

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 44/05.....

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SECTION OFFICER (Judl.)

[Signature]
04/11/17

FORM NO.4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 44/05

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicants:-

Respondents

Advocates for the Applicant

Advocates of the Respondents

Notes of the Registry

Date

Order of the Tribunal

23.02.2005

Present: The Hon'ble Mr.K.V.Prahladan,
Member (A).

Heard Mr.G.K.Bhattacharyya,

learned Sr. counsel for the applicant.

The application is admitted, call
for the records, returnable within
three weeks.

List on 14.3.2005 for orders.

pendency of this application will
not be a bar on the respondents to
dispose of the representation of the
applicant dated 16.11.2004 at Annexu-
re-II.

Member (A)

bb

21.3.05

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

Hon'ble Mr.K.V.Prahladan,
Administrative Member.

The applicant Shri T.Thangmee,
IPS, Superintendent of Police,
Dhemaji, while working as such,
the applicant was kept in suspen-
sion as per order dated 15th August

contd/-

Notice & order
sent to D/Section
for issuing to
resp. No-1 by regd.
A/D post and resp.
Nos. 2 & 3 by Hand.

25/2/05.

D/No-310 to
314
Dt. 28/4/05.

2
O.A. 44 of 2005

21.3.05. 2004(Annexure I) issued by the Deputy Secretary, Govt. of Assam, Home(A) Department. Since no disciplinary proceeding was initiated and since the suspension order of the applicant was not cancelled, ^{the} the applicant made representation dated 16.11.03(Annexure III) before the first Respondent. The grievance of the applicant is that he is still kept ⁱⁿ under suspension without initiating any disciplinary proceeding and without disposing of the representation of the applicant(Annexure III).

We have heard Mr.D.Geswami learned counsel for the applicant and Mr.A.K.Choudhury, learned Addl.C.G.S.C. for the first Respondent. Since the applicant's representation(Annexure III) submitted on 16.11.03 is still pending the decision. ^{the} In the circumstances we direct the Respondent No.1 to dispose of the representation dated 16.11.03 (Annexure III) ^{as} as expeditiously ^{as} as early as possible, at any rate within a period of six weeks from the date of receipt of the copy of this order.

Application is disposed of as above.

Post the matter on 13.5.05 for report on compliance.

[Signature]
Member

[Signature]
Vice-Chairman

lm

30.5.05.

The matter comes for reporting compliance. On behalf of Mr.A.K.Choudhury, Addl.C.G.S.C. Ms.U.Das, Addl.C.G.S.C seeks time for verifying compliance. Post the matter on 13.6.05.

[Signature]
Member

[Signature]
Vice-Chairman

lm

21.3.05

Copy of the order of 21.3.05 handed over to the 2/Advocates for the parties by today.

Notice duly served on 1,2.

27.5.05
Copy of the order sent on Reports.

no comply report filed

Office Notes	Date	Order of the Tribunal
	13.6.05.	<p>Mr.A.K.Choudhury, learned Addl. C.G.S.C. submits that the representation/appeal directed to be disposed in the order of this Tribunal has not been received by the Central Government, Ministry of Home Affairs. Mr.Y.K.Phukan learned Sr.State Government Advocate submits that the direction issued by the Tribunal in the O.A. was not known to him earlier and that it is only now he understood that a direction to dispose of the representation is issued. He further submitted that the State Government will forward the representation to the Central Government within a short time for compliance of the direction issued by the Tribunal. The State Government will forward the representation/appeal received from the applicant without any delay to the Central Government.</p> <p>Post the matter on 21.7.05.</p> <p><i>K. D. Baruah</i> Member</p> <p><i>Q. V. Phukan</i> Vice-Chairman</p>
<p>15.6.05</p> <p>W/s filed by the Respondent Nos. 2.</p> <p><i>R. A. Choudhury</i> 30/6/05</p>	<p>lm</p> <p>21.7.2005</p>	<p>Mr. Y.K. Phukan, learned Sr. Government Advocate for the State of Assam submits that inspite of the letter written to the State Government on 15.6.2005 no</p>

21.7.2005

Mr. Y.K. Phukan, learned Sr.

Government Advocate for the State of Assam submits that inspite of the letter written to the State Government on 15.6.2005 requesting for forwarding the appeal memorandum to the Central Government no information has been received from the State Government in the matter. Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. submits that since the Central Government has not received the appeal memorandum, they are not in a position to comply with the direction issued by this Tribunal. Since, Mr. Y.K. Phukan, learned Sr. Government Advocate for the State of Assam seeks short time to ascertain the details, post the matter on 4.8.2005.

Issue copy of the order to the counsel for the parties.

[Signature]
Member

[Signature]
Vice-Chairman

mb

4.8.05.

We are sorry to note, in spite of note communication sent by Mr.Y.K.Phukan, Sr.Government Advocate, the respondents have not responded to the request. This matter is coming up for 2nd time and Mr.Y.K.Phukan, Sr.Government Advocate submits that even to-day there is no response. In the circumstances, the Respondents will forward the appeal memo to the Central Government for compliance of directions issued in the final order in O.A.44 of 2005 within 10 days from to-day. The 2nd respondent - the Commissioner and Secretary to the Government of Assam, Home and Political Depart-

contd/-

fl. copy arch
dated 21.7.05
22/7/05

22.7.05

Copy of the order
Dtd 21.7.05 sent
over to the R. Govt. Adv.
Assam.
Hh

[Signature]
25/7/05

[Signature]
26/7

Govt. of Assam

[Signature]
Adm. for Applicant
27/7/05

① Wks filed on
behalf of R.No-2.

[Signature]
3.8.05

4

Order dt. 4.8.05,
Received
P. Dele
5/8/05
for Y.K. Phukan

Order dt. 4.8.05
Received
P. Dele
5/8/05

4.8.05. ment, Dispur, Guwahati-6 will ^{be} present ^{before} this Tribunal at 11 A.M. on 16.8.05 for explaining the circumstances under which the request of Mr.Y.K.Phukan, Sr. Government Advocate, Assam was not complied with.

A copy of the order be furnished to Mr.Y.K.Phukan, Sr.Government Advocate and counsel for the applicant.

Post the matter on 16.8.05.

[Signature]
Member

[Signature]
Vice-Chairman

lm

16.8.05.

Pursuant to the direction issued on 4.8.05 Shri V.B.Pyarelal, Commissioner & Secretary to the Govt. of Assam, Home Department is present in the Court and he has also placed a copy of the Notification dated 11.8.05 through his Counsel Mrs.M.Das, State Government, Assam. The said order shows that the suspension order issued against the applicant on 15.8.2004 is revoked and he is reinstated in service. In view of the above, Mr.G.K.Bhattacharjee learned counsel for the applicant submits that no further order is required in the O.A..

The O.A. is accordingly, closed. Copy of the order be furnished to the counsel for the parties.

[Signature]
Member

[Signature]
Vice-Chairman

lm

26.8.05

Copy of the order dt. 16.8.05 has been sent to the office for issuing the order to the applicant as well as to the Respondent 2 in Addl CG.S.C.

[Signature]

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 11th August, 2005

No.HMA.389/2004/48 : The suspension order issued against Shri T. Thangnew, IPS vide Govt's Notification No.HMA.389/2004/1 dated 15.8.2004 is revoked and Shri Thangnew, IPS is reinstated in service with immediate effect.

Sd/- V.B. Pyarelal
Commissioner & Secretary to the
Govt. of Assam, Home Department

Memo No.HMA.389/2004/48-A

Dated Dispur, the 11th August, 2005

Copy to:

- 1) The Accountant General, Assam, Bellola, Guwahati -29.
- 2) The Director General and Inspector General of Police, Assam, Ulubari, Guwahati-7
- 3) The Under Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi.
- 4) The Under Secretary to the Govt. of Meghalaya, Home (P) Deptt., Shillong.
- 5) Shri T. Thangnew, IPS, Deora Complex, Jayanagar, Guwahati 22.

By Order etc.

h
Joint Secretary to the Govt. of Assam,
Home Department

s/c

9

GOVERNMENT OF ASSAM
HOME DEPARTMENT

No.HMA.97/2005/68

Dated Dispur the 11th August, 05

From : ✓ Shri V.B.Pyarelal,
Commissioner & Secretary to the Govt. of Assam,
Home Department,
Dispur.

To : Shri Y.P. Dhingra,
Under Secretary to the Govt. of India,
Ministry of Home Affairs, New Delhi.

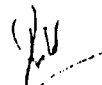
Sub : O.A. No.44/2005 Shri T. Thangngeo, IPS

Sir,

Please refer your letter No. 160/3/22/05-IPS I. The appeal of Shri T. Thangngeo is forwarded herewith. The officer has been since reinstated vide Govt. Notification No. HMA.389/2004/48 (copy enclosed). He has been issued a displeasure note (non-recordable). No disciplinary proceedings are contemplated against Shri T. Thangngeo.

Enclo: As stated.

Yours faithfully,



(V.B.Pyarelal)

Commissioner & Secretary to the Govt. of Assam,
Home Department, Dispur

Memo No.HMA.97/2005/67

Dated Dispur the 11th August, 05

Copy to:

- 1) Dr. Yamini Kanta Phukan, Senior Govt. Advocate, Assam, Guwahati Bench, CAT.

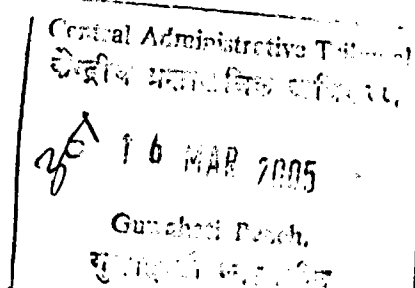


(V.B.Pyarelal)

Commissioner & Secretary to the Govt. of Assam,
Home Department, Dispur

6/C

ASSAM POLICE HEADQUARTERS
ULUBARI :::::::::: GUWAHATI.



Letter No. Proc.Cell/XXVII/34/2004/11 Dated Guwahati, the 14th March/05.

From : Shri D.K. Borah, IPS
Inspector General of Police, (A),
Assam, Guwahati.

To : The Deputy Secy. to the Govt. of Assam,
Home (A) Department,
Dispur, Guwahati-6.

Subject : Original application No. 44/2005 Shri T. Thangneo,
IPS -Vs-Union of India and Others.

Sir,

I am directed to send herewith the original application No. 44/2005/312 dtd. 28.2.2005 received from the I/C Deputy Registrar of Central Administrative Tribunal, Gauhati Branch alongwith its enclosure and request you kindly to take necessary action at your end as the Disciplinary Authority of the officer concerned. The records of the case is to be produced before the Hon'ble Central Administrative Tribunal on 14.03.2005 at 10.30 A.M.

Yours faithfully,

Sd/

(D.K. BORAH.)
Inspector General of Police, (A),
Assam :: Guwahati.

Memo No. Proc.Cell/XXVII/34/2004/11-A Dated Ghty., the 14th March/05.
Copy forwarded to :-

✓ The Deputy Registrar Central Administrative Tribunal, Gauhati Branch, Rajgarh Road for information and necessary action with reference to his letter No. 44/2005/312 dtd. 28.2.2005.

SOCD)
15-3-05

[Signature]
Inspector General of Police, (A),
Assam :: Guwahati.

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O.A. NO. _____ OF 2005

Shri T. Thanggeo - Applicant
- Vs -
Union of India and others - Respondents.

SYNOPSIS/ LIST OF DATES

1981 : The applicant was appointed in the Assam Police Service.

2003 : The applicant was appointed to the Indian Police Service.

July/2003: The applicant was posted as Superintendent of Police Dhemaji District.

15/08/2004: Just before the Independence Day Programme at 9.45 A.M., there was a powerful bomb blast in the parade ground in the Dhemaji College Field in which 13 persons including minor children were killed and several others injured.

The Respondent No. 2 vide his order No. HMA.389/2004/I-A of the same date placed the applicant under suspension with immediate effect.

(ANNEXURE-I at Page-14)

16/11/2004: The applicant filed an appeal before the Respondent No. 1 through the Respondent No.2 praying for revocation of the suspension order and his re-instatement in service.

(ANNEXURES-II and III at Page 15 and 16 respectively)

Filed by the applicant
through Derojit Goren
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI

BENCH : GUWAHATI

(An Application under Section 19
of the Administrative Tribunal Act, 1985)

O.A. NO. 44 OF 2007/50

Sri T. Thangngeo, I.P.S. ... Applicant

-Vs-

Union of India and others ... Respondents

I N D E X

Sl No.	Particulars	Page No.
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2.	Verification	: 13
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4.	Annexure - II	: 15
5.	Annexure - III	: 16 - 19

Filed by

Devraj Goswami
21/2/2005

Advocate

Thangngeo Thangngeo

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI

BENCH: GUWAHATI

(An application under section 19 of the
Administrative tribunal Act, 1985)

O.A NO 44 of 2005

Sri T. Thangngeo, I.P.S.,
S/o Late Thangneh Thangngeo,
R/O:- Santigram Housing
Complex, Tripura Road,
Khanapara, Guwahati,
District:- Kamrup, Assam.

... APPLICANT

-Versus-

1. Union of India
Represented by the Secretary
to the Government of India,
Ministry of Home Affairs,
New Delhi.
2. The State of Assam,
Represented by the
Commissioner and Secretary
to the Government of Assam
Home and Political
Department Dispur,
Guwahati:6.

*Filed by the applicant
through Durgit Goswami,
Advocate
21/12/05
Thangngeh Thangngeo*

3. The Director General of
Police Assam, Ulubari,
Guwahati:7.

... RESPONDENTS

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

- i. Order issued under Memo No.
HMA.389/2004/I-A dated 15-08-2004 by the
Respondent No.2 whereby the applicant
was placed under suspension with
immediate effect for being contemplated
in a departmental proceeding against
him.
- ii. Illegal and arbitrary action of the
authorities in not considering the case
of the applicant for reinstatement in
service without any reasonable cause,
more so, while the applicant represented
before the authorities on 16-11-2004.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject
matter of the order against which he wants
redressal/relief is within the jurisdiction of this
Hon'ble Tribunal.

3. LIMITATION :

The applicant further declares that the
application is within the limitation prescribed

Handwritten signature

under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

1. That the applicant is a citizen of India by birth and a permanent resident of the aforesaid locality and as such he is entitled to enjoy the fundamental rights and privileges guaranteed under the constitution of India.

2. That the applicant was initially appointed in the Assam Police Service in 1981 and in consideration of his seniority and service record, the applicant was appointed to the Indian Police service in 2003. Since the date of his joining service, the applicant has been carrying out his duties sincerely and to the best of his abilities and there was no occasion when any adverse remark or otherwise in his service record was ever communicated to him.

3. That the applicant begs to state that after his appointment to the T.P.S., the applicant was initially posted superintendent of Police to the Chief Minister's Security at Dispur, Guwahati and in July' 2003, the applicant was posted as Superintendent of Police Dhemaji district.

Shankar

4. That after taking charge of Dhemaji district the applicant continued to discharge his duties sincerely and to the best of his abilities with the limited force available to him. During his one year service, the applicant, among others, was successful in controlling the ULFA extremists, crime and antisocial elements, maintaining law and order, peaceful holding of the last elections to the Lok Sabha and in sanctioning other essential posts for the district.

5. That the applicant begs to state that unfortunately, on 15-08-2004 just before the Independence Day Programme at 8:45 A.M., there was a powerful bomb blast in the parade ground in the Dhemaji College field in which 13 persons including minor children were killed and several others were injured. The incident took place inspite of all the efforts from the applicant's side and after following all instructions on the security matter issued by the Police Department and also the Government. After preliminary investigation, it was apparent that ULFA militants were behind the bomb-blast and that they had used latest sophisticated delayed switch mechanism which could not have been detected by the deep search metal detector available with the Police Department and the incident took place inspite of all efforts from

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the applicant's side and that there was no negligence or lapses on the part of the applicant.

6. That because of the loss of life and serious injuries to many including minor children and that too on the independence Day, there was a huge public outrage in Dhemaji district and in fact all over the State and great pressure was mounted on the State Government. It will be relevant to mention here that similar type of bomb blasts also took place at Dhakuakhana in Lakhimpur district and at Dhubri on the same day at the parade grounds for which the State Government was facing a lot of criticism.

7. That the applicant begs to state that after the above incident took place, the respondent No.2 vide his office order conveyed under Memo No. HMA.389/2004/I-A dated 15-08-2004 placed the applicant under suspension with immediate effect under Rule 3 of the All India Services (Discipline and Appeal) Rules, 1969 on the ground that disciplinary proceedings were contemplated against him.

A copy of the above order dated 15-08-2004 is annexed herewith and marked as Annexure-I.

Shangrha

8. That Rule 3 of the All India Services (Discipline and Appeal) Rules, 1969 (hereinafter called the Rules) provides as follows:-

"3-SUSPENSION :-

(1) If, having regard to the circumstances in any case and where Articles of Charge have been drawn up, the nature of the charges, the Government of a State or the Central Government, as the case may be, is satisfied that it is necessary or desirable to place under suspension a member of the service, against whom disciplinary proceedings are contemplated or are pending, the Government may,

(a) if the member of the service is serving under that Government, pass an order placing him under suspension, or

(b) if the member of the service is serving under another Government, request that Government to place him under suspension,

Shang

Pending the conclusion of the disciplinary proceedings and the passing of the final order in the case.

Provided that, in case, where there is a difference of opinion:-

(i) between two State Governments, the matter shall be referred to Central Government for its decision,

(ii) between a State Government and the Central Government, the opinion of the Central Government shall prevail:

Provided further that where a member of the service against whom disciplinary proceedings are contemplated in suspended, such suspension shall not be valid, unless before the expiry of a period of ninety days from the date from which the member was suspended, disciplinary proceedings are initiated against him:

Provided also that

9. That the applicant begs to state that, though he was suspended vide Order Dated 15-08-2004 passed by the respondent No.2, no disciplinary proceedings was initiated against the applicant within the period of 90 days as stipulated under proviso of Rule 3 of the Rules and as such the

Singh

applicant on 16-11-2004 filed an appeal under Rule 16 of the Rules before the respondent No.1 through the respondent No.2 stating the entire facts and circumstances with the prayer for his reinstatement in service by revoking the above suspension order since it was invalid considering the law laid down under proviso of Rule 3 of the Rules.

Copies of the forwarding letter and appeal dated 16-11-2004 are annexed herewith and marked as ANNEXURE-II and III respectively.

10. That the applicant begs to state that though he submitted his appeal to the Central Government as far as back on 16-11-2004, no response has been received from the authorities for his re-instatement till date and as such he is approaching this Hon'ble Tribunal with the grounds mentioned herein for the appropriate direction to the authorities for his reinstatement in service with all consequential benefits.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

I. For that, the impugned action of the authorities in not considering the case of the applicant after expiry of the substantial period of time and that too without initiating any disciplinary

Submitted

proceedings is bad in law and is liable to be quashed and set aside.

II. For that, the proviso to the Rule 3 of the Rules specifically provided that the suspension shall be invalid, unless before the expiry of 90 days from the date of which the member was suspended and no disciplinary proceedings are initiated against him and in the instant case the authorities did not initiate any departmental proceedings against the applicant even after expiry of six months and as such the action of the authorities are not sustainable in law and are liable to be set aside.

III. For that, taking into consideration the legal provisions, the applicant submitted an appeal before the Government of India as empowered under Rule 16 of the Rules for his reinstatement in view of the provisions of proviso to Rule 3 of the Rules, but the authorities did not pay any heed to the prayer of the applicant and as such the suspension order dated 15-08-2004 is liable to be quashed and set aside.

IV. For that, in view of the matter the prolonged suspension order dated 15-08-2004

Amended

is not sustainable in law and is liable to be quashed and set aside and the applicant is entitled for reinstatement in his service with all benefits.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant had submitted an appeal on 16-11-2004 before the respondent No.1 praying for his reinstatement in service since the continued suspension on order dated 15-08-2004 was invalid in view of the proviso to Rule 3 of the Rules, but till date the applicant has not received any response to the said appeal.

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

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

8. PRAYER:

It is, therefore, prayed that Your Lordships would be pleased to admit this application, call for the

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entire records of the case, ask the Respondents to show cause as to why the continued suspension order dated 15-08-2004 (Annexure-I) shall not be quashed and set aside and as to why a direction shall not be issued for reinstatement of the applicant in service, and after perusing the causes shown, if any, and hearing the parties be pleased to allow the application, quashing and setting aside the suspension order dated 15-08-2004 (Annexure-I) as prayed for and directing the respondents to reinstate the applicant in his service with all consequential benefits and/or pass such order/order as Your Lordships may deem fit and proper.

And for this act of kindness, the applicant as in duty bound shall ever pray.

9. INTERIM ORDER:

Nil

Shanghuo

10. DOES NOT ARISE:

11. PARTICULARS OF BANK DRAFT/POSTAL ORDER IN
RESPECT OF THE APPLICATION FEE.

- (i) I.P.O No. : 206116085
- (ii) Date. : 21-2-2005
- (iii) Issued by Guwahati Post Office.
- (iv) Payable at Guwahati.

12. LIST OF ENCLOSURES :

As stated in the INDEX

Shanggar

VERIFICATION

I, Sri T. Thangngeo, I.P.S., aged about 55 years, S/o Late Thangneh Thangngeo, R/O:- Santigram Housing Complex, Tripura Road, Khanapara, Guwahati, District:- Kamrup, Assam, do hereby verify that the statements made in Paragraphs No. 4(1, 2, 3, 4, 5, 6, 8, 9 and 10) are true to my personal knowledge and the statements made in paragraphs No. 4(7) and // are believe to be true on legal advice and that I have not suppressed any material fact.

And I sign this verification on this the 21st day of February' 2005 at Guwahati.

Place: Guwahati

Date: 21.2.2005

Thanglehohun Thangngeo

SIGNATURE

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

25
Account: Gen. Secy.

the Supdt. of Police
No. CB/DMS/75/09/10
Dt. 24/8/04.
Date.....
NO. HMA.389/2004/1:
Dhemaji

ORDER

ANNEXURE-I

Dated Dispur the 15th August, 2004.

Whereas a disciplinary proceeding against Shri. T. Thangnew IPS, Superintendent Police, Dhemaji is Contemplated :

Now, Therefore, the Governor of Assam in exercise powers Conferred by clause (a) of Sub-Rule (1) of rule 3 of the AIS (D&A) rules 1969, hereby place the said Shri T. Thangnew IPS, under Suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the Head quarters of Shri. T. Thangnew shall be Guwahati and the said Shri Thangnew shall not leave the said head quarters without obtaining the permission of the undersigned.

By order and in the name of the Governor of Assam.

Sd/-Dr. B.K. Gohain
Commissioner & Secy. to the Govt. of Assam
Home etc. Department.

Memo. No. HMA.389/2004/1-A
Copy to:

Dated Dispur the 15th August, 2004.

1. The Director General of Police & Inspector General of Police Assam, Ulubari Guwahati-7.
2. The Accountant General Assam, Maidamgaon Beltola Guwahati-29.
3. The Under Secy. to the Govt. of India Ministry of home Affairs, New Delhi.
4. The Under Secy to Govt. of Meghalaya Home (P) Department, Shillong.
5. Shri T. Thangnew IPS, Superintendent of Police, Dhemaji for necessary action.

By order etc.

Deputy Secy. to the Govt. of Assam,
Home (A) Department.

Memo. No. PA/XXX/336/187-A, Dated Guwahati the 18th Aug/2004.
As directed copy forward for information and necessary action to :-
1. The Deputy Inspector General of Police, (MR) Tampur.
2. The Supdt. of Police, Dhemaji.
3. Shri T. Thangnew, IPS, c/o Supdt. of Police, Dhemaji.
4. Proceeding Call.

Inspector General of Police, (Adm).
Assam, Guwahati.

CA
Arrested by
Advocate.

of

To,
The Commissioner & Secretary
to the Govt. of Assam,
Home Department, Dispur,
Guwahati-6.

16.11.03

Sub: Forwarding of Appeal.

Ref: Continued suspension made vide order No.HMA.389/
2004/1-A dated 15.8.2004.

Sir,

I am highly aggrieved by my continued suspension made vide the above quoted order dated 15.8.2004 even though 90 days has expired and no disciplinary proceedings have been initiated against me and as such I wish to prefer an appeal as provided under the Rules. Under Rule 18(3) of the A.I.S.(D & A) Rules, 1969, I am required to submit the appeal before your goodself for onward transmission through the State Govt. to the Appellate Authority and as such I am submitting the same before your goodself with the prayer to forward the same to the Appellate Authority at your earliest convenience.

Yours faithfully,

(T. THANGGEO, I.P.S.)

P/A Santigram Housing Complex,

Tripura Road,

Khanapara, Guwahati.

Enclosed : Appeal Petition

Attested by
Advocate

2/

To,

The Secretary to the Government of India,
Ministry of Home Affairs,
New Delhi.

(Through the commissioner and secretary to the
Government of Assam, Home Department, Dispur,
Guwahati:6)

Sub. : Appeal under Rule 16 of the all India Services
(Discipline and Appeal) Rules, 1969.

Ref. : Continued suspension made vide order conveyed
under Memo No. HMA.389/2004/1-A dated 15.08.2004
beyond the period of 90 days without disciplinary
proceedings being initiated.

Sir,

I would humbly like to place the following before
your goodself for your kind consideration and necessary
action so that I am not made to suffer any longer.

1. That I was initially appointed in the Assam Police
Service in 1981 and in consideration of my seniority
and service record, I was appointed to the Indian
Police Service in 2001. Since the date of my joining
service, I have been carrying out my duties sincerely
and to the best of my abilities and there was no
occasion when any adverse remark or otherwise in my
service record was ever communicated to me. After my
appointment to the IPS, I was initially Superintendent
of Police to the Chief Ministers Security at Dispur,

Attested by
Advocate

Guwahati and in July 2003, I was posted as Superintendent of Police, Dhemaji District.

2. That, after taking charge of Dhemaji District, I continued to discharge my duties sincerely and to the best of my abilities with the limited force available to me. I am proud to say that during my one year service, I among others was successful in controlling the ULFA extremist, crime and antisocial elements, maintaining Law & Order, peaceful holding of the last elections to the Lok-Sabha and in sanctioning other essential posts for the District.

Unfortunately, on 15.8.04 just before the Independence Day Program at about 8:45 a.m., there was a powerful bomb blast in the Parade Ground in the Dhemaji College field in which 13 persons including minor children were killed and several others were injured. The incident took place in-spite of all our efforts and after following all instructions on the security matter issued by the Police Department and also the Government. After preliminary investigation, it is apparent that ULFA militants were behind the bomb blast and that they had used latest sophisticated delayed switch mechanism which could not have been detected by the deep search metal detector available with us. As no charges have been initiated against me as yet, I am refraining from making further comments on the incident but I respectfully submit that the incident took place in spite of all our efforts and that there was no negligence or lapses on my part.

3. That because of the loss of life and serious injuries to many including minor children and that too on Independence Day, there was a huge public outrage in Dhemaji District and in fact all over the State and the great pressure was mounted on the State Government. It will be relevant to mention here that similar type of bomb blast took place at Dhakuakhana in Lakhimpur District and at Dhubri on the same day at the parade grounds for which the State Government was facing a lot of criticism.

4. That I respectfully submit that in view of all this, I was by order conveyed under memo No.HMA.389/2004/1-A dated 15.8.2004 placed under suspension with immediate effect under Rule 3 of the A.I.S. (D & A) Rules, 1969 on the ground that Disciplinary Proceedings were contemplated against me.

A copy of the above order dated 15.8.04 is annexed herewith.

5. That though more than 90 days has passed from the date from which I was suspended, no disciplinary proceedings have yet been initiated against me and I understand that the Central Government has also not allowed continuance of the suspension beyond the period of 90 days without the disciplinary proceedings being initiated and as such the suspension is invalid and bad in law as per the proviso to Rule 3(1) of the All India Service (D & A) Rules, 1969 and the suspension is liable to be revoked.

I, therefore pray before your goodself to kindly consider what is stated above and hold that my continued suspension is invalid and direct the State Government to revoke my suspension order and reinstate me in service immediately, and for which act, I shall as in duty bound, remain ever grateful to you.

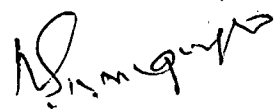
Yours faithfully,

(T. THANGNEO, I. P. S.)

P/A: Santigram Housing Complex,
Tripura Road,
Khanapara, Guwahati.
District- Kamrup, Assam.

Copy to :-

Director General of Police, Assam, Ulubari, Ghy-7.


(T. THANGNEO)
16.11.03

4 JUN 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

In the matter of :

OA No. 44/2005

Shri T. Thangnew,-----Applicant

-Vs-

Union of India & ors.-----Respondent,

-AND-

In the matter of :-

Written Statement on behalf of the Respondent No. 2

(Commissioner and Secretary to Government of Assam)

Written Statement on behalf of Respondent No. 2 to the application filed by the applicant).

I, Shri K.N. Kalita, son of Late Manhari Kalita Under Secretary to the Government of Assam, Home (A) Department, Dispur, Guwahati-6, do hereby solemnly affirm and state as follows :-

1. That I am the Under Secretary to the Government of Assam, Home (A) Department, Dispur, Guwahati-6. A copy of the aforesaid application has been served upon Respondent No. 2. I have gone through the same and have understood the contents thereof, I have been authorized to file this written statement on behalf of the Respondent No. 2.
2. I do not admit any of the averments which do not specifically submitted hereinafter and the same are deemed as denied.
3. That the statements made in paragraphs 4.1 to 4.4 of the application, the answering respondent has nothing to make comment on it. He, however, does not admit any statements which are contrary to records.

File by : 31
The State of Assam
--- Respondent No. 2
K. N. Kalita
Secretary to Govt. of Assam
Dispur, Guwahati-6
13/6/05

4. That the answering respondent deny the correctness of the statements made in paragraph 4.5 of the application.. The bomb blast in the parade ground in fact, took lives of 13 innocent people and a lot of people were injured and even after the incident of bomb blast, the applicant has failed to anticipate the public outrage as a result of which police had to open 228 rounds of firing on the crowd. This is a serious lapse on the part of the applicant who was the captain of the District Police.

5. That with regard to the statements made in paragraph 6 of the application the answering respondent begs to state that on the said date there was chaos in the parade ground where the applicant was very much present. The public crowd are so large, the Police failed to control the crowd not even ^{adopted} ~~adopt~~ any tactics to pacify and scatter the crowd. There was laxity on the part of the applicant in tackling the crowd after explosion and not providing first aid and medical treatment to the injured. The applicant in spite of his presence in that particular time was remain ^{ed} ~~in~~ inactive. There is total negligence on the part of him and ^{he} ~~is~~ solely responsible for his inability to foresee the reaction of the people and he should have anticipated the situation to be occurred in the crowd and accordingly should have taken precautionary measure for peaceful dispersal of the crowd but in fact he has done nothing to prevent the endangered situation.

6. That with regard to the statements made in paragraph 4.7 of the application it is stated that the applicant was placed under suspension for the bomb blast occurred on 15.8.04 which caused death of ~~of~~ lives of 13 innocent people and injured several others.

7.

That with regard to the statements made in paragraphs 4.8 and 4.9 of the application, the answering respondent begs to state that due to the aforesaid bomb blast in the parade ground in Dhemaji College occurred on 15.8.04 the 13 innocent people died where most of them were school going children. The matter was very serious and being a Police Officer the applicant not even performed his duty properly by taking proper action for prevention of dangerous situation and to pacify and dispersal of the crowd and to advance aid and medical treatment to the injured person. Hence, the Government of Assam appointed an one man enquiry Commission headed by Shri P.C. Sarma, IAS, Addl. Chief Secretary to the Government of Assam. As the report of the Committee was not made available, the departmental proceeding could not be drawn up against the Officer in absence of materials. However, subsequently, the report of the Commission has been received and the matter has been processed, and the applicant has been asked to explain for his lapses vide explanation letter dated 15.3.2005.

A copy of the said letter dated 15.3.2005 is annexed herewith and marked as Annexure-"A".

8.

That with regard to the statements made in paragraph 4.10 of the application, it is stated that the Government of Assam has already

called for the explanation from the applicant and his replies are awaited

AS soon as the reply comes further action will be following up.

9.

That it is submitted that whatever may be the contention of the application, it is apparent that the Officer is responsible for Police firing on the crowd and for failure in rendering immediate first aid to the injured. At any rate he is solely responsible for his inability to foresee the reaction of the people and his inactive attitude for taking effective steps for providing first aid and medical treatment to the injured.

10. That it is submitted that after obtaining the report of the Commission, the matter has now been under process and accordingly the applicant was asked for explanation for his lapse. The grounds set forth in the application bearing no good grounds for interference of the impugned order dated 15.8.2004 (Annexure-I to the application). *and the applicant is liable to be dismissed.*

VERIFICATION

I, Shri K.N. Kalita, son of Late Manhari Kalita presently working as Under Secretary to the Government of Assam, Home (A) Department do hereby states that the statement made in paragraphs 1, 2, 3, are true to my knowledge, those made in paragraphs 4, 5, 6, 7, 8, 9, 10, are being matters of records of the case are true to my information which I believe to be true and the rests are my humble submissions before this Hon'ble Tribunal.

I have not suppressed any material fact and I have signed this verification on this.....13th.....day of June, 2005.

K.N. Kalita
Signature
Under Secretary
Govt. of Assam,
Home (A) Deptt

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

NO. HMA. 389/2004/35

Dated Dispur, the 15th March, 2005.

To : Shri T. Thangnew, IPS (U/S),
Santigram Housing Complex,
Beltola, Tripura road, Guwahati-22..

Sub : EXPLANATION.

During your incumbency as Superintendent of Police, Dhemaji an incident of Bomb blast^{ASST} occurred on 15.8.04 at 8.50 hrs in the Dhemaji College parade ground when Independence Day celebration was going on resulting death of 13 persons, and causing injuries to several others. You alongwith Deputy Commissioner and other Officers were also present in the Independence Day celebration.

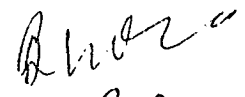
No effective steps were taken from your end for providing first aid and medical treatment to the injured. Nor you could foresee the probable reaction of the public due to the bomb blast, and death of persons. Because of your lack of anticipation untoward behaviour from the public arose, and Police had to use 228 rounds of firing on the crowd for dispersal.

You should have anticipated the backlash from the crowd, and also should have taken sufficient measures for dispersal of the crowd peacefully, without use of force. You have miserably failed to tackle the situation.

All those lapses on your part has put the Govt. in an embarrassing position, and it reflects your lack of seriousness, anticipation, dereliction of duty and negligence which amounts to gross misconduct and unbecoming on the part of an Officer of your status.

You are, therefore, directed to explain as to why action against you as deemed fit shall^{not} be taken as per provision of AIS (Discipline & Appeal) Rules, 1969 for violation of AIS (Conduct) Rules, 1968.

You should submit your explanation within 10 days from the date of receipt of this communication.


(Dr. B.K. Gohain)
Commissioner & Secretary to the Govt. of Assam,
Home etc. Department.