed against the applicant in O.A. No. 316/2001 is reproduced below :

" Article I

That Shri D.K. Phukan while functioning as Tech. II (1) during the period December, 1989 has applied for All India LTD to visit "Kanyakumari" for the block year 1986-89. He was sanctioned LTC and thereof as due and admissible under the LTC Rules. An amount of Rs.3,225.00 (Rupees three thousand and two hundred and twenty five only) was accordingly drawn by him as LTC advance.

WHEREAS Shri D.K. Phukan, Tech. II(1) obtained false and fictitious Local Excess Fare Ticket bearing EFT No. 693175 and got verified the same in support of his journey on LTC.

WHEREAS Shri D.K. Phukan, Tech. II(1) had submitted the LTC final bill NO. 1854/LTC/Adj./89 and got it passed for an amount of Rs.4,206.00 (Rupees four thousand two hundred and six only) from accounts Section without performing the Journey.

WHEREAS Shri D.K. Phukan, Tech. II (1)/his family members did not perform the journey on LTC and accordingly submitted an application to the competent authority for returning the LTC amount drawn by him and regretted for his misconduct."

Likewise charges were also brought against two other applicants of O.A. Nos. 317/2001 and 318 of 2001. On 06.10.1997 all the three applicants submitted their written reply. In paragraph 3 of the written reply the applicants admitted the charge. The full extract of paragraph 3 of the said reply submitted by the applicant in O.A. No. 316/2001 is

Contd.

Attested

Advocate
Advocate.

reproduced below :

"Sir, I without any force willing fully accepting the levelled charges and most sincerely appeal to you kindly to forgive me from my misconduct since, it was committed by me for the first time. I also assure you that such type of misconduct will never be repeated in my entire service period. In view of the above the Disciplinary Authority is earnestly requested kindly to ex-operate me from the charges. Moreover, I have refunded the entire L.T.C. money drawn by me during the year 1992-93. Since, I am a low paid employee and shouldering the entire responsibility of my family, your kind action in exonerating me from the charges will immensely help me to correct my misconduct in future. I once again assure you that such misconduct will never be repeated in future."

In a similar nature the two other applicants of this application submitted their written reply. The authority on consideration of their written reply alone held the applicant guilty of charges. Accordingly the order of penalty dated 16.9.1999 reducing their pay for one year was issued.

The extract of the order dated 16.9.1999 is reproduced below:

"IT IS, THEREFORE, ORDERED that the pay of Sri Deba ^{Ran} Kanfa Phukan be reduced by Rs. 125.00 from Rs. 5,000.00 to Rs. 4,875.00 in the time scale of pay of Rs. 4,500-125-7,000/- for a period of one year with effect from the 1st day of October, 1999. It is further directed that Shri Phukan will not earn increment of pay during the period of reduction and on the expiry of this period, the reduction will not have the effect of postponing his future increments of pay."

Likewise penalty was also imposed upon the two other applicants. They preferred appeal on 14.10.1999. Failing to get response from the authority they served Lawyer's Notice and thereafter moved this Application before the Tribunal under section 19 of the Administrative Tribunals Act, 1985 assailing the impugned order of penalty dated 16.9.1999 as arbitrary, illegal and disproportionate.

2. In the application the applicants mainly assailed the proceeding on the ground of delay. According to the

Contd..

Attested
[Signature]
Advocate.

applicants there was a delay in initiating the proceeding and on that count alone the impugned order of penalty dated 16.9.1999 is unsustainable and on that count the consequent punishment was also liable to be quashed.

3. Heard Mr. H. Rahman, learned counsel appearing on behalf of the applicants and Mr. A. Deb Roy, learned Sr.C.G.S.C. for the respondents.

4. The respondents submitted writte statement and contended that the delay in initiating the proceeding was not deliberate. In the written statement it was also stated that after about a year from the date of purchase of Railway Ticket from a tout of Mariani Railway Station, an Investigating Officer of CBI (ACB), Shillong camped at Jorhat contacted the Director, RRL-Jorhat and informed their necessity to collect and take into possession the LTC bills submitted by a Group of Officers of RRL, Jorhat from September 1989 to 12th November 1990. The CBI started investigation in the matter one after another and the statements of the applicants were also recorded in 1991. The CBI subsequently submitted the report to the authority wherein the applicants were involved in fictitious LTC claims for initiating disciplinary action against the delinquent officials. The respondent authority made every effort to get refund of the money from the applicant and started initiation of disciplinary proceeding against the applicants. It was also mentioned in the written statement that the Appellate Authority considered the appeal of the applicants and rejected the same in course of time.

5. Mr. H. Rahman, learned counsel for the applicant mainly focussed his argument on three grounds. Learned counsel for the applicant firstly submitted that the

Attested

[Signature]

Advocate.

proceeding was initiated after a long lapse of time against the alleged misconduct. The applicants accepted the the LTC amount for the Block year 1986-89 and the money was refunded long back in the year 1991 whereas the proceeding was initiated in 1999 that too at the instance of the CBI. Mr. Rahman further submitted that the authority acted mechanically in initiating the proceeding at the instance of CBI that too after a long lapse of time. Mr. Rahman, learned counsellor for the applicant in support of his contention referred to a decision rendered by the Supreme Court in the case of State of Madhya Pradesh Vs. Bani Singh and Another reported in 1990 Suppl. SCC 738. The learned counsel for the applicant also referred the following decisions reported in 1992 (20) ATC 578, 1995 (31) ATC 227 and 1996 (32) ATC 563.

6. We have given our anxious consideration. There was no doubt some delay in initiating the proceeding. But from the materials on records it appears that the entire matter surfaced only after CBI investigation of a case where the applicants were cited as witness and their statements were recorded. The CBI also intimated the matter to the respondents thereafter the authority acted upon and initiated the proceeding. In the set of circumstances it cannot be said the delay in initiating the proceeding was inordinate and at any rate no prejudice was caused. The applicants on the other hand also admitted their guilt but sought for leniency. Mr. Rahman, learned counsel for the applicants next submitted that the authority without jurisdiction imposed the penalty only on the basis of admission without holding proper enquiry. Learned counsel further submitted that the respondents acted unlawfully in imposing major penalty upon the applicants without holding any enquiry. In support of his

Contd....

Attested
H. D. Sen
Advocate.

contention the learned counsel referred to a decision of Calcutta High Court in the case of Randhir Singh vs. Union of India & Others, reported in (1999) 2 SLR 502. In reply to the said contention, Mr. A. Deb Roy, learned Sr. C.G.S.C. referred to the statutory provision, more particularly Rule 14 of the CCS (CCA) Rules, 1965 and submitted that there was no justification to hold any enquiry on the basis of admission of their guilt. As per the said statutory provision more particularly as per clause (v) (a) it cannot be said that the authority have acted illegally in not holding further enquiry. The applicants admitted the allegation in unequivocal terms, contended by Mr. A. Deb Roy, learned Sr. G.S.C.

7. Before going into the above issue it would be appropriate to take note of statutory provision Part VI of the Rule provided the procedure for imposing penalties. The material provisions are reproduced below :

" 14. Procedure for imposing penalties - (1) No order imposing any of the penalties specified in clauses (v) to (ix) of Rule 11 shall be made except after an inquiry held, as far as may be, in the manner provided by the Public Servants (Inquiries) Act 1850, where such inquiry is held under that Act.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government Servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof.

Explanation - Where the disciplinary authority itself holds the inquiry, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) to the inquiry shall be construed as a reference to the disciplinary authority.

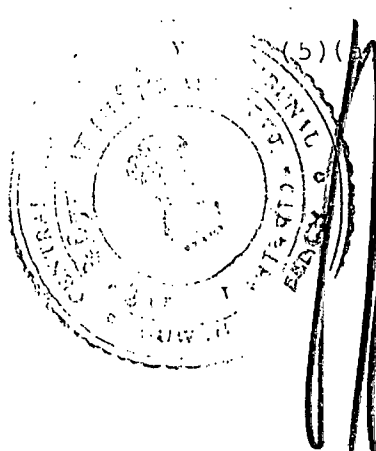
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Attested
[Signature]
 Advocates.

(3) Where it is proposed to hold an inquiry against a Government Servant under this Rule and Rule 15, the disciplinary authority shall draw up or cause to be drawn up -

- (i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge;
- (ii) a statement of the imputations of misconduct or mis-behaviour in support of each article of charge, which shall contain:
 - (a) a statement of all relevant facts including any admission or confession made by the Government Servant;
 - (b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(4) The disciplinary authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Government Servant to submit, within such time as may be specified, a written statement of his defence and state whether he desires to be heard in person.



(5) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary to do so, appoint under sub-rule (2), an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Government Servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15.

(b) If no written statement of defence is submitted by the Government Servant the disciplinary authority may, itself, inquire into the articles of charge, or may, if it considers it necessary to do so, appoint under sub-rule (2) an inquiring authority for the purpose.....

(16) When the case for the disciplinary authority is closed, the Government Servant shall be required to state his defence, orally or in

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Attested

 Advocate

writing, as he may prefer. If the defence is not signed by the Government Servant, the Government Servant shall be required to sign the record. In either case, a copy of the statement of defence shall be given to the Present Officer, if any, appointed.

(17)

(18) The inquiring authority may, after the Government Servant closes his case, and shall, if the Government Servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Government Servant to explain any circumstances appearing in the evidence against him.....

Sub Rule (3) of Rule 15 : If the disciplinary authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in clauses (i) to (iv) of Rule 11 should be imposed on the Government Servant, it shall, notwithstanding anything contained in Rule 16, make an order imposing such penalty."

8. The statutory provisions are made to ascertain the guilt or otherwise of the Government Servant in accordance with rules. Rules are hand made of justice. The thematic contents of the Rule is to ensure fairness in action. The procedural reasonableness is introduced to promote justice and to prevent miscarriage of justice. Fairness is ensured by adhering to the rules of the game. The procedure enjoining in Part VI did not rule out an enquiry. Sub rule 5 (a) of Rule 14 itself indicates that when all the article of charges have been admitted by the Government Servant in his written statement in defence, the disciplinary authority is required to record his findings on each charge after taking such evidence as may think fit and act in the manner laid down in Rule 15. Rule 5 (a) did not rule out recording of evidence. It has conferred the discretion on the authority to take such evidence at it may think fit. The statutory rule as envisaged in Sub rule 18 of Rule 14 also cast the duty on the authority

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[Signature]
Advocate.

to question the delinquent officer on the circumstances appearing against him. Such scheme is made to enable the Government servant to show extenuating circumstances whether punishment is to be inflicted. The power of imposing penalty is entrusted on the authority on good and sufficient reason. Sub rule (3) of Rule 15 speaks of responsibilities reposed on the disciplinary authority in imposing penalty having regard to the findings on the articles of charges. Mr. A. Deb Roy, learned Sr. C.G.S.C. however submitted that where an employee admitted his guilt to insist upon the management to record evidence on the allegations will only an empty formality. In our view, it will not absolve the Disciplinary Authority from its responsibility of providing an opportunity to a Government Servant to offer his explanation for his conduct or to place before the authority any circumstance that would go to mitigate the gravity of the offence. The power of imposition of penalty is not arbitrary and rules are made to safeguard the interest of the delinquent officer.

Rules are made for adherence and not for infraction. In the instant case the disciplinary authority in imposing the impugned punishment on the basis of the statement without adhering the prescribed procedure by law. The applicants prayed for exonerating them from the charges. In the written statement the respondents stated that the appeals were duly and carefully examined by the Appellate Authority and held that the penalty imposed upon them is a lenient one and there is no scope for further diluting the same. For the reasons best known to the authority the Appellate Order was not produced. At any rate since the impugned orders of penalty dated 16.9.1999 in our view is in breach of the procedural propriety. On that ground alone the impugned orders are

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Attested

Advocate.

liable to be set aside.

9. In view of our order on the above issue we do not consider to go into the other issues.

10. For the reasons cited above the impugned orders are set aside. The disciplinary authority may now initiate with the measures indicated in Sub rule (b) (a) of Rule 14 of the CCS (CCA) Rules, 1965 as amended and record its findings on the charge after taking such evidence as it may think fit and act in the manner laid down in Rule, including Rule 15.

11. The applications are accordingly allowed. There shall however be no order as to costs.

Sd/VICE CHAIRMAN
Sd/MEMBER (A)

I hereby authorise Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman to pronounce the judgment and order in the open court also on my behalf.

Sd/MEMBER (ALMN)

Capitalized on the 10th 11/07

3/6/07

Section Officer
General Administration
Government of India
New Delhi

03/06/07

Attested
WASH
Advocate.

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Annexure-4

REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(Council of Scientific & Industrial Research)

No.RLJ-18(92)-Vig./97

November 26, 2002

O R D E R

WHEREAS the penalty of reduction to a lower stage in the time scale of pay for a period of one year with effect from October 01, 1999 till September 30, 2000 was imposed on Shri Ram Nath Das, Gr.III(3) on the ground of misconduct which led to his charge on a disciplinary action.

AND WHEREAS the Hon'ble CAT vide Order dated 23.05.2002 has set aside the penalty order on technical grounds because of breach of procedural propriety, giving freedom to the Disciplinary Authority to initiate measures as indicated in Sub Rule 5(a) of Rule 14 of the CCS(CCA) Rules, 1965 as amended and record its findings on the charge after taking such evidence as it may think fit and act in the manner laid down in Rule including Rule 15.

NOW, THEREFORE, the order of imposing the penalty of reduction to a lower stage in the time scale of pay for a period of one year is no more in existence. This is without prejudice to further action as per Rules and in agreement with the CAT order. The Pay and Allowances of Shri Ram Nath Das, Gr.III(3) be restored and arrears on account of reduction of pay and allowances be paid immediately.


(P. Gangadhar Rao)
Director

Station: RRL, Jorhat.

Date : 26.11.2002

Shri Ram Nath Das, Gr.III(3)
RRL, Jorhat

Attested


Advocate.

38 - Annexure - 5

REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(Council of Scientific & Industrial Research)

No.RLJ-18(92)-Vig./97

JANUARY 30, 2004

MEMORANDUM

Sub:- False LTC claim for Goa made by Sh. Ram Nath Das, Gr.III(3) for the year 1986-89

WHEREAS a copy of the inspection report of SP, CBI in the matter of false LTC claim by 61 employees of RRL, Jorhat was received, wherein it was advised to initiate RDA against all the 61 accused officials of RRL, Jorhat in view of their admittance of the accusation;

AND WHEREAS Shri Ram Nath Das, Gr.III(3), one of the 61 employees, was accordingly served with a Memorandum of Charges dated 26/9/1997 under Rule 14 of CCS (CCA) Rules, 1965;

AND WHEREAS the charge levelled against him was that he preferred a fake claim for Rs.13644/- after drawal of advance on account of ALLTC in the month of October 1989 for the block year 1986-89 without performing the said journey;

AND WHEREAS in his written statement of defence dated 6/10/1997, Sh. R.N. Das unconditionally admitted the charge levelled against him requesting to exonerate him;

AND WHEREAS the matter was referred to Central Vigilance Commission which advised to impose major penalty on all the officers guilty of making the false claim, in addition to withholding of LTC claim in respect of such employees as per the rules;

AND WHEREAS in view of the report of CBI, the admission of guilt by the delinquent officer before the SP, CBI and his unconditional acceptance of the charge levelled vide the Memorandum of Charges, the Disciplinary Authority, on careful consideration of facts and circumstances of the case vis-a-vis his acceptance of the misconduct which are sufficient to prove the charge beyond doubt, ordered as under:

"IT IS THEREFORE ORDERED that the pay of Shri R.N. Das be reduced by Rs.175/- from Rs.6725.00 to Rs.6550.00 in the pay scale of Rs.5500-175-9000 for a period of one year with effect from 1st October 1999. It is further directed that Shri Phukan will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will not have the effect of postponing his future increments of pay."

AND WHEREAS Shri R.N. Das, aggrieved by the order of the Disciplinary Authority, filed an OA No.317 of 2001 before Hon'ble CAT, Guwahati;

AND WHEREAS the Hon'ble CAT vide its order dated 23/5/2002 set aside the said order of the Disciplinary Authority on the grounds that the order was in breach of the provisions of sub-rule (5)(a) of Rule 14 and Rule 15 of the CCS (CCA) Rules, 1965 which are made applicable to the Council employees, and directed as under:

"The Disciplinary Authority may now initiate with the measures indicated in Sub-rule (5)(a) of Rule 14 of CCS (CCA) Rules, 1965, as amended and record its findings on the charge after taking such evidence as it may think fit and act in the manner laid down in Rules including Rule 15."

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AND WHEREAS in accordance with the directions of Hon'ble CAT, the Disciplinary Authority has reconsidered the case in the light of facts and circumstances of the matter vis-a-vis the acceptance of charge by Sh. R.N. Das, which renders any further inquiry in the matter needless;

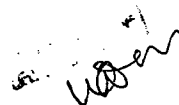
AND WHEREAS the act of making false LTC claim being a serious misconduct that should attract condign punishment like that of removal from service. However, in view of the acceptance of the delinquent officer of his guilt and a written assurance on his part that he would not indulge in such practice in future, the disciplinary authority has decided to take a somewhat lenient view in the matter;

IT IS THEREFORE proposed that a penalty of "reduction of the pay of Shri Ram Nath Das by five stages from Rs.7900.00 to 6900.00 in the pay scale of Rs.6500-200-10500 be made for a period of three years with further directions that he will not earn increments of pay during the period of reduction and after the expiry of this period, the reduction will have the effect of postponing his future increments."

NOW THEREFORE Sh. Ram Nath Das is hereby given an opportunity to make such representation as he may wish to make against the proposal within a period of 15 days of the receipt of this Memorandum, failing which further action shall be taken as per rules.


DIRECTOR

✓ Shri Ram Nath Das
Gr.III(3)
RRL, Jorhat-6.



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Annexure - 6

To
The Director
Regional Research Laboratory Jorhat.

Dated 12.02 2004

Subject : Representation in response to your office memorandum
No. RLJ - 18 (92) -vig. Dated 30.1.2004.

Sir,

Most humbly and respectfully I beg to state the following few lines for your kind consideration :-

1. That sir, I had filed a case in the Hon'ble CAT which is numbered and registered as O.A. No. 317 of 2001, challenging the penalty of reduction to a lower stage in the time scale of pay for a period of one year with effect from October 1, 1999 till September 30, 2000 on the ground of misconduct which led to a charge on disciplinary action. The Hon'ble CAT vide its order dated 23.5.2002 has set aside the penalty order on technical grounds because of procedural propriety, and thereby giving freedom to the disciplinary authority to initiate measures as indicated in Sub-Rule 5 (a) of Rule 14 of CCS (CCA) Rules 1965 as amended and record its finding in the charge after taking such evidence as it may think fit and act in the manner laid down in Rule including Rule 15.

2. That sir, vide letter No. RLJ-18 (92)-Vig / 97 dated November 26, 2002 issued under the signature P. Gangaghar Rao, Director of Regional Research Laboratory, Jorhat, Assam, it was intimated to me that the order of imposing penalty of reduction to a lower stage for a period of one year was set aside and pay, allowances and other arrears would be paid.

3. That sir, one office memorandum dated 30.1.2004 has been served upon me. In your office memorandum dated 30.1.2004 it was intimated to me that there was a proposed penalty of reduction of pay from Rs. 7900 to Rs. 6900 in the pay scale of Rs. 6500-200-10500 be made for a period of three years with further directions that there will not be any increment of pay during the period of reduction and after expiry of the period, the reduction will have the effect of postponing the future increments.

4. That sir, after receipt of the office memorandum dated 30.1.2004, I tried to contact my advocate Mr. Hasibur Rahman as he was possessing the relevant document of this case. I tried to contact the advocate on telephone several times for relevant records but I could not find him on telephone. On enquiry, it was found that the telephone No. has been changed. After this information I sent one of my relative to Gauhati to meet the advocate for relevant documents of this case, which are very essential to reply in response to your office memorandum dated 30.1.2004. Then I have come to know that the advocate shifted to his new residence in M.C. Road Chenikuthi, Gauhati and Mr. Hasibur Rahman went on pilgrimage (Haj). It was also intimated to me that the advocate would return from Haj and would reach Gauhati on 28th February, 2004.

5. That sir, under the circumstances mentioned above, I fail to get the relevant records of this case and therefore pray before your Good-self to allow me another four weeks time to make representation in response to your memorandum dated 30.1.2004, otherwise it would cause me great prejudice.

Yours faithfully

Ram Nath Das
(R.N.Das)
Tech. Asst. III (3)

12/2/04

Attested

Advocate

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Annexure 7

REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(Council of Scientific & Industrial Research)

No.RLJ-18(92)-Vig./97

FEBRUARY 20, 2004

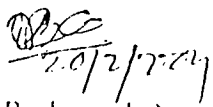
MEMORANDUM

Sub:- Representation dated 12.02.2004 submitted by Shri Ram Nath Das, Gr.III(3) in response to O.M. of even number dated 30.01.2004 on the proposed penalty.

With reference to his representation as above, Shri Ram Nath Das, Gr.III(3) is informed that his request for granting extension of time has been considered by the Disciplinary Authority and his decision is as under:

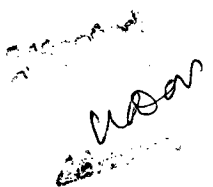
- .. "I have carefully gone through the request of Shri Ram Nath Das, Gr.III(3) for seeking further four weeks for filing their reply to Office Memo No.RLJ-18(92)-Vig./97 dated 30.01.2004.
- .. The grounds mentioned therein are considered and I find that only ground mentioned is "Non availability of his lawyer".
- .. In my opinion this is not a valid ground as the matter is between the disciplinary authority and the employee, as such extension of time cannot be granted.
- .. I am further satisfied, that the time given to them for reply is reasonable."

Accordingly, the Disciplinary Authority is at liberty to take decision with regard to O.M. of even number dated 30.01.2004 as per rules without any further opportunity.


(N. K. Barbaruah)
Administrative Officer

Shri Ram Nath Das,
Gr.III(3)
RRL, Jorhat-6.

// Seeking for
time



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Annexure 8

6

REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(Council of Scientific & Industrial Research)

SEPTEMBER 16, 1999

No.RLJ-18(92)-Vig./97

ORDER

WHEREAS Shri Ram Nath Das, Gr.III(2) was served with a Memorandum of Charge along with a Statement of articles of charge, Statement of imputation of misconduct or misbehaviour in support of the articles of charge and a List of documents by which the articles of charge framed against him were proposed to be sustained to hold an inquiry against him/~~xxx~~ under Rule 14 of the CCS (CCA) Rules, 1965, vide Memo of even number dated 26th September, 1997 and was directed to submit a written statement of his/~~xxx~~ defence within the stipulated time and also to state whether he/~~xxx~~ desired to be heard in person.

AND WHEREAS Shri Ram Nath Das, Gr.III(2) has submitted a written statement of his/~~xxx~~ defence dated 03/10/97 whereby Shri Das has accepted the charges levelled against him/~~xxx~~ willingly and without any force/condition denecessitating the authority to hold any formal inquiry. Thus, as a well-settled principle of law, Shri Das's admission of guilt is explicit, unambiguous, unqualified and unequivocal in terms of the charges levelled against him/~~xxx~~.

AND WHEREAS on the face of the facts and circumstances of the case and on careful consideration of it vis-a-vis his/~~xxx~~ written statement, the undersigned holds that the articles of charge levelled against him/~~xxx~~ are proved beyond doubt.

IT IS, THEREFORE, ORDERED that the pay of Shri Ram Nath Das be reduced by Rs.175.00 from Rs. 6,725.00 to Rs.6,550.00 in the time scale of pay of Rs.5,500-175-9,000/- for a period of one year with effect from the 1st day of October, 1999. It is further directed that Shri Das will not earn increment of pay during the period of reduction and on the expiry of this period, the reduction will not have the effect of postponing his/~~xxx~~ future increments of pay.

IT IS FURTHER DIRECTED that regarding forfeiture/disallowance of future LTC, a separate order will be issued to him shortly.

JSSZ
(Jagir Singh Sandhu)
DIRECTOR

To

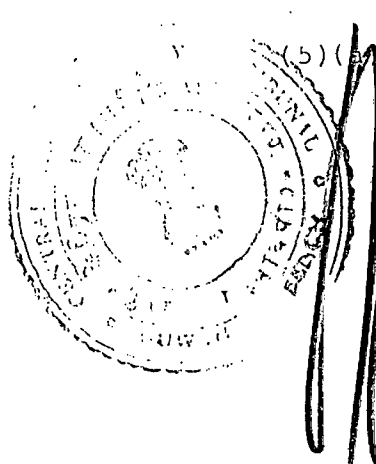
✓ Shri Ram Nath Das,
Gr.III(2)
RRL, Jorhat-6.

Attested
Advocate

(3) Where it is proposed to hold an inquiry against a Government Servant under this Rule and Rule 15, the disciplinary authority shall draw up or cause to be drawn up -

- (i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge;
- (ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain:
 - (a) a statement of all relevant facts including any admission or confession made by the Government Servant;
 - (b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(4) The disciplinary authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Government Servant to submit, within such time as may be specified, a written statement of his defence and state whether he desires to be heard in person.



(5) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary to do so, appoint under sub-rule (2), an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Government Servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15.

(b) If no written statement of defence is submitted by the Government Servant the disciplinary authority may, itself, inquire into the articles of charge, or may, if it considers it necessary to do so, appoint under sub-rule (2) an inquiring authority for the purpose.....

(16) When the case for the disciplinary authority is closed, the Government Servant shall be required to state his defence, orally or in

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Attested
W.Dan
Advocate

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Annexure 7

REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(Council of Scientific & Industrial Research)

No.RLJ-18(92)-Vig./97

FEBRUARY 20, 2004

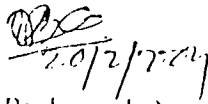
MEMORANDUM

Sub:- Representation dated 12.02.2004 submitted by Shri Ram Nath Das, Gr.III(3) in response to O.M. of even number dated 30.01.2004 on the proposed penalty.

With reference to his representation as above, Shri Ram Nath Das, Gr.III(3) is informed that his request for granting extension of time has been considered by the Disciplinary Authority and his decision is as under:

- .. "I have carefully gone through the request of Shri Ram Nath Das, Gr.III(3) for seeking further four weeks for filing their reply to Office Memo No.RLJ-18(92)-Vig./97 dated 30.01.2004. ,
- .. The grounds mentioned therein are considered and I find that only ground mentioned is "Non availability of his lawyer".
- .. In my opinion this is not a valid ground as the matter is between the disciplinary authority and the employee, as such extension of time cannot be granted.
- .. I am further satisfied, that the time given to them for reply is reasonable."

Accordingly, the Disciplinary Authority is at liberty to take decision with regard to O.M. of even number dated 30.01.2004 as per rules without any further opportunity.


(N. K. Barbaruah)
Administrative Officer

Shri Ram Nath Das,
Gr.III(3)
RRL, Jorhat-6.

*Seeking for
me*

20/2/2004

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क्षेत्रीय अनुसंधान प्रयोगशाला: जोरहाट: असम
REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(वै. औ. अ. प. का एक स्थायी ईकाई)
(Council of Scientific & Industrial Research)

No.RLJ-18(92)-Vig./97

दिनांक: अप्रिल 22, 2004

निदेश
ORDER

24/4/04

WHEREAS a copy of the inspection report of SP, CBI in the matter of false LTC claim by 61 employees of RRL, Jorhat was received, wherein it was advised to initiate RDA against all the 61 accused officials of RRL, Jorhat in view of their admittance of the accusation;

AND WHEREAS Shri Ram Nath Das, Gr.III(3), one of the 61 employees, was accordingly served with a Memorandum of Charges dated 26/9/1997 under Rule 14 of CCS (CCA) Rules, 1965;

AND WHEREAS the charge levelled against him was that he preferred a fake claim for Rs.13644/- after drawal of advance on account of AILTC in the month of October 1989 for the block year 1986-89 without performing the said journey;

AND WHEREAS in his written statement of defence dated 3/10/1997, Sh. R.N. Das unconditionally admitted the charge levelled against him requesting to exonerate him;

AND WHEREAS the matter was referred to Central Vigilance Commission which advised to impose major penalty on all the officers guilty of making the false claim, in addition to withholding of LTC claim in respect of such employees as per the rules;

AND WHEREAS in view of the report of CBI, the admission of guilt by the delinquent officer before the SP, CBI and his unconditional acceptance of the charge levelled vide the Memorandum of Charges, the Disciplinary Authority, on careful consideration of facts and circumstances of the case vis-a-vis his acceptance of the misconduct which are sufficient to prove the charge beyond doubt, ordered as under:

"IT IS THEREFORE ORDERED that the pay of Shri R.N. Das be reduced by Rs.175/- from Rs.6725.00 to Rs.6550.00 in the pay scale of Rs.5500-175-9000 for a period of one year with effect from 1st October 1999. It is further directed that Shri Phukan will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will not have the effect of postponing his future increments of pay."

AND WHEREAS Shri R.N. Das, aggrieved by the order of the Disciplinary Authority, filed an OA No.317 of 2001 before Hon'ble CAT, Guwahati;

Ammer

WDA

AND WHEREAS the Hon'ble CAT vide its order dated 23/5/2002 set aside the said order of the Disciplinary Authority on the grounds that the order was in breach of the provisions of sub-rule (5)(a) of Rule 14 and Rule 15 of the CCS (CCA) Rules, 1965 which are made applicable to the Council employees, and directed as under:

"The Disciplinary Authority may now initiate with the measures indicated in Sub-rule (5)(a) of Rule 14 of CCS (CCA) Rules, 1965, as amended and record its findings on the charge after taking such evidence as it may think fit and act in the manner laid down in Rules including Rule 15."

AND WHEREAS in accordance with the directions of Hon'ble CAT, the Disciplinary Authority has reconsidered the case in the light of facts and circumstances of the matter vis-a-vis the acceptance of charge by Sh. R.N. Das, which renders any further inquiry in the matter needless;

AND WHEREAS the act of making false LTC claim being a serious misconduct that should attract condign punishment like that of removal from service. However, in view of the acceptance of the delinquent officer of his guilt and a written assurance on his part that he would not indulge in such practice in future, the disciplinary authority has decided to take a somewhat lenient view in the matter;

ACCORDINGLY THE UNDERSIGNED had proposed the penalty of "reduction of the pay of Shri Ram Nath Das, Gr.III(3) by five stages from Rs.7900.00 to 6900.00 in the pay scale of Rs.6500-200-10500 for a period of three years with further directions that he would not earn increments of pay during the period of reduction and after the expiry of this period, the reduction would have the effect of postponing his future increments" and a memorandum of even number dated 30th January, 2004 was served to Shri Ram Nath Das by giving him an opportunity to make representation as he might wish to make against the proposal within a period of 15 days of receipt of the aforesaid memorandum failing which further action should be taken as per rules.

Shri Ram Nath Das, Gr.III(3) made his representation dated 12.02.2004 not on merit but stating and praying *inter alia* to allow him another four weeks time to make representation in response to the memorandum dated 30.01.2004. The said representation was disposed of vide reply O.M.No.RLJ-18(92)-Vig./97 dated 20th February, 2004, however, it is stated that no further representation was received on merit.

- THE UNDERSIGNED, while considering all aspects threadbare vis-a-vis his redressal before the Hon'ble CAT, finds that the Hon'ble CAT had set aside only the order of the Disciplinary Authority on the ground of breach of procedural propriety and had not quashed the disciplinary proceedings.

THE UNDERSIGNED also finds that there had been altogether 61 employees involved in the false LTC claims and ultimately consequent upon the death of a few employees during the pendency of the disciplinary proceedings, too lenient penalties were imposed on 58 employees by the then Disciplinary Authority.

AND WHEREAS, the undersigned, while considering all aspects regarding the quantum of penalty finds that the charge arising out false/fraudulent LTC Claims is so serious that the penalty imposed on him earlier was too lenient and has, therefore, decided to confirm the proposed penalty as aforesaid on the grounds delineated above.

Attested
W.D.
Advocate.

IT IS, THEREFORE, ORDERED that the penalty of reduction of the pay of Shri Ram Nath Das, Gr.III(3) by five stages from Rs.7900.00 to 6900.00 in the pay scale of Rs.6500-200-10500 for a period of three years be imposed with further directions that he will not earn increments of pay during the period of reduction and after the expiry of this period, the reduction will have the effect of postponing his future increments.

IT IS ALSO FURTHER ORDERED that Shri Ram Nath Das, Gr.III(3) be forfeited with 2 (two) sets of LTC concurrently.



P. Gangadhar Rao
निदेशक
DIRECTOR

Shri Ram Nath Das
Gr.III(3)
RRL, Jorhat-6.

Attest
Advocate.

Rule 15
9 cell center

not returning
index

Revised
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Annexure-9.5
To
The Director Regional Research Laboratory,
Jorhat.

Dated 21 -05-2004

Sub: Forwarding of the Appeal against the order bearing No. RLJ-18(92)-
Vig/97 dated 22.04.2004.

Sir,

With due respect I beg to state that I am enclosing herewith an appeal against the order bearing No. RLJ-18(92)-Vig/97 dated 22.04.2004 to the Hon'ble Director General, CSIR, New Delhi and request you for necessary forwarding.

Thanking you.

Yours faithfully

Ram Nath Das

(R.N.Das).
Tech. Asstt. III (3)

OTC

21/5/04.
at 12-45 PM.

Attested

hda
Advocate.

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Annexure - 9

To
The Director General,
Council of Scientific and
Industrial Research, (CSIR),
Anusandhan Bhawan, Rafi Marg,
New Delhi-1.

Date: 21.5.2004

Through the Proper Channel
The Director, RRL, Jorhat.

Sub: Appeal against the order bearing No.RLJ-18(92)-Vig/97 dated 22.04.04

Sir,

That with due deference and profound submission I beg to state the few following lines for your kind consideration and necessary action thereof.

That Sir, allegations pertaining to LTC during the block year 1986 to 1989, the Acting Director, Regional Research Laboratory, Jorhat, issued a memorandum of charge sheet vide memo dated 26.09.97. The said memorandum contained the charges of misconduct in respect of LTC claim made in the year 1989. The charges in brief are as follows,

Article -1

That Shri R.N. Das while functioning as Technical assistant III (1) during the period September, 1989 has applied for All India LTC to visit "GOA" (Panaji) for the block year 1986-89. He was sanctioned LTC and thereof as due and admissible under the LTC Rules. An amount of Rs.12,250.00 (Rupees twelve thousand two hundred and fifty only) was accordingly drawn by him as LTC advance.

Whereas Shri R.N.Das, Technical Assistant III(1) obtained false and fictitious Local Excess Fare Ticket bearing EFT No.693153 and got verified the same in support of his journey on LTC.

Whereas Shri R.N.Das, Technical Assistant III(1) had submitted the LTC final bill No.1549 / LTC / Adj./89 and got it passed for an amount of Rs.13,644.00 (Rupees thirteen thousand six hundred and fortyfour only) from accounts Section without performing the journey.

Whereas Shri R.N.Das, Technical Assistant III (1) / his family members did not perform the journey on LTC and accordingly submitted an application to the Competent Authority for returning the LTC amount drawn by him and regretted for his misconduct."

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That Sir in reply to the said memorandum of charges, I preferred my reply through my representation dated 03.10.1997 indicating the factual aspect of the case. In fact apprehending complications in service career I refunded the LTC entire amount in question in the year 1992-1993 itself. However, the said proceeding again surfaced surprisingly in the year 1997 with the issuance of the memorandum of charge sheet. However, the pleading made in this regard were not taken into consideration and by an order dated 16.09.1999, the disciplinary authority imposed a penalty of reduction of pay which is reproduced below:

" IT IS THEREFORE ORDERED that the pay of Sri Ram Nath Das be reduced by Rs.175.00 from Rs.6,725.00 to Rs.6,550.00 in the time scale of pay of Rs.5,500.00-175-9000.00 for a period of one year with effect from the 1st day of October, 1999. It is further directed that Shri Das will not earn increment of pay during the period of reduction and on the expiry of this period, the reduction will not have the effect of postponing his future increments of pay.

IT IS FURTHER DIRECTED that regarding forfeiture / disallowance of future LTC, a separate order will be issued to him shortly."

That being aggrieved by the said order of reduction of pay I preferred an Original application before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati which was numbered as O.A. No. 317 / 2001. The Hon'ble Tribunal on 23.05.2002 allowed the O.A. by setting aside the order dated 16.09.99. However, the Hon'ble Tribunal gave liberty to the concerned authority for denovo proceeding in compliance of the procedure laid down in Rule 14 of the CCS (CCA) Rules 1965. In fact the proceeding was quashed due to the procedural irregularities.

That Sir, in terms of the said judgment of the Hon'ble CAT / Ghy the Director RRL Jorhat, issued an order dated 26.11.02 by which my pay and allowance was restored. This order was followed by an Office Memorandum dated 30.01.2004 issued by the Director RRL Jorhat whereby a proposal has been made for imposition of the penalty of reduction of pay by five stages from Rs.7,900/- to 6,900/- in the pay scale of Rs.6,500-200-10,500 be made for a period of three years with further direction that he will not earn increment of pay during the period of reduction and after the expiry of this period, the reduction will have the effect of postponing his future increments. By the said order itself I have been asked for to show cause as to why the aforesaid penalty should not be imposed.

That Sir, immediately on receipt of the said order dated 30.01.04, I submitted a representation dated 12.02.04, to the Director RRL Jorhat, praying for some time to submit detailed reply. However, same evoked no result in positive and the said authority issued an office memorandum dated 20.02.04 rejecting my prayer for further extension of time. The aforesaid order was followed by another order dated 22.04.04 by which the penalty of reduction of pay by five stages from Rs.7900/- to 6900/- in the pay scale of Rs.6500/-200-10500/- be made for a period of three years with further direction that he will not earn increment of pay during the

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period of reduction and after the expiry of this period, the reduction will have the effect of postponing his future increments. In addition to the aforesaid punishment it has further been ordered that two sets of LTC would be forfeited from my entitlement concurrently.

That sir, being aggrieved by the said order dated 22.04.04 passed by the Director RRL Jorhat, I am submitting this statutory appeal before your honour for kind consideration and necessary action thereof. The grounds are as follows:

(a). For that the order dated 22.04.04 has been passed by the authority concerned without taking in to consideration the pleadings made on my behalf during the course of proceeding and same has been passed without following the required formalities as formulated in the CCS (CCA) Rules 1965.

(b). For that the order dated 22.04.04 has been passed without taking in to consideration the plea raised by me regarding the delay in initiation of such proceeding. The alleged incident took place in the year 1989 and in fact I was made to understand that the matter would be resolved if the amount in question is refunded back to the Dépt. and accordingly I, instead of going into to such intricacy of other complications refunded the amount in question with a bonafide belief that the matter would be settled for ever. However, due to the pressure exerted by the CBI authority a proceeding was initiated against me in the year 1997. In view of the above such delayed proceeding is not at all maintainable.

(c). For that admittedly the proceeding in question has been initiated as per the pressure exerted by the CBI authority, which has no administrative control over the RRL Jorhat. Even if the said CBI authority recommended for such proceeding, it was not at all binding on RRL Jorhat as the proceeding was very much within the domain of RRL, Jorhat. The CBI being an investigating agency can not recommend for such proceeding and apparently there has been no independent application of mind by the RRL Jorhat authority. In such a situation the proceeding itself is vitiated as the same has been initiated at the instance of CBI and entire proceeding and orders following from such proceeding is illegal and requires to be set aside.

(d). For that the records of the proceedings clearly indicates that fact that the CBI authority has even recommended quantum of the punishment and as such the order dated 22.04.04 is not at all sustainable and liable to be set aside and quashed.

(e). For that the concerned authority before passing the order dated 22.04.04 failed to observe the required formalities as has been indicated in the Judgment passed by the Hon'ble Central Administrative Tribunal and as such same is not at all sustainable in the eye of law and liable to be set aside and quashed.

(f). For that the proceeding including the de-novo proceeding has been initiated and finalized without following the due procedure as prescribed the Rules holding the field. Even the minimum requirement of the said rules such as natural justice has been denied to me debarring me from placing the facts as well as the relevant documents in support of my case.

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(g). For that the authority concerned has passed the aforesaid order dated 22.04.04 without taking in to consideration the settled proposition of law relating to examination of witnesses. It is stated that not to speak of any examination of witnesses the concerned authority even did not examine me on the point of charges. On this score alone the proceeding as well as the order dated 22.04.04 is not at all sustainable in the eye of law and liable to be set aside and quashed.

(h). For that the authority concerned has passed the aforesaid order dated 22.04.04 depriving me from getting the benefit as per clause 16 of the Rule CCS(LTC) Rules 1988. LTC is earned by giving full continuous satisfactory service to the authority. The government also introduced the separate Rule CCS (Leave Travel Concession) Rules, 1988 w.e.f. 1988 for the benefit of his servants. But the authority dispensed the favourable provisions of the said LTC rule and imposed the aforesaid penalty under CCS (CCA) Rule 1965 which attracts the Rule 6.10 of REVISED MANAS, 1992, an assessment promotion scheme for the scientific & technical employees in a delay process intentionally to let me suffer more effectively in addition to the punishment imposed.

(i). For that the authority has been giving me several punishments for a single fault. At first the authority in his order dated 16.9.1999 reduced my pay w.e.f. 1.10.1999 which was restored in November 2002. Certainly there was a withholding of reduced pay (i.e. one increment) for the period w.e.f. October 1999 to November 2002. Withholding of pay for a period is also a punishment which has already been suffered by me even after restoration of my pay. Secondly the authority in his order dated 22.4.2004 is imposing me a set of serious punishments.

(j). For that non-fulfilment of required formalities and denial of natural justice has resulted serious prejudice to me in my defence and even after projection of such procedural irregularities the matter has not been dealt with by the said authorities and same has resulted issuance of the impugned order dated 22.04.04 and as such same is not sustainable and liable to be set aside and quashed.

(k). For that in any view of the matter the impugned order dated 22.04.04 is not sustainable in the eye of law and liable to be set aside and quashed.

That Sir, in view of the aforesaid facts and circumstances stated above, the order dated 22.04.04 is required to be set aside considering all the facts and circumstances stated above and during the tendency of this appeal the operation of the impugned order dated 22.04.04 may be suspended.

Thanking you,

Sincerely yours,

Ram Nath

(Ram Nath Das)
Technical Assistant III (3)

Annexure - 1
Annexandhan Bhawan, 2 Rafi Marg, New Delhi-11.

Dated 11.07.2004

Through the Proper Channel
The Director, Regional Research Laboratory, Jorhat.

Sir,

That with due deference and profound submission I beg to lay the following few lines for your kind consideration and necessary action thereof.

That Sir I being aggrieved by the order, the order bearing No.RLJ-18(92)-Vig/97 dated 22.04.04 preferred the above noted appeal dated 21.05.2004 before your honour for kind consideration and necessary action. However, as on date I am yet to receive any communication from your honour considering my such appeal.

That Sir during my service tenure I took LTC from the Office for the block year 1986 to 1989 and pertaining to such claim proceeding has been initiated vide charge sheet dated 26.09.97 and penalty was imposed on me. The aforesaid penalty orders were the subject matter of O.A.No.317/2001 and the Hon'ble Tribunal was pleased to allow the said O.A. by setting aside the said orders as well as the proceeding.

That Sir the authority concerned took a decision to initiate fresh proceeding and accordingly the impugned order was issued vide Memo No.RLJ/18(92)-Vig/97 dated 22.04.2004 imposing the penalty of reduction of pay by five stages from Rs.7900/- to 6900/- in the pay scale of Rs.6500-200-10500 for a period of three years with further penalty of withholding of increment of during the period of reduction and after expiry of this period the reduction will have the effect of postponing future increment. In continuation of such harsh punishment the authority again added that I shall not be allowed 2 sets of LTC concurrently.

That Sir the punishments imposed on me are not in conformity with the rules guiding the field. The authority has also failed to follow the procedure laid down in the Rule 14 of CCS(CCA) Rules while proceeding afresh. Having regard to the aforesaid facts and circumstances I preferred the aforesaid appeal before your honour but same is yet to be disposed of.

That Sir during the pendency of the proceeding the result of my assessment interview has been kept under sealed cover since September 2003 and due to currency of the proceeding my case is yet to be considered. In view of the aforesaid peculiar fact situation I having no other alternative have come under the protective hands of your honour seeking immediate and urgent relief.

I hope that your honour would graciously be pleased to consider my case and exonerate me as has been done in case of others and for which I shall ever remain grateful to your honour.

Thanking you,

Faithfully yours'

Ram Nath Das

(Ram Nath Das)

Tech. Asstt. III (3)

Attested
[Signature]
Advocate.

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Annexure - 11

क्षेत्रीय अनुसंधान प्रयोगशाला, जोरहाट: असम
 REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
 (स. औ. प्र. म. का एक स्थायी इकाई)
 (Council of Scientific & Industrial Research)

दिनांक: अप्रैल 09, 2004

कार्यालय ज्ञापन
OFFICE MEMORANDUM

Sub:- Forwarding of reminder dated 13.07.2004 to appeal dated 21.05.2004 preferred by Shri Ram Nath Das, Gr.III(3), T.A., - Action to be taken re:

With reference to his reminder dated 13.07.2004 addressed to the Director General, CSIR, New Delhi, Shri Ram Nath Das, Gr.III(3), Technical Assistant is informed that his appeal has already been forwarded and it is under active consideration of the DG, CSIR. No supplement can be made at this stage and, therefore, the Competent Authority has rejected the same in forwarding it to DG-CSIR, New Delhi.

(जितेंद्र परासर)
 (Jitender Parasar)

प्रशासन नियंत्रक
 Controller of Administration

Shri Ram Nath Das,
 Gr.III(3), T.A.,
 RRL, Jorhat.

Appellate authority

Attested
 now
 Date: 11/3

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Annexure 12

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COUNCIL OF SCIENTIFIC AND INDUSTRIAL RESEARCH
Anusandhan Bhawan, Rafi Marg, New Delhi - 110 001.

No. 15-21(32)/2004-Vig.

13 October, 2004

ORDER

13/10/04

WHEREAS Shri Ram Nath Das, Technical Assistant Gr. III(3) of RRL, Jorhat has preferred an appeal dated 21/5/2004 against the penalty imposed by Disciplinary Authority vide Order No. RLJ-18(92)-Vig/97 dated 22/4/2004, imposing upon him a penalty of reduction of pay by five stages in his time scale of pay for a period of three years with further directions that he will not earn increments of pay during such reduction and after the expiry of this period the reduction will have the effect of postponing his future increments of pay;

AND WHEREAS Shri R.N.Das has primarily raised following points in his appeal:

1. That the order dated 22.04.04 has been passed by the authority concerned without taking in to consideration the pleadings made on the behalf of the appellant during the course of proceeding and same has been passed without following the required formalities as formulated in the CCS (CCA) Rules 1965.
2. That the order dated 22.04.04 has been passed without taking in to consideration the plea raised by the appellant regarding the delay in initiation of such proceeding. The alleged incident took place in the year 1989, whereas in fact he was made to understand that the matter would be resolved if the amount in question is refunded back to the Deptt. Accordingly he, instead of going into such intricacy of other complications refunded the amount in question with a bonafide belief that the matter would be settled forever. However, due to the pressure exerted by the CBI authority a proceeding was initiated against him in the year 1997. In view of the above, such delayed proceeding is not at all maintainable.
3. That admittedly the proceeding in question has been initiated as per the pressure exerted by the CBI authority, which has no administrative control over the RRL, Jorhat. The CBI being an investigating agency cannot recommend for such proceeding and apparently there has been no independent application of mind by the RRL Jorhat authority. In such a situation the proceeding itself is vitiated as the same has been initiated at the instance of CBI and entire proceeding and orders following from such proceeding is illegal and requires to be set aside.
4. That the records of the proceedings clearly indicates the fact that the CBI authority has even recommended quantum of the punishment and as such the order dated 22.04.04 is not at all sustainable and liable to be set aside and quashed.
5. That the concerned authority before passing the order dated 22.04.04 failed to observe the required formalities as has been indicated in the Judgment passed by the Hon'ble Central Administrative Tribunal and as such same is not at all sustainable in the eye of law and liable to be set aside and quashed.
6. That the proceeding including the de-novo proceeding has been initiated and finalized without following the due procedure as prescribed the Rules holding the field. Even the minimum requirement of the said rules such as natural justice has been denied to the appellant debarring him from placing the facts as well as the relevant documents in support of his case.

Attested

Advocate

Contd...2/-

7. That the authority concerned has passed the aforesaid order dated 22.04.04 without taking in to consideration the settled proposition of law relating to examination of witnesses. The concerned authority neither conducted examination of witnesses nor examined the appellant on the point of charges. On this score alone the proceeding as well as the order dated 22.04.04 is not at all sustainable in the eye of law and liable to be set aside and quashed.
8. That the authority concerned has passed the aforesaid order dated 22.04.04 depriving him of the benefit as per clause 16 of the Rule CCS (LTC) Rules 1988. LTC is earned by giving full continuous 'satisfactory service to the authority. The government also introduced the separate Rule CCS (Leave Travel Concession) Rules, 1988 w.e.f. 1988 for the benefit of his servants. But the authority dispensed the favorable provisions of the said LTC Rules and imposed the aforesaid penalty under CCS (CCA) Rule 1965 which attracts the Rule 6.10 of REVISED MANAS, 1992, an assessment promotion scheme for the Scientific & Technical employees in a delayed process intentionally to let him suffer more effectively in addition to the punishment imposed.
9. That the authority has been giving him several punishments for a single fault. At first the authority in his order dated 16.9.1999 reduced his pay w.e.f. 1.10.1999, which was restored in November 2002. Certainly there was a withholding of reduced pay (i.e. one increment) for the period w.e.f. October 1999 to November 2002. Withholding of pay for a period is also a punishment, which has already been suffered by him even after restoration of his pay. Secondly the authority in his order dated 22.4.2004 is imposing upon him a set of serious punishments.
10. That non-fulfillment of required formalities and denial of natural justice has resulted serious prejudice to him and that even after projection of such procedural irregularities the matter has not been dealt with by the said authorities resulting in issuance of the impugned order dated 22.04.04 and as such same is not sustainable and liable to be set aside and quashed.

AND WHEREAS the points raised in his appeal are not tenable inasmuch as:

- A. The Order dated 22/4/2004 is wholly in conformity with the procedure laid down in the Rules in this regard. Since the appellant had already accepted the charge leveled upon him, the disciplinary authority has passed the speaking order after considering all the facts and circumstances of the case, fully elucidating the evidence which prove his misconduct.
- B. The appellant filed an OA in the CAT, Guwahati challenging the earlier order of the disciplinary authority primarily on the ground of delay in proceedings. It has already been clarified in the Court that the case of false claim of LTC by the employees of RRL came to the notice of the Lab. authorities only after the investigation of CBI, after which the competent authority took a decision to initiate disciplinary proceedings against them. Though the whole process took some time, the delay cannot be attributed to authorities in any way. This fact has also been recognized by the Hon'ble CAT, who have ordered, "In the set of circumstances it cannot be said the delay in initiating the proceedings was inordinate and at any rate no prejudice was caused."

Further the decision to initiate disciplinary proceedings against the delinquents was taken by the disciplinary authority after consultation with the Central Vigilance

Attested

W. Sen
Advocate.

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Commission. Hence to say that the proceedings were initiated due to the pressure exerted by the CBI, is only a hypothesis.

Since the misuse of LTC facility is serious misconduct, which attracts the provisions of Rule 14 of CCS (CCA) Rules, apart from action under LTC Rules, the disciplinary authority, in accordance with the advice of CVC, issued chargesheets to all the delinquents including the appellant and finally issued a well reasoned and speaking order dated 22/4/2004.

- C. The contention of the appellant in point 3 has been adequately answered vide point B above.
- ✓ D. The statement of the appellant that the CBI even recommended the quantum of punishment to be imposed is baseless. The order dated 22/4/2004 has been issued by the disciplinary authority after carefully considering all the facts and circumstances of the case and elucidation of evidence in this regards, hence it is very much sustainable in the eye of law.
- E. The order appealed against has been issued in accordance with the verdict of Hon'ble CAT, Guwahati. All the formalities as per the rules have been observed while passing the order.
- ✓ F. The contention of the appellant that even the requirement of the said rules such as natural justice has been denied to him debarring him from placing the facts as well as the relevant documents in support of his case, is not true. The appellant was given an opportunity to submit his representation against the charge-sheet, in which he accepted the charge leveled upon him. Further, he was issued a show-cause notice to explain as to why a major penalty should not be imposed upon him for the misconduct committed by him. It was only after considering his response to the chargesheet as well as to the show-cause notice that the disciplinary authority issued the order dated 22/4/2004.
- ✓ G. Since the appellant had accepted the charge leveled upon him unconditionally, there was no need for the disciplinary authority to appoint an inquiry authority to examine the witnesses/appellant or take up that task himself. In fact, in view of his unconditional acceptance of the charge, no further inquiry/examination was required at all.
- H. The CCS (LTC) Rules clearly state that if the disciplinary authority decides to initiate disciplinary proceedings against an official on the charge of preferring a fraudulent claim, such official cannot avail LTC till finalization of the disciplinary proceedings, and if on completion of the disciplinary proceedings, he is inflicted with any of the penalty under CCS (CCA) Rules, he will not be allowed the next two sets of LTC in addition to the sets withheld during the pendency of the proceedings. Hence to say that the disciplinary authority dispensed with the favorable provisions of the said LTC Rules is not correct.
- I. The earlier penalty order dated 16/9/1999 issued by the disciplinary authority was set aside vide order dated 26/11/2002 and the pay of the appellant was revised accordingly. Hence the assertion of the appellant that several punishments have been inflicted upon him for a single fault is misleading.

Contd...4/-

Attorney
Advocate

J. The assertions made by the appellant in point 10 have been adequately answered vide paras E, F and G above.

AND WHEREAS though misuse of LTC is a grave misconduct, involving integrity of the employee, the appellant admitted his misconduct at the very beginning and also gave assurance that such a mistake will not be repeated by him in future;

NOW THEREFORE looking into the compliant attitude of the appellant, DG, CSIR, the Appellate Authority, has decided to take a somewhat lenient view in his case and ordered that the penalty imposed by the Disciplinary Authority vide Order dated 22/4/2004 be reduced to, "reduction of his pay by three stages in his time scale of pay for a period of three years with further directions that he will not earn increments during the period of reduction and after expiry of this period the reduction will have the effect of postponing his future increments of pay."

BY ORDER AND IN THE
NAME OF DG, CSIR

Ananth

(P ANANTHAKRISHNAN)
CHIEF VIGILANCE OFFICER

Sh. R.N.Das
Technical Assistant Gr. III(3)
Regional Research Laboratory
Jorhat - 785 006

Attest
hdu
Advocate

Appellants ask
repeal.

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- 56 -

Annexure - 13

REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(Council of Scientific & Industrial Research)

No.RLJ-7(125)/2003/Rectt & Ass

JANUARY 08, 2004

OFFICE MEMORANDUM

Subject:- Regarding the declaration of result of assessment interview in respect of
Shri Ram Nath Das, Gr.III(3)

With reference to his application dated 7.1.2004, on the above mentioned subject
Sh. R N Das Gr. III(3) informed that his result has been kept under sealed cover since a discipli-
nary case is pending against him. The sealed cover shall be opened on conclusion of disciplinary
proceeding.

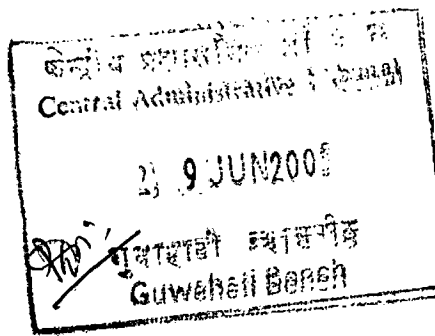
✓ Shri Ram Nath Das,
Gr.III(3)
RRL, Jorhat-6

12.8.1.2004
(B/J Deuri)
S.O. (R)

Copy to:- S.O. (E)

Attchd

Wan
Advocate.



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

ORIGINAL APPLICATION No.38 OF 2005

*Union of India & ors - Respondents
through
Shriy Kumar Choudhury
Addl. Central Govt. Standing Counsel
29/6/05
C. A. T.
Guwahati*

Shri Ram Nath Das

... Applicant

- Vs -

Union of India & 3 others

... Respondents

IN THE MATTER OF:-

WRITTEN STATEMENT SUBMITTED BY
THE RESPONDENTS No. 1, 2, 3 & 4.

The respondents beg to submit the written statement as follows:

1. That with regard to the statement made in para 4.1, the respondents beg to state that the factual position is admitted to the extent that the petitioner is legally barred in challenging the impugned order No.RLJ-18(92)-Vig./97 dated 22nd April 2004 issued by the Director, RRL-Jorhat on the ground that once the petitioner had preferred an appeal against this order and the authority passed a reasoned order on the basis of the appeal filed by the petitioner and facts of the case that the order passed by the Disciplinary Authority stands merged into the order passed by the Appellate Authority. The order passed by the Disciplinary Authority dated 22.04.2004 and the Appellate Authority dated 13.10.2004 are self-explanatory and well reasoned as required under the scheme of the rules by following the principles of natural justice in letter and spirit. The facts submitted by the petitioner referring O.A. No.317/2001 are matters of record of the Hon'ble Court and hence no comments to offer. The respondents respectfully submit that the judgment of the Hon'ble Tribunal in the aforesaid O.A. was duly considered and appropriate action within the legal framework of the judgment was taken. The submission of the petitioner that only 4 week's time was provided to him to represent and the extension of time

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sought was not provided to him. The plea of the petitioner is not itself a testimony of the fact that reasonable time of 4 week's was provided and since there was no valid ground for further extension of the time, the action taken by the respondents were fairly within the frame-work of the rules. The reply-dated 20.02.2004 which the petitioner perhaps, has not brought on record willingly is self-explanatory.

Copy of the reply-dated 20.02.2004 is annexed herewith as **ANNEXURE-I**.

2. That with regard to the statement made in para 4.2 the respondents offer "No Comments".
3. That with regard to the statement made in para 4.3, the respondents beg to state that it is admitted to the extent of the facts of the case and submitted that the charge-sheet issued vide Memo No.RLJ-18(92)-Vig./97 dated 26th September 1997 issued under the Rule 14 of the CCS (CCA) Rules, 1965 was clear and strictly as per the scheme of the rules as required. The charge-sheet having annexures contains crux of the articles of charge, statement of imputation of misconduct or misbehaviour and the list of oral and documentary evidence in support of the articles of charge.
4. That with regard to the statement made in para 4.4, the respondents beg to state that the Order dated 16.09.1999 of the Disciplinary Authority had already been set aside by the Hon'ble CAT with directions to DA to initiate with the measures indicated in Sub Rule 5(a) of Rule 14 of CCS (CCA) Rules and record its findings on the charge after such evidence as it may think fit and action in the matter laid down in Rule including Rule 15. Further action as per the directions of the Hon'ble CAT has already been taken by the DA. Therefore, no comments are offered on the Order dated 16.09.1999 at this stage.

5. That with regard to the statement made in para 4.5, the respondents beg to state that the statement made by the applicant that the Hon'ble CAT directed the Disciplinary Authority to initiate De novo proceedings from the stage of issuance of charge-sheet and to hold regular inquiry as per the rules is not correct. The CAT in its judgment stated as under.

"The Disciplinary Authority may now initiate with the measures indicated in sub-rule 5A of Rule 14 of CCS (CCA) Rules, 1965 as amended and record its findings on the charge after taking such evidence as it may think fit and act in the manner laid down in Rules including Rule 15."

Since the applicant had unconditionally accepted the charge levelled against him, there was no need to hold the regular inquiry. However, as per the directions of the Court, the Disciplinary Authority issued the Order dated 22.04.2004 after elucidating the evidence against him and giving him the opportunity to represent his case. Hence, the point raised by the applicant does not hold good.

6. That with regard to the statement made in para 4.6, the respondents beg to state that the applicant is misleading the Court by stating that the respondents vide order dated 26.11.2002 expressed their decision regarding holding of De-novo inquiry as per direction of court. The said order clearly states that the order of imposing the penalty of reduction to a lower stage in the time scale of pay for a period of one year is no more existence. This is without prejudice to further action as per Rules in agreement with the CAT's order.

7. That with regard to the statement made in para 4.7, the respondents beg to state that as already submitted aforesaid judgment was fully complied with and as there was no direction to hold any regular inquiry because the petitioner never denied the charges against him. The order of the disciplinary authority was based on the admission of his guilt and, therefore, neither oral inquiry was considered necessary nor directed by the

Hon'ble Tribunal The other facts admitted to the extent of the factual position.

8. That with regard to the statement made in para 4.8, the respondents beg to state that it is further re-submitted that the petitioner is trying maliciously to mislead the Hon'ble Tribunal by stating here and there in every para that the Hon'ble Tribunal directed to hold regular oral inquiry by appointing Presenting Officer as well as Inquiry Officer. It is, therefore, emphatically denied again that the Hon'ble Tribunal directed the disciplinary authority to consider the evidences against the petitioner and take appropriate action as per Rule 14 of the CCS (CCA) Rules, 1965. Since the reply dated 06.10.1997 of the petitioner in response to the charge-sheet issued was a clear admission of guilt and at no stage, there-after, when the opportunity was provided to him after judgment of the Hon'ble Tribunal and in his appeal, the petitioner never retracted back of his admission of charges levelled against him. Further, the penalty imposed by the disciplinary authority which stands now merged into the modified order of the Appellate Authority was based on evidence and commensurate to the gravity of the charge of fictitious LTC claims which is a grave misconduct for a Council servant.

9. That with regard to the statement made in para 4.9, the respondents beg to state that the respondents on receipt of his representation dated 12.02.2004 praying for 4 week's time to make detailed representation, an O.M. bearing No.RLJ-18(92)-Vig./97 dated 20.02.2004 was issued to him by informing that his request for granting extension of time had been considered by the Disciplinary Authority and the decision on quadruple grounds were explained to him, and, thus, the Disciplinary Authority was at liberty to take decision with regard to O.M. of even number dated 30.01.2004 as per rules without any further opportunity.

10. That with regard to the statement made in para 4.10 the respondents beg to state that the ground on the basis of which extension of time was not granted was clearly mentioned in order dated 20.02.2004 in as much as the matter was between the

employee and concerned and 4 week's time was reasonable and sufficient. However, without prejudice to what is stated above, the Hon'ble Tribunal may ask the petitioner to prove factually by evidence that the concerned lawyer was away from the station continuously for 4 weeks.

11. That with regard to the statement made in para 4.11 the respondents beg to state that as submitted earlier, the penalty imposed vide order dated 22.04.2004 was based on the evidences on record and commensurate the gravity of the charge and two sets of forfeiture of LIC concurrently was as per the Rules.

A copy of Order dated 22.04.2004 is
annexed as per passed on the basis of the
judgment is enclosed as **ANNEXURE-II**.

12. That with regard to the statement made in para 4.12 the respondents beg to state that the appeal dated 21.05.2004 of the applicant was considered by the Appellate Authority vis-à-vis of facts and circumstances of the case and order dated 13.10.2004 was issued.

13. That with regard to the statement made in para 4.13 the respondents/RRL-Jorhat beg to offer no comments.

14. That with regard to the statement made in para 4.14 the respondents/RRL-Jorhat while offering no comments in so far as the statement is concerned, but, at the same time, the respondents/RRL-Jorhat beg to submit before the Hon'ble Tribunal that as the Disciplinary Authority was fully aware of the fact that the appeal filed by the delinquent officer before the Appellate Authority and as the same was under active consideration of the Appellate Authority/DG-CSIR, it was not at all justifiable on the part of the Disciplinary Authority i.e. the respondents/RRL-Jorhat to forward it to the Appellate Authority. Moreover, once the appeal is filed, before the Appellate Authority, how a

reminder can be forwarded to the authority concerned containing some supplements which would be a never-ending process. Hence, his prayer in forwarding the reminder had been rejected.

15. That with regard to the statement made in para 4.15 the respondents/RRL-Jorhat beg to offer no comment in it.

16. That with regard to the statement made in para 4.16 the respondents beg to state that as per the records of the case, the factual position is as under:

In the year 1989-90, 61 employees of RRL-Jorhat cheated the Council by drawing an advance of more than 3.0 lacs. as LTC without performing the journey. The matter came to forefront as a result of CBI inquiry, during which all the 61 employees including the applicant had given written statement accepting that they have made false LTC claims. The amount of advance drawn by these officials was recovered and charge sheets under 14 of CCS (CCA) Rules, 1965 were issued to 59 serving employees in the year 1997. Since some of the delinquent officers came under the purview of CVC, the matter was referred to the Commission for obtaining their advice. As per the advice of the CVC, the Laboratory was directed to initiate major penalty proceedings against the employees who were in service at that time, suitable cut in pension in respect of officials who had retired from service and conveyed displeasure of Government to those who had resigned and on whom no penalty could be imposed. All the delinquent officials including the applicant accepted the charge unconditionally, and the Disciplinary Authority imposed the penalty of reduction of their pay by one stage in their respect time scales of pay for a period of one year with further directions that they will not earn increments during the period of reduction and after expiry of this period, the reduction will not have the effect of postponing their future increments. Further, as per the provisions of LTC rules, two sets of LTC were forfeited in respect of all the employees. Therefore, the plea of the applicant that on a pick and choose basis, the proceedings

against most of them were dropped, that the RDA was initiated at the instance of CBI and the statements given before CBI Authority was taken into consideration as only piece of evidence are baseless.

17. That with regard to the statement made in para 4.17 the respondents beg to state that the averments made and inference drawn by the petitioner with respect to the action taken by the respondents in respect of the charge-sheet are totally denied. The petitioner by his own admission, misappropriated the public money and by his conduct failed to maintain the absolute integrity. Therefore, the action taken by the respondents was to uphold the rule of law and to punish such person. As a matter of fact and rule such persons who had a scant regard to the public money as done in his case are liable to be penalized heavily and shall not be kept in the employment as per the rules and various judgment passed in various different cases. Since by these employees pleaded guilty, the respondents as a concerned employer, took a lenient view by imposing minimum-most major penalty so that these employees could improve their misconduct in future and this action of the respondent except the petitioner was unequivocally accepted and honoured by the 55 number of employees out of 58 employees. This shows the magnanimity of the respondents. Since the petitioner even after misappropriating the public money and admitting the guilt remained defiant by exhibiting his fictitious LIC claims as of total innocence, the disciplinary authority considered it fit to impose a penalty of little harsher than the earlier one as explained by the disciplinary authority in his order that such employees are not fit to be kept in service, but, still a lenient view was taken as far as the gravity of charge is concerned.

18. That with regard to the statement made in para 4.18 the respondents beg to state that the respondents/RRL Jorhat on receipt of the Order dated 23.05.2002 passed in O.A. No.316, 317 and 318 of 2001, formally set aside their Order vide Order of even number dated 26.11.2002 and the excerpt containing the operative portion of the aforesaid Order is reproduced below:

"NOW THEREFORE, the Order of imposing penalty of reduction to a lower stage in the time scale of pay for one year is no more in existence. This is without prejudice to further action as per Rules and in agreement with the CAT Order. The pay and allowance of Shri D.K. Phukan, Gr.II(2) be restored and arrears on account of reduction of pay and allowances be paid immediate.

Sd/-
P.G. Rao
DIRECTOR".

Accordingly, the respondents/RRL-Jorhat started de-novo proceedings from the stage the delinquent officers had accepted the charge. Since in the original charge sheet dated 26th September 1997, there had been the lone article of charge, in ANNEXURE I of the statement of articles of charge and as the same has been admitted by the said Shri Phukan in his written statement of defence, the disciplinary authority recorded its findings on the charge, based on his written representation and acted in the manner as laid down in Rule 15. But the delinquent Officer without paying any heed to the contents of the O.M. of even number dated 30.01.2004 prayed for further extension of time for 4 weeks on the plea that his counsel was out of station and had been for 'haj'. The respondents/RRL-Jorhat beg to submit that no extension can be granted if the counsel is absent for the longer period of time which is not of a casual nature.

19. That with regard to the statement made in para 4.19 the respondents beg to state that the allegations made by the petitioner of harassment are denied. The action taken by the respondents was as stated earlier was just and as per the rules. Regarding issuance of the Order/O.M dated 08.01.2004, it was also done as per the extant Rules.

20. That with regard to the statement made in para 4.20 the respondents beg to state that the allegations of violating the Hon'ble Tribunal's Order in O.A. No.317/2001 are denied. The respondents re-stated that the impugned Appellate Order dated 13th October 2004 is based on facts, rules, law and the principles of natural justice. The evaluation of the evidences, if there is admission of the guilt by the delinquent need

not be inquired into by appointing Inquiring Authority and the Presenting Officer etc.,. The oral inquiry is mandatory as per the law only in case the charge is denied. Since there no denial of the charge at any stage, hence, the action of the respondent was just and legal and there is no violation of any provision of the constitution.

21. That with regard to the statement made in para 4.21 the respondents beg to state that by the Order dated 30.01.2004, the applicant was provided with an opportunity to represent his case and show cause as to why a penalty of reduction of his pay by 5 (five) stages in the time scale of pay for a period of 3 (three) years with further direction that during the reduction of pay, he will not earn increments of pay and on expiry of this period, the reduction will have the effect of postponing his future increments should not be imposed upon him. It was only after considering his reply to the said Order that the Disciplinary Authority imposed the proposed penalty upon him.

22. That with regard to the statement made in para 4.22 the respondents beg to state that the contents of this para are denied and as explained earlier, the action of the respondents were bona fide based on the reason and law. The allegation that the penalty was enhanced in his case is totally misconceived and cannot be appreciated by any law-abiding authority. The earlier penalty imposed was uniform and to make all such delinquent employees repentant of their action by taking a lenient view as explained in the Order dated 13.10.2004 and stated in aforesaid paras. Since the applicant remained defiant by exhibiting his fictitious/fraudulent LTC claims as of total innocence, the Disciplinary Authority considered it appropriate to impose a penalty of little harsher than the earlier one which was again diluted by the Appellate Authority by lessening the reduction of pay from 5 (five) stages to 3 (three) stages.

~~Para 4.23~~ 23. That with regard to the statement made in para 4.23 the respondents beg to state that the respondents/RRL-Jorhat beg to state that the Order of the Disciplinary Authority had not been implemented at all since the same Order was forwarded to the

Appellate Authority and thus the Order of the Disciplinary Authority became sub-judice. The respondents/RRL-Jorhat have only implemented the Order of the Appellate Authority after taking a lenient view by affecting the reduction of pay from 5 (five) stages to 3 (three) stages.

~~Para 4.24~~ 4.24: That with regard to the statement made in para 4.24 the respondents beg to state that the application has not been made bona-fide and there is no cause of action for securing ends of justice since no injustice was caused to the applicant.

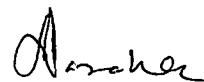
GROUND:

That with regard to statements made in para 5.1 to 5.6, the respondents/RRL-Jorhat beg to state that in view of the aforesaid statements, the applicant does not have any ground for craving leave of the Hon'ble Tribunal to set aside and quash the Order passed by the Appellate Authority dated 13.10.2004 as impugned by the applicant, not to speak of the Order dated 22.04.2004, as also impugned by the applicant.

VERIFICATION

I, Shri Jitender Parasar, presently working as the Controller of Administration, Regional Research Laboratory, Jorhat and duly authorized by the Director, Regional Research Laboratory, Jorhat and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs² of the application are true to my knowledge and belief and those made in paragraphs 1, 3-24 being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 21st day of June, 2005.



DECLARANT

प्रशासन नियंत्रक

Controller of Administration

क्षेत्रीय अनुसंधान प्रयोगशाला

Regional Research Laboratory

जोरहाट / Jorhat-781 001

REGIONAL RESEARCH LABORATORY, JORHAT, ASSAM
(Council of Scientific & Industrial Research)

No.RLJ-18(92)-Vig./97

FEBRUARY 20, 2004

MEMORANDUM

Sub:-Representation dated 12.02.2004 submitted by Shri Ram Nath Das, Gr.III(3) in response to O.M. of even number dated 30.01.2004 on the proposed penalty.

With reference to his representation as above, Shri Ram Nath Das, Gr.III(3) is informed that his request for granting extension of time has been considered by the Disciplinary Authority and his decision is as under:

- "I have carefully gone through the request of Shri Ram Nath Das, Gr.III(3) for seeking further four weeks for filing their reply to Office Memo No.RLJ-18(92)- Vig./97 dated 30.01.2004.
- The grounds mentioned therein are considered and I find that only ground mentioned is "Non availability of his lawyer".
- In my opinion this is not a valid ground as the matter is between the disciplinary authority and the employee, as such extension of time cannot be granted.
- I am further satisfied, that the time given to them for reply is reasonable."

Accordingly, the Disciplinary Authority is at liberty to take decision with regard to O.M. of even number dated 30.01.2004 as per rules without any further opportunity.

Shri Ram Nath Das,
Gr.III(3)
RRL, Jorhat-6.

Attested
PK Chandra
Addl. C. G. S. O.

N. K. Barbaruah
(N. K. Barbaruah)
Administrative Officer

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22/02/2004
20/02/2004

— ୨୦ —

Date—

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Annexure - 4

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क्षेत्रीय अनुसंधान प्रयोगशाला: जोरहाट: असम
REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(वै. औ. अ. प. का एक स्थायी ईकाई)
(Council of Scientific & Industrial Research)

No.RLJ-18(92)-Vig./97

दिनांक: अप्रिल 22, 2004

निदेश

ORDER

WHEREAS a copy of the inspection report of SP, CBI in the matter of false LTC claim by 61 employees of RRL, Jorhat was received, wherein it was advised to initiate RDA against all the 61 accused officials of RRL, Jorhat in view of their admittance of the accusation;

AND WHEREAS Shri Ram Nath Das, Gr.III(3), one of the 61 employees, was accordingly served with a Memorandum of Charges dated 26/9/1997 under Rule 14 of CCS (CCA) Rules, 1965;

AND WHEREAS the charge levelled against him was that he preferred a fake claim for Rs.13644/- after drawal of advance on account of AILTC in the month of October 1989 for the block year 1986-89 without performing the said journey;

AND WHEREAS in his written statement of defence dated 3/10/1997, Sh. R.N. Das unconditionally admitted the charge levelled against him requesting to exonerate him;

AND WHEREAS the matter was referred to Central Vigilance Commission which advised to impose major penalty on all the officers guilty of making the false claim, in addition to withholding of LTC claim in respect of such employees as per the rules;

AND WHEREAS in view of the report of CBI, the admission of guilt by the delinquent officer before the SP, CBI and his unconditional acceptance of the charge levelled vide the Memorandum of Charges, the Disciplinary Authority, on careful consideration of facts and circumstances of the case vis-a-vis his acceptance of the misconduct which are sufficient to prove the charge beyond doubt, ordered as under:

"IT IS THEREFORE ORDERED that the pay of Shri R.N. Das be reduced by Rs.175/- from Rs.6725.00 to Rs.6550.00 in the pay scale of Rs.5500-175-9000 for a period of one year with effect from 1st October 1999. It is further directed that Shri Phukan will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will not have the effect of postponing his future increments of pay."

AND WHEREAS Shri R.N. Das, aggrieved by the order of the Disciplinary Authority, filed an OA No.317 of 2001 before Hon'ble CAT, Guwahati;

AND WHEREAS the Hon'ble CAT vide its order dated 23/5/2002 set aside the said order of the Disciplinary Authority on the grounds that the order was in breach of the provisions of sub-rule (5)(a) of Rule 14 and Rule 15 of the CCS (CCA) Rules, 1965 which are made applicable to the Council employees, and directed as under:

"The Disciplinary Authority may now initiate with the measures indicated in Sub-rule (5)(a) of Rule 14 of CCS (CCA) Rules, 1965, as amended and record its findings on the charge after taking such evidence as it may think fit and act in the manner laid down in Rules including Rule 15."

AND WHEREAS in accordance with the directions of Hon'ble CAT, the Disciplinary Authority has reconsidered the case in the light of facts and circumstances of the matter vis-a-vis the acceptance of charge by Sh. R.N. Das, which renders any further inquiry in the matter needless;

AND WHEREAS the act of making false LTC claim being a serious misconduct that should attract condign punishment like that of removal from service. However, in view of the acceptance of the delinquent officer of his guilt and a written assurance on his part that he would not indulge in such practice in future, the disciplinary authority has decided to take a somewhat lenient view in the matter;

ACCORDINGLY THE UNDERSIGNED had proposed the penalty of "reduction of the pay of Shri Ram Nath Das, Gr.III(3) by five stages from Rs.7900.00 to 6900.00 in the pay scale of Rs.6500-200-10500 for a period of three years with further directions that he would not earn increments of pay during the period of reduction and after the expiry of this period, the reduction would have the effect of postponing his future increments" and a memorandum of even number dated 30th January, 2004 was served to Shri Ram Nath Das by giving him an opportunity to make representation as he might wish to make against the proposal within a period of 15 days of receipt of the aforesaid memorandum failing which further action should be taken as per rules.

Shri Ram Nath Das, Gr.III(3) made his representation dated 12.02.2004 not on merit but stating and praying *inter alia* to allow him another four weeks time to make representation in response to the memorandum dated 30.01.2004. The said representation was disposed of vide reply O.M.No.RLJ-18(92)-Vig./97 dated 20th February, 2004, however, it is stated that no further representation was received on merit.

THE UNDERSIGNED, while considering all aspects threadbare vis-a-vis his redressal before the Hon'ble CAT, finds that the Hon'ble CAT had set aside only the order of the Disciplinary Authority on the ground of breach of procedural propriety and had not quashed the disciplinary proceedings.

THE UNDERSIGNED also finds that there had been altogether 61 employees involved in the false LTC claims and ultimately consequent upon the death of a few employees during the pendency of the disciplinary proceedings, too lenient penalties were imposed on 58 employees by the then Disciplinary Authority.

AND WHEREAS, the undersigned, while considering all aspects regarding the quantum of penalty finds that the charge arising out false/fraudulent LTC Claims is so serious that the penalty imposed on him earlier was too lenient and has, therefore, decided to confirm the proposed penalty as aforesaid on the grounds delineated above.

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IT IS, THEREFORE, ORDERED that the penalty of reduction of the pay of Shri Ram Nath Das, Gr.III(3) by five stages from Rs.7900.00 to 6900.00 in the pay scale of Rs.6500-200-10500 for a period of three years be imposed with further directions that he will not earn increments of pay during the period of reduction and after the expiry of this period, the reduction will have the effect of postponing his future increments.

IT IS ALSO FURTHER ORDERED that Shri Ram Nath Das, Gr.III(3) be forfeited with 2 (two) sets of LTC concurrently.

P. Gangadhar Rao
निदेशक
DIRECTOR

Shri Ram Nath Das
Gr.III(3)
RRL, Jorhat-6.

Copy to:-

1. Section Officer (E) 28/4/04
2. Section Officer (G) 28/4/04
3. Finance & Accounts Officer f 28/4/04
4. Chief Vigilance Officer
CSIR, New Delhi.
5. Personal File of
Shri Ram Nath Das, Gr.III(3) 28/4/04
6. Section Officer (Vig.) 28/4/04
7. P.S. to Director
8. P.A. to COA/AO 28/4/04

(Jitender Parasar)

प्रशासन नियंत्रक

Controller of Administration

1100
20/04/04

(N.000)

Noted
AK Chandra
28/4/04