

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No.....47/2005

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SECTION OFFICER (Judl.)


01/11/17

FORM No.4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. _____

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

22.02.2005

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

Heard Mr. J.L. Sarkar, learned counsel for the applicant.

Issue notice to show cause as to why the application shall not be admitted. Returnable within four weeks.

List on 23.3.2005 for admission.

Member (A)

mb

23.03.2005

Present: The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman
The Hon'ble Mr. K.V. Prahladan, Member (A).

MAILED post on 12.4.2005. In the meantime Ms. U. Das, learned Addl. C.G. S.C. will get instruction.

Member

Vice-Chairman

bb

Notice & order
sent to D/section
for issuing to
resp. Nos. 1, 2 & 3
by regd. A/D post

2/3/05

S/M Gauri

22-3-05

2
O.A. 47/2005

11-4-05
S/O - Ganga Thakur
12.4.2005 Present : The Hon'ble Mr. Justice
G. Sivaraman, Vice-Chairman
The Hon'ble Mr. K.V. Prahladan

Mr. J.L. Sarkar, learned counsel
for the applicant and Ms. U. Das, learned
Addl. C.G.S.C. for the respondents were
present.

In spite of opportunity, counsel for
respondents could not get instructions.
Hence the application is admitted. The
Respondents are directed to file written
statement. List on 12.5.2005.

11-5-05
No. writs has been filed.
mb
K.V. Prahladan
Member (A)
Vice

G. Sivaraman
Vice-Chairman

13.5.05
Writs filed by the
respondents.
12.5.2005 Mr. J.L. Sarkar, learned counsel
for the applicant submits that he has
received written statement only today.
However, this ~~may~~ matter can be
heard in a near date. Mr. U. Das,
learned Addl. C.G.S.C. for the respon-
dents is also agreeable to that. Post
on 31.5.2005.

K.V. Prahladan
Member

G. Sivaraman
Vice-Chairman

mb
31.5.05

Miss U. Das, learned Addl. C.G.S.C.
submits that written statement has
already been filed. Counsel for the
applicant wants to file a rejoinder.
Post on 22.6.05 for rejoinder.

K.V. Prahladan
Member

G. Sivaraman
Vice-Chairman

pg
22.6.2005

Mr. J.L. Sarkar, learned counsel for
the applicant seeks for adjournment.
Post on 10.8.2005.

K.V. Prahladan
Member

G. Sivaraman
Vice-Chairman

bb

No. Rejoinder has
been filed,

21.6.05

No. Rejoinder has
been filed.

9.8.05

(3)

O.A. 47/2005

10.8.2005 Mr. J.L. Sarkar, learned counsel for the applicant is present. Ms. U. Das, learned Addl. C.G.S.C. for the respondents seeks for ~~adjournment~~ adjournment. Post on 21.9.2005.

① Wks has been filed.

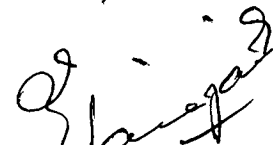
② No Rejoinder has been filed.

20.9.05

mb

21.9.05


Member


Vice-Chairman

The counsel for the parties are present. Post the matter ~~on~~ before the next available Division Bench.


Vice-Chairman

5-10-05

lm

6.10.2005

Mr. J.L. Sarkar, learned counsel for the applicant seeks for adjournment. Ms. U. Das, learned Addl. C.G.S.C. for the respondents has no objection. post on 14.11.2005.

① Wks has been filed.

② No Rejoinder has been filed.

21


Member


Vice-Chairman

bb


14.11.2005

Post before the next Division Bench.

11-11-05

No. Rejoinder has been filed.

20


Vice-Chairman

mb

No rejoinder has been filed.

9.3.06

10.3.2006

Counsel for the applicant sought for adjournment. post before the next Division Bench.

No Rejoinder has been filed.

9.8.06

Vice-Chairman(J)

Vice-Chairman(A)

bb

10.8.2006

Ms. U. Das, learned Addl. C.G.S.C. submits in some of the charges proceedings are over and some punishment have been imposed upon the applicant. Dr. J.L. Sarkar, learned counsel for the applicant submits that when the period that has been granted by this Tribunal expires, the entire proceeding is vitiated. Addl. C.G.S.C. is directed to take complete and correct instruction and produce the punishment orders imposed upon the applicant. Post after a month.


Member (A)


Vice-Chairman

bb

30.10.2006

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

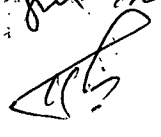
Ms. U. Das, learned Addl. C.G.S.C. for the Respondents submitted that she has already filed reply statement. When the matter came up to hearing, Dr. J.L. Sarkar, learned Counsel for the Applicant submitted that he would like to withdraw the Application with liberty to file fresh Application. He is permitted to withdraw the O.A. with liberty. Hence, the O.A. is disposed of as withdrawn.


Vice-Chairman

/mb/

2.11.06

Copy of the order has been handed over to the H/Advocates for the parties.



Received
Usha Das,
Addl. C.G.S.C.
25/8/06

28 JAN 2005

In The Central Administrative Tribunal
Guwahati Bench II Guwahati.

O.A. No. 47 /2005

Sri M.K. Gogoi

VS

Union of India & Ors

SYNOPSIS OF THE APPLICATION

The applicant filed OA.No.119/2004 against six charge sheets issued against him on the same cause of action. The Hon'ble Tribunal by an order dated 20.07.2004 directed that the proceedings be completed within six months from the date of receipt of the order which was received by the respondents from the applicant on 23.07.04. But the department has not acted accordingly. There are executive instructions also fixing time limit for such proceedings. In the circumstances the charge sheets deserves to be quashed.

The applicant after his joining as TDE, Tezpur found an order under circular dated 17.12.1993 to confer temporary status to all eligible casual mazdoors. He based upon the recommendation of the constituted committee confer temporary status to 221 eligible casual mazdoors by order dated 27.5.1996. The said order was cancelled by AGM (ADMN), Assam Telecom Circle by letter dated 18.9.97. Accordingly the applicant cancelled his earlier order dated 27.5.196 by memo dated 20.10.1997. This Memo dated 20.10.1997 was, thereafter cancelled by the TDM, Tezpur by his order dated 19.11.1997 after reconsidering the factual position.

The respondents Department issued six charge sheets against the applicant on the allegation of committing irregularities in regularising casual mazdoors by conferring temporary status as explained above.

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Filed by
M. K. Gogoi

In The Central Administrative Tribunal
Guwahati Bench at Guwahati.

O.A. No. 47 /2005

Sri M.K. Gogoi

Applicant

Versus

Union of India & Ors

Respondents

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Filed by:

(Anupam Chakraborty)
ADVOCATE

Filed by
Anupam Chakraborty
Advocate

In The Central Administrative Tribunal

Guwahati Bench :: Guwahati.

O.A. No. 47 /2005

Shri Madhuryya Kr. Gogoi, son of
Late Debeshwar Gogoi working as
Area Manager Telecom (East), Office
of the Area Manager Telecom,
Dispur, Wireless, Guwahati - 6.

Applicant

-----Vs.-----

1. Union of India represented by
the Secretary to the Govt. of
India, Ministry of
Telecommunication, New Delhi.

2. The Chairman, Telecom Commission,
Department of Telecommunication,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi.

3. Senior Deputy Director General
(Vigilance), Department of Telecom,
West Block-II, Wing-2, Ground
Floor, R.K. Puram, New
Delhi-110066.

Respondents

Filed by the applicant
through A. Chakrabarti
28/1/05

(M. K. Gogoi)

Details of the Application :

1. Particulars of the order against which the application is made :

The application is made for quashing six charge-sheets (issued on the same cause arising out of granting temporary status to 221 casual mazdurs by the applicants order dated 27/05/1996).. The Direction dated 20.07.2004 of the Hon'ble Tribunal in OA.No.119/2004 which has attained finality has not been complied with by the respondents..

2. Jurisdiction:

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

3. Limitation:

The applicant declares that the application is within the period of limitation under section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case:

4.1 That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the constitution of India.

4.2 That the applicant was initially appointed as Assistant Divisional Engineer (Group-A) by order dated 22/09/1989 in the respondent's department and was posted at

Myogen
(M. K. Gogoi)

4.3 That the applicant begs to state that he was posted on transfer as Telecom Divisional Engineer, Tezpur and joined in the post at Tezpur on 31/01/1995 and worked there in that capacity upto September, 1996.

$(\log_{10} x) \cdot (\log_{10} y)$

Copy of the order dated 20.07.2004
is enclosed as Annexure-I

4.5 That Union of India issued memorandum No.000/I/BL/18 dated 23.5.2000 laying down time limit for the departmental proceedings. One directive is that six months is the limit for conducting the enquiry and submission of report from the date of appointment of IO/PO. By another memorandum No.142/5/2003-AVD.I dated 6.4.2004 it has been directed that the officer concerned (i.e. I.O.) shall be relieved from his normal duties for a period upto 20 days in two spells during which he should complete the inquiry and submit the report.

Copies of the memorandum dated 23.5.2000 and 6.4.2004 are enclosed as Annexure -IA and IB respectively.

4.6 That in the facts of temporary status of the said 221 casual mazdoors one member of the selection committee was charged by giving six charge sheets. In one charge sheet he was exonerated and the officer concerned, Sri A.K. Sarkar filed OA.No.27/2003 before this Hon'ble Tribunal for setting aside and quashing the other five charge sheets on the ground of same cause of action. The Hon'ble Tribunal was pleased to allow the OA and quash the five charge sheets.

Copy of the order dated 25.8.2004 in OA.No.27/2003 is enclosed as Annexure-IC.

4.7 That the department, in the above background ought to have dropped/cancelled the charge sheets against the applicant. But without issuing any such order cancelling/withdrawing the charge sheets the department preferred to be passive and compel the applicant to approach the Hon'ble Tribunal for the order of the Hon'ble Tribunal.

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(M. K. Gogoi)

It is stated that the order dated 20.07.2004 in OA.No.119/2004 has attained finality. The proceedings have not been completed within the directed period of six months and hence the charge sheets are liable to be set aside and quashed.

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(M.K. Gogoi)

4.8 That for appraisal of the Hon'ble Tribunal the facts of the case are narrated below.

4.9 That before the applicant joined the Tezpur Division, numbers of casual mazdurs were appointed in the said circle and under the scheme prevalent in the Department. such casual mazdurs working during the period 31/03/1985 to 22/06/1988 were to be granted Temporary Status if they were not absent for last more than 365 days and other conditions in the scheme.

4.10 That the predecessor of the applicant, Shri K. Balasubramaniam, during his tenure from 1991 to 1994 as TDE allowed to continue casual labourers in different sub-divisions under his control. Regular payment of wages were also made under his sanction. The applicant came to know that he submitted a "Nil" report to the Circle Office as regards the engagement of casual mazdurs. The applicant states that all these mazdurs were engaged prior to the joining of the applicant in the Tezpur Division.

4.11 That after his joining in the post of TDE, he found that Department of Telecommunication (for short D.O.T.) issued an order to confer temporary status to all

eligible casual mazdurs who were engaged by the circles during the period from 31/03/1985 to 22/06/1988 and who were still continuing for such works in the circles where they were initially engaged and who were not absent for the last more than 365 days counting from the date from the issue of the said order under Circular dated 17/12/1993 which was forwarded to all Sub-Divisional Officers/Engineers from the Office of the TDE under letter No. E-98/Casual Labour/93-94/125 dated 28/01/1994 for information, guidance and necessary action as these Sub-Divisional Officers/Engineers were Field Officers and the casual mazdurs were working under them. The said Circular dated 17/12/1993 also provided that the services of all the casual mazdurs who have not rendered at least 240 days (206 days in case of Administrative Office observing 5 days a week) of service in a year should be terminated after following the provisions of the Industrial Dispute Act, 1947.

Copy of the Circular dated 17/12/1993 is enclosed as Annexure-ID.

4.12 That in response to the aforesaid Circular issued by D.O.T. and forwarded by the Office of the Telecom Divisional Engineer on 28/01/1994, all the Sub-Divisions (all total eleven sub-division) under Telecom Divisional Engineer, Tezpur recommended the names of casual labourers working within their jurisdiction who were engaged before 22/06/1988 and were eligible for conferring Temporary Status as per D.O.T. Circular. (Annexure-ID).

4.13 That on receipt of recommendation from all the Sub-Divisional Officers/Engineers along with the particulars of services etc., the Telecom District Engineer Office was verifying the records for conferring Temporary Status when the applicant joined as Telecom District Engineer.

(1802.2.2001)
M. K. Gogoi
M. K. Gogoi

4.14 That because of union case in the RJCM forum at circle level and pressure in Local JCM level the cases were reviewed again in the Office of Telecom District Engineer, Tezpur and a selection committee was constituted by the applicant consisting of four members all of whom are gazetted Officers from different field of the Department namely, Accounts, Human Resource Development, Engineering and field units.

4.15 That the Selection Committee thus formed for recommending the names of casual labourers from among the list of casual labour forwarded by the Sub-Divisions who were eligible to be conferred with Temporary Status as per the guidelines given in the aforesaid Circular issued by D.O.T. on 17/12/1993 after verifying the available records recommended the names of 221 eligible casual labours continuously working in respective Sub-Divisions since on or before 22/06/1988. Based on the recommendation of Selection Committee, the applicant issued Order of conferring Temporary Status provisionally to 221 casual labours working in eleven Sub-Divisions under Telecom District Engineer vide letter No. X-1/CMPT/96-97/CON-7 dated 27/05/1996.

Copy of the letter No.

X-1/CMPT/96-97/CON-7 dated 27/05/1996 is

enclosed as Annexure-II.

4.16 That there was a partial ban on engagement of casual labour imposed by D.O.T. vide its letter No. 270/G/84-STN dated 30/03/1985. However, there was relaxation given for engagement of casual labour in project organisation and in line dismantling/construction work in the Electrification and Project Circle. In 1985, all the states of North East Region including Assam was within one composite circle i.e. NE Telecom Circle and Telecom facilities in the region during the period was very poor. To provide better telecommunication facility Govt. of India in 1987 bifurcated NE Telecom Circle into two new Circle namely Assam Telecom Circle exclusively to look into the construction/maintenance of Telecom facility for the state of Assam and NE Telecom Circle for the other states. After formation of independent Assam Telecom Circle there were too many expansion work undertaken by Department of Telecommunication to augment the telephone facilities in all the District and Sub-Divisional Headquarter of Assam which necessitated deployment of large scale casual labourers to complete the targetted works. The casual labours engaged during 1987 and 1988 were allowed to continue because of continuance of pressure of expansion of Telecom Network and was ultimately utilised for maintenance work. The engagement of casual labours were necessitated for providing man hand for new installation such as Telephone Exchange, MARR, UHF system, open wire carrier system providing reliable transmission media to new exchanges. As a matter of fact there were two sub-divisions in Tezpur division during 1985 which has become eleven sub-division in 1995 and now there

Myeager
(M.K. Gogoi)

are twenty four sub-division.

4.17 That the circle authority did not apply for relaxation to Headquarter for engagement of casual labours for expansion work as well as day to day maintenance work for its any divisions. But for exigencies of work the field staff were allowed to engage casual labour and for this temporary advances were sanctioned to officers for making payment of wages whereas other circle unit got prior approval from the D.O.T. for engagement of casual labour.

4.18 That after taking over the charge of Telecom District Engineer, Tezpur on 31/01/1995 the applicant found on record those casual labours working in different sub-divisions and when their names were recommended by duly constituted Departmental Selection Committee all the 221 casual labours were conferred Temporary Status in terms of Circular dated 17/12/1993 by his common order dated 27/05/1996.

4.19 That by a letter dated 18/09/1997 the Assistant General Manager (Admn.), Assam Telecom Circle wrote to Telecom District Manager (Shri B.K. Goswami) in the subject of conferring Temporary Status and indicated that earlier reports of Tezpur show that no casual labour has been engaged in the Tezpur SSA after 31/03/1985 and therefore, there should not arise a situation for conferment of Temporary Status. The authenticity of certificates has been questioned in the para 2 of the said letter and the aforesaid letter dated 18/08/1997 said, "In view of the

(M. K. Goswami)
Tezpur

above anomaly, it has been decided to cancel the order conferring the Temporary Status." This letter further states that renewal exercise should be made to identify the casual labours entitled for Temporary Status within a period of one month. The letter was endorsed to the applicant by the TDM, Tezpur for examination and necessary actions. The applicant issued office orders implementing the decision to cancel the order conferring the Temporary Status, under his Memorandum No. X-1/CMPT/96/97/CON-7 dated 20/10/1997.

*(10829-X-1)
Tezpur*

Copy of the letter dated 18/09/1997 is enclosed as Annexure-III.

Copy of the Memo dated 20/10/1997 is enclosed as Annexure-IV.

4.20 That as already stated above the factual position is that casual mazdurs were engaged in the Tezpur Division (and other divisions also) during the said period from 31/03/1985 to 22/06/1988. However, after formal consideration by constituted Departmental Committee temporary status was conferred on the casual mazdurs by the applicant. From the facts of the case the NIL report as regards engagement of casual mazdurs submitted by Shri Balasubhramaniyam as explained above caused the confusions and thereafter, the letter dated 18/09/1997 was issued by the AGM, Assam Circle and which was followed by the applicant's order dated 20/10/1997 canceling the granting of Temporary Status. However, the then TDM (Shri B.K. Goswami), Tezpur reconsidered the factual position and passed an order on 19/11/1997 which read as under :

"Memo No. X-1/CMPT/96-97/CON-7 dated

20/10/1997 issued by DE (P & A), Tezpur may be treated as cancelled."

The applicant was the DE (P & A), Tezpur as mentioned in the above order dated 19/11/1997. In this connection, it is stated that in the facts and circumstances of the case the TDM, Tezpur considered/reconsidered the totality of the matters and took the administrative decision to maintain the order of granting Temporary Status of casual mazdurs as explained above. The casual mazdurs are now having the Temporary Status in consequence upon the administrative order of the TDM, Tezpur.

Hyder
(M. K. Gogoi)

Copy of the Order dated 19/11/1997 is enclosed as Annexure-V.

4.21 That on 19/06/2001, the Department issued a charge-sheet No.8-180/2000-vig.II against the applicant that the applicant committed serious irregularities in as much as, he in collusion with the members of the Selection Committee constituted by him, regularised 34 numbers of casual mazdurs with malafide intention although none of them was eligible for such regularisation that too without verifying the genuineness of the recommendations of different SDOs/SDEs and experience certificate issued by JTO/Lineman etc. and thus putting the Department in huge financial loss. It is stated that the 34 casual mazdoors are of North Lakhimpur and are included in the total 221 mazdoorz in letter dated 27.5.1995. The IO/PO have been appointed on 12.02.2002.

Copy of the charge-sheet dated 19/06/2001 is enclosed as Annexure-VI.

4.22 That the department subsequently issued the following five charge-sheets all on the same allegation for different units constituting the 221 mazdoors :

Sl.No.	Charge Sheet No.	Date	Date of Appointment of IO/PO.
(1)	Memo No. 8-15/2001-Vig II	07/03/2002	06.08.2002
(2)	Memo No. 8-181/2001-Vig II	11/09/2003	18.06.2004
(3)	Memo No. 8-186/2001-Vig II	11/09/2003	18.06.2004
(4)	Memo No. 8-167/2001-Vig II	11/09/2003	18.06.2004
(5)	Memo No. 8-165/2001-Vig II	09/10/2003	18.06.2004

The above charge-sheets were issued on the same cause and against one order i.e. No. X-1/CMPT/96-97/CON-7 dated 27/05/1996 issued by the applicant by breaking into Sub-Divisions list of casual labour.

Copy of the (1) Memo No. 8-15/2001-Vig II dated 07/03/2002, (2) Memo No. 8-181/2001-Vig II dated 11/09/2003, (3) Memo No. 8-186/2001-Vig II dated 11/09/2003, (4) Memo No. 8-167/2001-Vig II dated 11/09/2003 and (5) Memo No. 8-165/2001-Vig II dated 09/10/2003 are enclosed as Annexure-VII, VIII, IX, X & XI respectively.

4.23 That it is alleged in the charge-sheet that Shri K. Balasubhramaniyam the then TDE, Tezpur had submitted a report through his letter No. E-38/COMPT/Vol.II/123 dated 07/12/1993 stating that no casual labourer was recruited in Tezpur Division after 31/03/1985. This statement of Shri K.

Balasubhramaniyam is not correct. It is stated that wages for casual mazdurs were paid during the period of Shri K. Balasubhramaniyam and there is recorded accounts observations on such payments about which Shri K. Balasubhramaniyam had full knowledge. Moreover, he issued identity cards to casual labourers under his seal and signature.

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(M. K. Gogoi)

4.24 That out of the six charge-sheets, the inquiry in respect of the Charge Sheet no. 8-15/2001-Vig II dated 07/03/2002 (Annexure-VI) has been completed long back. The chronology of the dates are as under :

- (a) Date of Charge-Sheet : 07/03/2002.
- (b) Written Statement submitted by the applicant : 27/03/2002.
- (c) Inquiry completed and defence brief submitted by the applicant. : 07/08/2003.

Though the inquiry proceedings in the above charge-sheet has been completed long back, the applicant has not been served with any report. The reason of such delay is best known to the disciplinary authorities. Even the direction of the Hon'ble Tribunal has not been complied with.

4.25 That the applicant has also submitted his written statement in respect of the other five charge-sheets but neither he has received any communication dropping charges/closing the charge-sheets, nor any inquiry has been commenced. All these charge-sheets have been kept hanging over the head of the applicant. The Inquiry Officers have

been appointed but neither the executive instructions issued under Article 73 of the Constitution of India nor the judicial directions have been complied with by completing the proceedings.

4.26 That the applicant is a Group-A Officer (ITS of 1986 Batch). The pendency of the aforesaid charge-sheets is causing loss to his promotional prospects. The Blue Book published in 1996 does not contain his name though the names of his juniors have been included therein (juniors upto 1993 batch). He has submitted representation but no reply has been given. In the year 1997 the promotion for the Junior Administrative Grade (for short JAG) was under consideration. Such promotions are given by the President of India and initially these are termed as ad-hoc. The applicant was eligible for the promotion to the above grade and there was no stigma/blemish against such promotion. But his juniors viz., Shri S.K. Bali and Shri Meikanta Manickam N. were promoted. However, the applicant was given the said promotion on ad-hoc basis by order dated 05/02/1998. He is still holding the post in ad-hoc basis. His juniors have been given regular promotion by order dated 13/01/2003. His name should have been between Sl. No. 127 and 128 of the said order of promotion. He has thereby been suffering loss of promotion and emoluments from 1997 to 1998.

4.27 That the applicant begs to state that the allegation brought against the applicant relates to the engagement of casual mazdurs during 31/03/1985 to 22/06/1988 and order issued by the applicant granting Temporary Status

(10/08/98)
W. X. Gogoi

of the said mazdurs by order dated 27/05/1996. It is stated that by the said order the applicant had provisionally conferred Temporary Status to 221 casual mazdurs in Tezpur Division on recommendation of the duly constituted committee. These 221 casual mazdurs were working in eleven sub-divisions under Tezpur Division. The Article of Charges and Imputations has allegations centering the order dated 27/05/1996 granting Temporary Status. But most curiously though the allegations are same and squarely identical, on the same order passed by the applicant six separate charge-sheets have been issued for six sub-divisions under the Tezpur Division. The break up of the number of casual mazdurs granted Temporary Status in each of the six sub-divisions are appended below :

	<u>Sub-Divisions</u>	<u>No. of Casual Mazdurs</u>
1.	SDE(F), Tezpur	22
2.	North Lakhimpur	34
3.	Dhemaji	22
4.	SDO(T), Tezpur	15
5.	Udalguri	21
6.	SDE (Comp), Tezpur	07

The allegations in the Articles of Charges and the defence of the applicant in the written statement are same and as already started inquiry in respect of one charge-sheet has been completed including submission of defence brief by the applicant in August, 2003. The inquiry report is still awaited. In respect of other charge-sheets Inquiry Officers have been appointed and after preliminary

(info. K. Gogoi)
info. K. Gogoi

hearing there has not been any further sitting/proceeding/hearing even though executive instructions exists, and inspite of judicial direction.

(10809. X.V. Gogoi)
labelling

4.28 That the promotional prospects of the applicant have been under cloud for the pendency of the charge-sheets on allegations relating as back as in 1985-1988. The facts of the case also show that the respondents are very sloth shod in their approach in finalising the aforesaid departmental proceedings and the applicant has to bear the brunt for the delay of the respondents. It is also the apprehension of the applicant that the respondents may come with further such charge-sheet also.

4.29 That the applicant humbly submits that where a single charge-sheet, if there is any genuine allegation, should have been issued alleging the allegations against his order dated 27/05/1996 comprising the alleged irregularities in the sub-divisions under his control covered by the same single administrative order. It is stated from the charge-sheets issued against the applicant it is unambiguously clear and transparent that the charge-sheets are the consequence of the said office order dated 27/05/1996 and centre round the said office order and administrative functions of the applicant in issuing that office order. Malice in law is explicit in the casual approach of the respondents. He had already cancelled his orders of granting Temporary Status.

4.30 That the applicant begs to state that the

allegations relate to very old period and the charge-sheets deserve to be canceled on that count. The applicant has co-operated with the respondents to bring out the truth and factual position as far as possible within the scope of available records and his remembrance. This is without prejudice to his rights of defence arising out of the delay in bringing the charges.

4.31 That the applicant begs to state that after receiving the charge-sheets, the applicant submitted representation on 28/01/2003 to Sr. DDG (Vigilance) to combine/club together all the charge-sheets and proceed with by a single case/departmental proceeding as the charges are same and framed on the basis of one order issued by the applicant which was subsequently canceled by the applicant himself as DE (P & A), Tezpur. The applicant in his written statement of defence dated 19/11/2003 against Memo No. 8-181/2001-Vig II dated 11/09/2003 also prayed for dropping all the charges framed against him by six charge-sheets for single cause of action, but the authorities did not take any steps against applicant's prayer.

4.32 That after conducting the inquiry in the charge-sheet No. 8-15/2001-Vig II dated 07/03/2002 upto the stage of submission of defence brief respondents have stopped further to proceed with the other charge-sheets including one dated 19/06/2001 in which Inquiry Officer has been appointed. The respondents have found that the allegations being the same, all the charge-sheets would end similarly. Such delay is causing undue harassment and loss

(M. K. Gogoi)
Vigilance

of promotional benefit of the applicant. The applicant has reasons to believe that respondents are satisfied that the applicant has no lapse in the matter and therefore, they have decided not to further proceed with the charge-sheets. But formal orders dropping the charge-sheets have not been issued. The keeping the charge-sheets pending inspite of executive instructions and judicial direction, explicitly demonstrates malice-in-law. The sword of democles is kept hanging over the head of the applicant. The charge sheets deserve to be set aside and quashed.

4.33 That the policy of the Government of India is that in the same case if charge-sheets are issued against more than one employee, the departmental inquiry should be conducted in a common proceeding. In the instant case, six charge-sheets have been issued against the applicant in the same case arising out of his order granting Temporary Status to 221 casual mazdurs by order dated 27/05/1996. Neither any enunciated policy/rule nor service jurisprudence supports issuing of plural number of charge-sheets nor different proceedings for each charge-sheets as in the instant case. On the other hand, it vitiates the spirit of common proceeding in the same case. Such action against the applicant has been taken to harass and unduly humiliate the applicant.

5. **Ground for reliefs with legal provisions.**

5.1 For that the respondents could not complete the departmental proceedings within prescribed time and within

(10/05/96)
N. K. Gogoi
Member

the period directed by this Hon'ble Tribunal in OA. No.119/2004.

5.2 For that the Hon'ble Central Administrative Tribunal, Guwahati Bench has already exonerated an officer in the matter of granting Temporary Status to the said 221 casual Mazdoors in OA. No.27/2003.

5.2A For that the charge sheets have been issued against the order dated 27.05.1996 which the applicant had already cancelled and which was brought to operation by the higher authority.

5.3 For that separate departmental proceedings for six charge-sheets arising out of single cause and single order of the applicant is irregular and violative of rules of common proceedings and intended to harass the applicant.

5.4 For that the respondents have issued charge-sheets related to the causes of very old periods and hence the charge-sheets are liable to be dropped/canceled.

5.5 For that the respondents are proceeding in a sloth sod manner in completing the departmental proceedings causing loss of promotional benefits to the applicant.

5.6 For that the respondents have failed to consider the prayer of the applicant through his representation dated 28/01/2003 for common/single departmental proceeding.

5.7 For that long pendency of the departmental proceedings is illegal and violative of norms of administrative fairness.

5.8 For that the actions of the respondents in not holding common proceedings is arbitrary and whimsical and has highly prejudiced the promotional benefits of the

(N. K. Gogoi)
N. K. Gogoi

applicant and hence offends Article 14, 16 and 21 of the Constitution of India.

5.9 For that malice in law is explicit and the applicant is entitled to the reliefs prayed for.

5.10 For that continuance of the proceedings is illegal after the period directed by the Hon'ble Tribunal has expired. The order of this Hon'ble Tribunal dated 20.07.2004 in OA. No. 119/2004 has attained finality.

6. **Details of the remedies exhausted**

The applicant declares that he has represented by letter dated 28/01/2003 without any result and there is no other efficacious remedies under any Rule and this Hon'ble Tribunal is the only forum to adjudicate the subject matter.

7. **Matters not pending with any other court**

The applicant declares that he has not filed any case on the subject matter before any court, forum or any other institution except OA.No.119/2004 before this Hon'ble Tribunal as explained above.

8. **Reliefs sought for**

Under the above facts and circumstances the applicant prays for the following reliefs :

8.1 All the six charge-sheets No.8-180/2000/vig. II, 8-15/2001-Vig II, 8-181/2001-Vig II, 8-186/2001-Vig II, 8-167/2001-Vig II and 8-165/2001-Vig II dated 19.06.2001, 7.03.02, 11.09.03, 11.09.03, 11.09.03 and 09.10.03

respectively be set aside and quashed.

8.2 The respondents be directed to include the name of the applicant in the Blue Book above his juniors.

8.3 The applicant be promoted to Junior administrative Grade (JAG) from the date his juniors have been promoted and regularised, and given all consequential benefits including monetary benefits.

8.4 The applicant may not be harassed by the respondents on the allegations in the charge sheets and the Temporary Status of the 221 casual mazdoors.

8.5 The applicant is entitled to the cost of the case which may kindly be quantified by the Hon'ble Tribunal.

8.6 Any other relief or reliefs as the Hon'ble Tribunal deem fit and proper including invoking the power of contempt of the Hon'ble Tribunal.

The above reliefs are prayed for on the ground stated in para 5 above.

9. Interim Relief

During the pendency of this application the applicant prays for the following interim reliefs:

9.1 The proceedings on the charge sheets be suspended/stayed.

9.2 Any other relief or reliefs as the Hon'ble Tribunal deem fit and proper.

by
(M.K. Gogoi)

The above reliefs are prayed for on the ground stated in para 5 above.

10. This application is filed through the Advocate.

11. Particulars of Postal Order:

i) IPO No : 74-602383
ii) Date of Issue : 27-1-05
iii) Issued from : G.P.O.
iv) Payable at : Guwahati

12. List of Enclosures

As per Index:

Verification

Myoga
(M.K. Gogoi)

Verification

I, Madhuryya Kr. Gogoi, son of Late Debeswar Gogoi, aged about 44 years, working as Area Manager Telecom (East) in the Office of The AMT, Dispur, a resident of New Guwahati, Dist-Kamrup, do hereby verify that the statements made in the paragraphs 1,4,6 to 12 are true to my knowledge and statements in para 2,3 and 5 are true to my legal advice and that I have not suppressed any material fact.

And I, sign this verification on this 21/1/05 day of January, 2005.

M. K. Gogoi
(M. K. Gogoi)
SIGNATURE

CENTRAL ADMINISTRATIVE TRIBUNAL: : GUWAHATI BENCH.

Original Application No.119 of 2004.

Date of Order : This, the 20th Day of July, 2004.

THE HON'BLE SHRI K. V. SACHIDANANDAN, JUDICIAL MEMBER.

THE HON'BLE SHRI K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

Shri. Madhuryya Kr.Gogoi
S/o Late Debeshwar Gogoi
Working as Area Manager Telecom (East)
Office of the Area Manager Telecom
Dispur, Wirelens, Guwahati-6.

Applicant.

By Advocates Mr.J.L.Sarkar, Mr.A.Chakraborty & Mrs.K.Dutta.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Telecommunication
New Delhi.

2. The Chairman
Telecom Commission
Department of Telecommunication
Sanchar Bhawan, 20, Ashoka Road
New Delhi.

3. Senior Deputy Director General (Vigilance)
Department of Telecom, West Block-II
Wing-2, Ground Floor, R.K.Puram
Delhi-110 066.

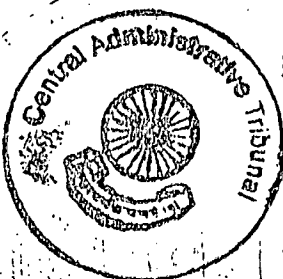
Respondents.

By Mr.B.C.Pathak, Addl.C.G.S.C.

ORDER (ORAL)

SACHIDANANDAN, K.V., MEMBER(J):

The six charge sheets issued on the same cause of action arising out of granting temporary status to 221 casual madoors by the applicants vide orders dated 27.5.1996 is impugned in this O.A. The applicant has filed this O.A. seeking the following reliefs:-



*Attended
by
Adv.
Sarkar*

*Photocopy of CAT Judgment copy
dt 22/7/04 is recd.
from Mr. K. Gogoi AMT GH.
23/7/04
V.D.
20 GH*

(Contd./2)

"8.1 The proceedings in the charge-sheet for which Departmental inquiry has been completed be finalised without further delay and the other charge-sheets should also be finalised with that charge-sheet (Annexure-VII) in a common proceeding.

Or

8.2 All the six charge-sheets be dropped/cancelled by a formal order by the respondents without further delay closing the departmental proceeding being kept pending with no action by them.

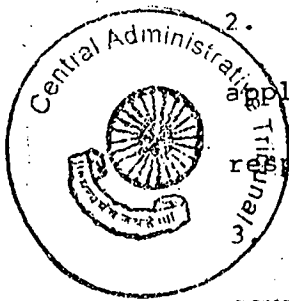
8.3 The applicant is entitled to the cost of the case which may kindly be quantified by the Hon'ble Tribunal.

8.4 Any other relief or reliefs as the Hon'ble Tribunal deem fit and proper."

2. Mr.J.L.Sarkar, learned counsel appeared for the applicant and Mr B.C.Pathak, learned Addl.C.G.S.C. for the respondents.

When the matter came up for hearing, learned counsel for the applicant Mr.J.L.Sarkar submitted that out of six charge sheets in one case enquiry proceeding has been completed on 7.8.2003 and in another case enquiry was completed but no report was filed and in the remaining four cases Inquiry Officers and Presenting Officers have been appointed. The learned counsel for the applicant has drawn attention of this Tribunal to "the Scheme of Central Vigilance Commission dated 23.5.2000 wherein it is stated that conducting departmental enquiry and submission of report should be completed within six months from the date of appointment of I.O./P.O. Learned counsel for the applicant submitted that he will be satisfied if a direction is issued to the respondents to complete the

Contd./3



*Accepted
for
New*

- 3 -

enquiry proceeding within a time frame . Learned Addl.C.G.S.C. Mr.B.C.Pathak submitted that, respondents have no objection in adopting such cause of action. In the interest of justice we direct the respondents to conduct and complete the departmental enquiry proceedings pending against the applicant, as observed above, within six months from the date of receipt of this order.

With the above observations made above, the O.A. is disposed of.

There shall, however, be no order as to costs.



Sd- Member (J)

Sd- Member (A)

Certified to be true Copy

गुणित प्रमाण

22/7/04

Officer (J)

GUWAHATI RANCH

78*005

22/7/04

20 July 2004

Attended
by

No.000/1/GI/18
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A'
GPO Complex, INA.
New Delhi-110 023
Dated the 23rd May, 2000

To

The CVOs of Ministries/Departments, autonomous organizations and Societies etc.

Ref:- Scheme of time limits in conducting Investigations and departmental Inquiries.

Delays in disposal of disciplinary cases are a matter of serious concern to the Commission. Such delays also affect the moral of the suspected/charged employees and others in the organization. The Commission has issued instructions, vide its communication No.8(1)(g)/99(3) dated 03.03.1999, that departmental inquiries should be completed within a period of six months from the date of appointment of Inquiry Officers. Regarding other cases of investigation/inquiry the time-schedule, as under, has been laid down in the Special chapters on Vigilance Management in Public Sector Bank/Enterprises, which are applicable to the employees of public sector banks/ enterprises. The Commission desires that these time limits should also be adhered to by the Ministry/ Departments of Government of India, autonomous organizations and other Cooperative Societies, in respect of their employees, so as to ensure that the disciplinary cases are disposed of quickly.

Sl.No.	State of Investigation or Inquiry	Time Limit
1.	Decision as to whether the complaint involves a vigilance angle.	One month from receipt of the Complaint.
2.	Decision on complaint, whether to be filed or to be entrusted to CBI or to be taken up for investigation by departmental agency or to be sent to the concerned administrative authority for necessary action.	-do-
3.	Conducting investigation and submission of report.	Three months.
4.	Department's comments on the CBI reports in cases requiring commission's advice.	One month from the date of receipt of CBI's report by the CVO/Disciplinary Authority.
5.	Referring departmental investigation reports to the Commission for advice.	One month from the date of receipt of investigation report.
6.	Reconsideration of the Commission's advice, if required.	One month from the date of receipt of Commission's advice.

Attested
by
[Signature]
[Signature]

7.	Issue of charge-sheet, if required.	(i) One month from the date of receipt of Commission's advice. (ii) Two months from the date of receipt of investigation report.
8.	Time for submission of defence statement.	Ordinary ten days or as specified in CDA Rules.
9.	Consideration of defence statement.	15 (fifteen) days.
10.	Issue of final orders in minor penalty cases.	Two months from the receipt of defence statement.
11.	Appointment of IO/PO in major penalty cases.	Immediately after receipt and consideration of defence statement.
12.	Conducting departmental inquiry and submission of report.	Six months from the date of appointment of IO/PO. ✓
13.	Sending a copy of the IO's report to the Charged Officer for his representation.	i) Within 15 days of receipt of IO's report if any of the Articles of charge has been held as proved :
14.	Consideration of CO's representation and forwarding IO's report to the Commission for second stage advice.	One month from the date of receipt of representation.
15.	Issuance of orders on the Inquiry report.	i) One month from the date of Commission's advice. ii) Two months from the date of receipt of IO's report if Commission's advice was not required.

Yours faithfully.

Sd/- (K.L.Ahuja)
Officer on Special Duty.

Attested
K.L.Ahuja
Officer on Special Duty.

033 - 24600670

No.142/5/2003-AVD.I

Government of India

Ministry of Personnel & Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, Dated April 2004

OFFICE MEMORANDUM

Subject:- Streamlining of Conduct of Disciplinary Proceedings to reduce delay.

Acknowledging the need for quick disposal of Disciplinary cases, several measures which could be adopted by the Disciplinary Authorities had been outlined in D.O. letter No.134/2/83-AVD.I dated 2/5/1985 from Secretary (P). The said letter also prescribed time limits for actions to be taken for consideration of investigation report, reference to the CBI/CVC, issuance of charge sheet/final order etc. Despite these instructions, it is observed that still there is undue delay in conclusion of Disciplinary Proceedings. Taking into account the various stages where delay still occur, while reiterating the instructions contained in the reference quoted above, the following measures are also prescribed, to ensure that disciplinary cases are not unduly delayed:-

- i) The Administrative Department/Competent Authority/CVC should study the allegations more carefully and resort to minor penalty proceedings instead of initiating major penalty proceedings, where the circumstances involve minor infringements or cases of procedural irregularities.
- ii) There is considerable delay in framing the charges after information is received about the alleged irregularities. There are a number of instances where the Courts have set aside the order of penalty due to inordinate delay in initiating action. Specific accountability should be fixed on the officer/s responsible for framing the charges, for ensuring issuance of charge sheet within a set time frame. Responsibility shall be fixed for inordinate delay in framing charges, in cases where there are no valid reasons such as a stay of the proceedings by Court.
- iii) There is undue delay because of repeated requests of the Charged Officer (CO) for time to give his written statement in reply to the charge sheet. As per existing instructions, the CO is allowed 10 days to submit his written statement. The normal duties of the CO may not give him adequate time in preparing his written statement. He may be allowed three to four days absence

15/4/04

65 (Admin) (II)

533/15/04

15/4/04

V.C. S. (F) (II)

29/4/04

16.04.04

DL

16/8/2004

Attended
B. S. S.

preparing his written statement by the Controlling Officer and this period may be considered as duty, in which case no extension of time shall be allowed beyond the stipulated period of 10 days.

- iv) Wherever a Departmental officer is appointed as the Inquiry Officer in Departmental Proceedings, the officer concerned shall be relieved from his normal duties for a period up to 20 days in two spells during which he should complete the inquiry and submit the report. During the period so allowed, he will attend to the inquiry on full time basis.

It is requested that the above Guidelines may be followed in the conduct of disciplinary proceedings.

U. R. Reddy
(Dr. W.R.Reddy)
Director(Vigilance)

CVOS all Ministries/Departments

copy to Secretary to CVC, CVC

*Attended by
B. R. Reddy*

COPY OF THE ORDER DATED 25.8.2004 IN O.A. No. 27 OF 2003 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH, GUWAHATI

Shri Ajit Kumar Sarkar
S/o Late Rajkrishna Sarkar,
Sub-Divisional Officer, Telegraph,
Dhokiajuli, Sonitpur,
Assam.

Pay 0.11 23725285 1
KIND ATTENTION TO
SHRI A.K. SAHU DGM(A)
.....Applicant

By Advocates Mr. B.P. Katakli,
Mr. M. Khatoniar and Mr. N. Bora.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of Communication,
Department of Telecommunication,
New Delhi.
2. The Chairman-cum-Managing Director,
B.S.N.L., Statement House,
Barabhanba Road, New Delhi.
3. The Chief General Manager,
B.S.N.L., Assam Telecom Circle,
Udhari, Guwahati.
4. The Telecom District Engineer,
Tezpur, P.O. - Tezpur,
Sonitpur, Assam.
5. The Inquiry Officer, D.T.O.,
Office of the Chief General Manager, Telecom,
Assam Circle,
Guwahati.

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

.....Respondents

O R D E R (ORAL)

D.C. VERMA, VICE-CHAIRMAN

By this O.A. the applicant has prayed for the
following reliefs:

"8.1 That, the disciplinary proceedings initiated
by issuing memorandum No.Vig./Assam/Disc-VIII/
2000-01/6, dated 26-12-2000 (vide ANNEXURE-C);
No.Vig./Assam/Disc-IX/00-01/3, dated 23-03-2001
(vide ANNEXURE-E); No.Vig./Assam/43(C)/6, dated
05-11-2001 (vide ANNEXURE-F); No.Vig./Assam/Disc-XV/11,

Attard
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dated 05-12-2001 (vide ANNEXURE-C); No.Vig./Assam/Disc-XII/6, dated 10-12-2001 (vide ANNEXURE-D) and No.Vig./Assam/Disc-XIV/5, dated 28-12-2001 (vide ANNEXURE-I) be declared illegal and bad in law and the same be set aside and quashed.

8.2 That, the respondent authority be directed not to harass the applicant by initiating him to participate in all the 5(six) Departmental proceedings initiated on the same allegations.

8.3 That, the respondent authority be directed to proceed with only one disciplinary proceeding and declare the other 5(five) disciplinary proceedings as illegal.

8.4 That, the Hon'ble Tribunal may be pleased to grant any other relief or relieves as it deem fit and proper.

Consequential relief has also been claimed.

2. When the O.A. was filed, the Tribunal passed an Interim order on 17.2.2001 by which proceedings on the

Charge Memorandum dated 23.3.2001, 5.11.2001, 5.12.2001, 10.12.2001 and 24.12.2001 were stayed. Thus the first

Charge Memorandum issued on 26.12.2000 was to proceed. The rest remained stayed. During the pendency of this

O.A. the enquiry in the Charge Memorandum dated 26.12.2000 has been completed and as appears from the documents filed with rejoinder the Inquiry Officer exonerated the applicant. Consequently, the Disciplinary Authority has passed order dated 20/24.11.2003 by observing as below:

"Taking into account the findings of the Inquiring Authority, records of the case and on an objective assessment of the facts and circumstances of the case in its entirety, I, P.K. Chanda, Member (Services), Telecom Commission, hereby order to exonerate Shri A.K. Sarkar, SDOT of the charges levelled against him, vide aforesaid Memorandum."

3. The submission of Mr. M. Khatoniar, learned counsel for the applicant is that the first Charge Memorandum was issued to the applicant with the imputation that the applicant while working as SDOT, Tezpur failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of his position inasmuch as he as a

member.....

Attended
Bryson

member of the selection committee for regularization of eligible casual labourers as temporary status Mazdoors under TDE, Tezpur during 1996, in collusion with other members of the selection committee without verifying the genuineness of recommendation of different JTOs/SDEs and certificates ~~were~~ issued by JTOs/Linemen etc, recommended with mala fide intention names of 221 Nos. of casual labourers, consequent upon which posts of 221 casual labourers were regularised, although none of them were eligible for such regularization and thereby the applicant put the department to huge financial loss. With these allegations the applicant has been served with Charge Memorandum for contravention of Rule 3(1)(i)(ii) and (iii) of the CCS(Conduct) Rules, 1964.

4. Subsequent to the issue of aforesaid Charge Memorandum the applicant was served with five other Charge Memorandums as below:

- i) Memorandum dated 23.3.2001 in respect of same 221 persons
- ii) Memorandum dated 5.11.2001 in respect of 7 Nos. casual labourers of Tezpur
- iii) Memorandum dated 5.12.2001 in respect of 15 Nos. casual labourers of Tezpur
- iv) Memorandum dated 10.12.2001 in respect of 22 Nos. casual labourers of Dhemaji Sub-Division
- v) Memorandum dated 28.12.2001 in respect of 21 Nos. casual labourers of Udalguri Sub-Division.

5. The learned counsel for the applicant has taken us through the statement of imputation of misconduct in respect of these Charge Memorandums and also the documents by which the article of charges are to be proved by the respondents. He has pointed out that the names of these

persons.....

Attended
W. B. B. B.
W. B. B. B.

persons given in the five Charge Memorandums is amongst the 221 for which the enquiry has already been completed and the applicant has been exonerated. The learned counsel submitted that these Charge Memorandums cannot stand and have to be quashed.

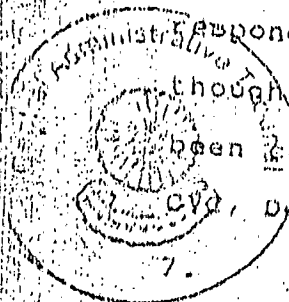
6. When the case was taken up for hearing on the previous date we granted time to the learned counsel for the respondents to enquire whether the names of the other recommended persons for which the five Charge Memorandums have been issued are included in the first Charge Memorandum dated 26.12.2000. Learned counsel for the respondents, Mr. A.K. Chaudhuri, however submitted that though he tried to confirm the same but the same has not been confirmed because the concerned file has been sent to C.D., Delhi and the local office could not verify the same.

7. In view of the above we have ourselves gone through the list of documents and the names of persons given in the various Charge Memorandums and have tallied the same with the list of 221 casual labourers who were granted Temporary Status on 27 May 1996 and in respect of whom Charge Memorandum dated 26.12.2000 was issued.

8. In the light of the above we would discuss the details of the subsequent Charge Memorandums separately as below:

Charge Memorandum dated 23.3.2001

This Charge Memorandum which was issued in respect of 221 persons is exactly the same which was issued vide the Charge Memorandum dated 26.12.2000. Annexure-I attached with the Charge Memorandum dated 23.3.2001 and the Annexure-I attached with the Charge Memorandum dated 26.12.2000 appears to be photocopies of the same so far the contents therein are concerned. The list of 221 persons annexed with Charge Memorandum dated 26.12.2000 includes



Att. to Govt. Secy.

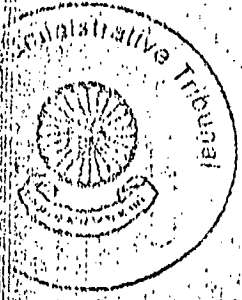
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all the names of casual labourers which are contained in Annexure-III, i.e. list of documents furnished with the Charge Memorandum dated 23.3.2001. Thus the enquiry which is proposed to be undertaken in pursuance to Charge Memorandum dated 23.3.2001 is in all respect in the matter which has been already concluded while making enquiry on the Charge Memorandum dated 26.12.2000. Consequently, no enquiry can be allowed to proceed on the basis of Charge Memorandum dated 23.3.2001.

Charge Memorandum dated 5.11.2001

This Charge Memorandum has been served with regard to 7 Nos. of Mazdoors of Tezpur for appointment as temporary status Mazdoors. The list of 7 Nos. is contained in Annexure-III to this Charge Memorandum. They are:

1. Certificate issued in favour of Sri Dandadhar Das, S/o Lt. Mahendra Nath Haloi, the then Cable Splicer, O/o the SDEO, Tezpur
2. Certificate issued in favour of Sri Nagen Saikia, S/o Sri Chandra Kt. Saikia by Sri Sarat Nath, the then Line Inspector O/o the SDEO, Tezpur
3. Certificate issued in favour of Sri Mridul Kr. Das, S/o Manik Das by Sri Sarat Nath, I.I of the O/o the SDEO, Tezpur
4. Certificate issued in favour of Sri Naba Kr. Sarmah, S/o Lt. Dharani Sarmah by Sri Sukan Roy, S.I. O/o SDEO, Tezpur
5. Certificate issued in favour of Sri Dharani Swargiary by Sri Sukan Roy, S.I O/o the SDEO, Tezpur.



*Attended
by
Sd/-*

6. Certificate issued in favour of Sri Rajib Gogoi, S/o Sri Nilakanta Gogoi by Sri Sukan Roy, S.I. O/o the SDEO, Tezpur.
7. Certificate issued in favour of Sri Avani Chh. Talukdar, S/o Sri Upen Chh. Talukdar by Sri Mohan Prasad Roy, S.I. O/o the SDEO, Tezpur.

All these 7 names appear in the list of 22 under heading SDE(Computer), Tezpur which were recommended by the applicant and for which the enquiry has already been completed in pursuance to the Charge Memorandum dated 26.12.2000. For the reasons mentioned above this Charge Memorandum too cannot proceed once, on same allegation the applicant has already been exonerated earlier.

Charge Memorandum dated 5.12.2001

This Charge Memorandum is in respect of 15 Nos. casual labourers of Tezpur. All these 15 names are given in Annexure-III to the Charge Memorandum. They are:

1. Experience Certificate of Smt Paramita Dey, D/O Late Narayan Chandra Dey issued by Shri A.C. Dutta (LI)
2. Experience Certificate of Shri Atul Chandra Deka S/o Late Madan Deka issued by Shri N.C. Boro
3. Experience Certificate of Shri Biewajit Malakar S/o Sachin Malakar issued by Shri A.C. Dutta, LI
4. Experience Certificate of Shri Dina Kanta Ghatowal S/o Phagum Ghatowal issued by Shri A.C. Dutta LI
5. Experience Certificate of Shri Anup Dutta S/o Amal Chandra Dutta issued by Shri A.C. Dutta LI
6. Experience Certificate of Shri Dukhan Roy S/o Shankar Roy issued by Shri A.C. Dutta LI
7. Experience Certificate of Smt Mina Das D/o Jamini Das issued by Shri A.C. Dutta LI

*Attended
by
Dutta
Adm*

8. Experience Certificate of Shri Parimal Sarkar S/o Ranjan Sarkar issued by Shri A.C. Dutta LI
9. Experience Certificate of Shri Phulana Basphar S/o S. Basphar by Shri A.C. Dutta LI
10. Experience Certificate of Shri Rupen Das, S/o Sarat Das issued by Shri N.C. Paul SI
11. Experience Certificate of Shri Sanjay Kumar Deb S/o Nani Gopal Deb issued by N C Paul, SI
12. Experience Certificate of Shri Karuna Lahkar S/o Dasrath Lahkar issued by Shri N.C. Paul, SI
13. Experience Certificate of Shri Sakiram Majhi, S/o Durga Majhi issued by Shri A.C. Dutta LI
14. Experience Certificate of Shri Duijan Baishya S/o H.N. Baishya issued by Shri N.C. Paul
15. Experience Certificate of Sat Dipali Hazarika issued by Shri Ramesh Ch. Haloi.

All these 15 names are in the list of 221 under heading SDO(T), Tezpur. From this list one name Mazibur Rahman whose name is at serial 4 is not in Annexure-III. Thus for all the 10 persons in respect of whom this Charge Memorandum has been issued has already been enquired into under the Charge Memorandum dated 26.12.2000 for which the applicant has been exonerated. The applicant, therefore, cannot be enquired second time for the same misconduct.

Charge Memorandum dated 10.12.2001

This Charge Memorandum has been issued to the applicant as he allegedly recommended names of 22 Nos. of casual Mazdoors of Dhemaji Sub-Division. The names of these 22 Nos. are in Annexure-III to the Charge Memorandum. Their names are in the list of 221 candidates contained under head SDE (Phones), Dhemaji. Thus in respect of all these persons also enquiry has been already completed under the Charge Memorandum dated 26.12.2000.

*Attested
by
[Signature]*

Charge Memorandum dated 23.12.2001

This Charge Memorandum is for recommending 21 non-casual labourers for appointment as temporary status Mazdoors in Udalguri Sub-Division. Their names are mentioned in Annexure-III of this Charge Memorandum and their names are contained under head SDE (Phones), Udalguri in the list of 221 persons for which enquiry has been already completed in pursuance to Charge Memorandum dated 26.12.2000.

9. From all the materials which have been found on record it is noticed that the first Memorandum dated 26.12.2000 was issued for the recommendations made in respect of 221 Mazdoors and after due enquiry the applicant has been exonerated. In the same matter the second Charge Memorandum also issued in respect of same 221 persons, by

Charge Memorandum dated 23.3.2001 cannot be allowed to proceed second time. By Other Charge Memorandum dated 5.11.2001, 5.12.2001, 10.12.2001 and 28.12.2001 are also found in respect of persons whose names are already included in the list of 221 persons. Thus though a joint enquiry was conducted earlier, separate Charge Memorandums have been filed for different groups of persons on the same allegations. Once the applicant has been exonerated he cannot be tried the second time. Consequently, none of the five Charge Memorandums can stand and they are to be quashed.

10. In view of the discussions made above, the Charge Memorandums dated 23.3.2001, 5.11.2001, 5.12.2001, 10.12.2001 and 28.12.2001 are quashed.

The O.A. is allowed to that extent. No costs.

SD/ VICE CHAIRMAN
SD/ MEMBER (ADM)

*Attended
B. B. B. B.*

W

No.269-4/93-SMT-II
Government of India
Department of Telecommunications
STN Section

New Delhi.

To

All Heads of Telecom. Circles/Metro Telecom. Distt.
All Heads of other Administration Offices,
All Heads of Mtce. Regions/Project Circles.

Dated 17 Dec 1993

Subject: Casual Labourers (Grant of Temporary Status and
Regularisation) Scheme, 1989 engaged in Circles
After 30.3.85 and upto 22.6.88.

Sir,

I am directed to refer to this office order No.269-4/93-STN dated 25th June,1993, wherein orders were issued to extent the temporary status to all these Casual Mazdoors who were engaged by the Project Circles/Electrification Circles, during the period 31.3.85 to 22.6.88 and who were still continuing for such works where they were initially engaged and who were not absent for the last more than 365 days counting from the date of issue of the above said orders.

2. The matter has further been examined in this office and it is decided that all those Casual Mazdoors who were engaged by the Circles during the period from 31.3.85 to 22.6.88 and who are still continuing for such works in the Circles where they were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of this order, be brought under the above said scheme.

3. The engagement of Casual Mazdoors after 30.3.85, in violation of the instructions of the Head Quarter, has been viewed very seriously & it is decided that all past cases wherein recruitment has been made in violation of instructions of the Head Quarter dtd. 30.3.85 should also be analysed and disciplinary action be initiated against defaulting officers.

4. It has, also been decided that engagement of any Casual Mazdoors after the issue of this order should be viewed very seriously and brought to the notice of the appropriate authority for taking prompt and suitable action. This should be the personal responsibility of the Heads of Circles, concerned DE/Class-II officers and amount paid to such Casual Mazdoors towards wages should be recovered from the person who has recruited/ engaged Casual Labour in violation of these instructions.

5. It is further stated that the services of all the Casual Mazdoors who have not rendered at least 240 days (206 days in the case of Administrative Offices observing 5 days a week) of service in a year on the date of issue of these orders, should be

Attended
W. B. B. B.
A. B. B.

- 2 -

terminated after following the conditions as laid down in I.D. Act. 1947 under Section 25.F, G & H.

6. These orders are issued with the concurrence of Member (Finance) vide U.O. No.3811/93-FA-I dated 1.12.93.

Hindi version follows.

Yours faithfully,

Sd/-

(S.K. DHAWAN)

ASSISTANT DIRECTOR GENERAL(STN)

Copy to :-

1. All the Staff members of Department JCM
2. All Recognized Unions/Associations
3. Budget/TE-I/TE-II/SSA/CWC/PAT/NCS/SR Sections of the Telecom Commission.
4. SPB-I Section, Department of Posts, New Delhi.

No.TF/NE/STAFF-45/VOL-V Dated at GH. the 29.2.93

Copy to :-

All Directors & DEs under T/F – for necessary action.

Sd/-

Assistant Engineer(Admn)
O/o the CGMT Task Force
Guwahati-781003.

Attended
by
G. Datta
Ran.

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TDE, TEZPUR
TEZPUR-784001.

No.X-1/CMPT/96-97/Con-7

Dated at Tezpur the 27th May, 96.

With reference to the CGMT, Assam Circle, Guwahati RJCM Minutes & C.O. forwarded under GMST/2/Vol-VI/58 dtd. 29.8.95 the under mentioned Casual Mazdoors/Part Time Casual Mazdoors are hereby conferred Temporary Status provisionally under the scheme "Casual Labour (Grant of temporary Status & Regularisation) with immediate effect.

The terms & conditions are as under :-

(I) Conferment of Temporary Status to the Casual Labours would not involve any change in their duties & responsibilities. The engagement will be on daily rate of pay on a need basis. They may be deployed any where within the recruitment unit/territorial Circles on the basis of availability of work.

(II) Each Casual Labours who acquire Temporary Status will not however, be brought on the permanent establishment unless they were selected through regular selection process for Group 'D' posts.

(III) Temporary Status would entitle the Casual Labourers to the following benefits.

(a) Wages at daily rate with reference to the minimum of the scale of pay for a regular Gr.'D' official including DA, HRA & CCA.

(b) Benefit in respect of increments in the pay scale will be admissible for every one year of service subject to performance of duty for at least 240 days in a year.

© Leave entitlement will be on a pro-rata basis, one day for every 10 days of work. Casual leave or any other kind of leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularization. They will not be entitled to the benefit of encashment of leave on termination of service for any reason or their quieting service.

(d) Counting of 50% of service rendered under Temporary Status for the purpose of retirement benefit after their regularization.

(e) After rendering three years continuous service on attainment of Temporary Status the Casual Labourers would be treated at par with temporary Gr.'D' employees for the purpose of contribution of G.P.F. & would also further be eligible for the grant of Festival Advance/ Flood Advance on the same conditions as per applicable to temporary

*Attested
By
[Signature]*

Gr.'D' employees, provided they furnish two sureties from permanent Govt. Servant of this department.

(f) Until they are regularized, they would be entitled to productivity linked bonus only at rates as applicable to casual labours.

(g) Despite conferment of temporary status, the service of a casual labourer may be dispensed with in accordance with the relevant provisions of the industrial disputes Act, 1947 on the ground of non availability of work. A casual labourer with temporary status can quit service by giving one month's notice.

(h) If a casual labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his services will be dispensed with they will not be entitled to the benefit of encashment of leave on termination of services.

(i) The payment will be given w.e.f. joining date.

N.B. Their names are not being arranged in order of seniority.

LIST OF CASUAL MAZDOORS/PART TIME MAZDOORS SELECTED FOR
CONFERRING TEMPORARY STATUS.

<u>SL. NO.</u>	<u>NAME OF THE CASUAL MAZDOOR.</u>	<u>WORKING UNDER</u>	<u>DT.ENTRY IN DEPT.</u>
<u>SDE(CABLE),TEZPUR.</u>			
1.	Arabinda Halai	SDECABL	03/02/88
2.	Pulin Bora	SDECABL	05/03/88
3.	Prasanta Koch	SDECABL	05/03/88
4.	Digambar Das	SDECABL	08/03/88
5.	Babul Bhuyan	-	11/03/88
6.	Jitu Talukdar	-	11/03/88
7.	Basanta Bijoy Mahanta	-	15/03/88
8.	Rana Sur	-	15/03/88
9.	Sankar Ghatak	-	15/03/88
10.	Uttam Saha	-	20/03/88
11.	Ranjit Das	-	26/03/88
12.	Mahesh Deka	-	26/03/88
13.	Ghanashyam Lahkar	-	26/03/88
14.	Kamal Ch. Das	-	26/03/88
15.	Nripen Ch.Haloi	-	26/03/88
16.	Balin Das	-	26/03/88
17.	Nipul Choudhury	-	26/03/88

*Attended
by
S. S. S.*

18.	Pulak Haloi	SDECABL	26/03/88
19.	Bipul Nath	-	28/03/88
20.	Babul Saikia	-	28/03/88
21.	Bijit Bora	-	28/03/88
22.	Smt. Kalpana Saikia	-	28/03/88
23.	Ramesh Ch. Nath	-	28/03/88
24.	Pankaj Chetri	-	28/03/88
25.	Bhaben Ch. Saikia	-	28/03/88
26.	Anil Thakur	-	28/03/88
27.	Mridul Deka	-	30/03/88
28.	Puran Ch. Nath	-	20/03/88
29.	Balin Swargiary	-	30/03/88
30.	Bhagya Sangma	-	30/03/88

SDE (COMPUTER), TEZPUR

1.	Rajib Gogoi	SDECOM	01/01/88
2.	Dharani Swargiary	-	01/01/88
3.	Naba Kumar Sarma	-	01/01/88
4.	Arani Ch. Talukdar	-	01/01/88
5.	Mridul Kr. Das	-	01/02/88
6.	Nagen Saikia	-	01/02/88
7.	Dandhar Das	-	01/02/88

SDE(CONSTRUCTION),TEZPUR

1.	Jiten Kr. Sut	SDECONS	19/04/88
2.	Prasanna Sarania	-	20/04/88
3.	Indreswar Bhuyan	-	21/04/88
4.	Kandanpa Saikia	-	22/04/88
5.	Ranaprasad Bodo	-	23/04/88
6.	Pankaj Sutradhar	-	25/04/88

SDE(PHONES),CHARIALI

1.	Jitu Sarmah	SDECLI	01/01/88
2.	Jyoti Prasad Saikia	-	01/01/88
3.	Dhanpad Swargiary	-	01/01/88
4.	Juri Sarma	-	01/01/88
5.	Kishore Kr. Pathak	-	01/01/88
6.	Maina Borah/Khargeswar Bora	-	01/01/88
7.	Babul Saikia	-	01/01/88
8.	Paban Kataki	-	01/01/88
9.	Gobinda Bhuyan	-	01/01/88
10.	Biren Das	-	01/01/88

*Attended
B. B. Bora
A. B. B.*

11.	Gagan Bhuyan	SDECLI	01/01/88
12.	Jiten Sarma	-	01/01/88 *heldup
13.	Gobinda Borah	-	01/01/88
14.	Coniram Sarmah	-	01/01/88
15.	Prabhat Sarmah	-	01/01/88
16.	Ramdeb Bhakat	-	01/01/88*heldup
17.	Tilak Bora	-	01/01/88
18.	Pranjal Kataki	-	01/01/88
19.	Abani Baruah	-	01/01/88
20.	Tunmoni Saikia	-	01/01/88
21.	Biren Bora	-	01/01/88
22.	Basanta Bhuyan	-	01/01/88
23.	Dharmendra Kr. Rai	-	01/01/88
24.	Pulin Borah	-	01/01/88
25.	Amika Barman	-	01/01/88
26.	Prabhat Kalita	-	15/02/88
27.	Deepen Bhuyan	-	15/02/88

*Held up due to non submission of Employment Exchange Card.

SDE(PHONES),DHEMAJI

1.	Bharat Basphore	SDEPDMJ	01/01/88
2.	Jayanta Phukan	-	01/01/88
3.	Kalyan Mech	-	01/02/88
4.	Biman Kr. Payeng	-	01/04/88
5.	Biren Duwarah	-	01/04/88
6.	Lila Ram Panyang	-	01/04/88
7.	Sunanda Sonowal	-	01/04/88
8.	Ananda Sonowal	-	01/04/88
9.	Monan Sonowal	-	01/04/88
10.	Nabin Sonowal	-	01/04/88
11.	Lolit Sonowal	-	01/04/88
12.	Prafulla Sonowal	-	01/04/88
13.	Cheni Ram Bora	-	01/05/88
14.	Robin Doley	-	01/05/88
15.	Khemachand Pegu	-	01/05/88
16.	Dinesh Pegu	-	01/05/88
17.	Kzamal Ch. Nath	-	01/05/88
18.	Babul Bora	-	24/04/88
19.	Kalipada Bora	-	23/03/88
20.	Thagi Ram Taye	-	25/03/88
21.	Bibekananda Pegu	-	25/03/88
22.	Gagan Deka	-	25/03/88

*Attested
by
[Signature]
[Signature]*

SDE(PHONES), TEZPUR.

1.	Anil Kumar Das	SDEPTZ	01/01/88
2.	Ranjan Adhikari	-	01/01/88
3.	Shivjyoty Majumder	-	01/01/88
4.	Ujjal Mahanta	-	01/01/88
5.	Abdul Karim	-	01/02/88
6.	Dipak Deka	-	01/02/88
7.	Satya Ranjan Kalita	-	01/02/88
8.	Mahesh Baroi	-	01/02/88
9.	Resmi Acharjee	-	01/02/88
10.	Swadesh Seal	-	01/02/88
11.	Debasis Das	-	01/02/88
12.	Ajit Das	-	01/02/88
13.	Abdul Jabbar	-	01/02/88
14.	Chintumoni Borah	-	01/02/88
15.	Siba Pd. Sarmah	-	01/04/88
16.	Nabajyoty Deka	-	01/05/88
17.	Jadav Deka	-	01/05/88
18.	Nanki Devi	-	01/06/88
19.	Nayan Kalita	-	01/06/88
20.	Reba Kanta Saikia	-	01/06/88
21.	Dinen Ch. Deka	-	01/06/88
22.	Phulena Basphore	-	01/07/88 4 hrs a day.

SDE(PHONES), UDALGURI

1.	Rahini Kanta Basumatary	SDEPUDL	01/05/88
2.	Bhupen Barman	-	01/05/88
3.	Moinul Haque	-	01/05/88
4.	Mozamil Haque	-	01/05/88
5.	Rajat Bhattacharjee	-	01/05/88
6.	Jatin Saloi	-	01/05/88
7.	Miran Daimary	-	02/05/88
8.	Nabin Rava	-	02/05/88
9.	Dayaram Bodo	-	03/05/88
10.	Durlab Baruah	-	16/04/88
11.	Binendra Basumatary	-	18/04/88
12.	Rajin Kr. Bodo	-	24/04/88
13.	Baneswar Bodo	-	25/04/88
14.	Nigam Swargiary	-	26/04/88
15.	Sanjoy Dutta	-	26/04/88
16.	Narendra Basumatary	-	27/04/88
17.	Kamaleswar Narzary	-	28/04/88
18.	Vama Kt. Chamlagain	-	28/04/88

*Attested
by
[Signature]*

19.	Biar Ali	SDEPUDL	28/04/88
20.	Biran Rava	-	30/04/88
21.	Tandram Bodo	-	30/04/88

SDO(PHONES), TEZPUR

1.	Bhaba Kt. Sarma	SDOPTZ	01/01/88
2.	Rajkumar Kataki	-	01/01/88
3.	Pradip Sut	-	01/01/88
4.	Pulak Ch. Mahanta	-	01/01/88
5.	Pradip Kr. Bora	-	01/01/88
6.	Babul Ch. Das	-	01/01/88
7.	Pradip Borah	-	01/01/88
8.	Narendra Katakya	-	01/01/88
9.	Ganesh Das	-	01/01/88
10.	Nagina Ray	-	01/01/88
11.	Ramesh Katel	-	01/01/88
12.	Gautam Kr. Paul	-	01/01/88

SDO(T), MANGALDOI

1.	Swapan Kr. Saha	SDOTMLD	01/01/88
2.	Indira Borah	-	01/01/88
3.	Inarmal Gowala	-	01/01/88*heldup
4.	Gajen Baruah	-	01/01/88
5.	Samshad Alam	-	01/01/88
6.	Binod Ch. Bodo	-	01/01/88
7.	Mazidur Rahman	-	01/01/88
8.	Taizuddin Ahmed	-	01/01/88
9.	Rabin Ch. Bodo	-	01/01/88
10.	Khagendra Nath Deka	-	01/01/88
11.	Sartaz Ahmed	-	01/01/88
12.	Sadhi Ram Deka	-	01/01/88
13.	Maznur Ali	-	01/01/88
14.	Babul Ch. Kalita	-	01/01/88

- held up due to non submission of Employment Exchange Card.

SDO(T) NORTH LAKHIMPUR

1.	Balo Saikia	SDOTNMP	01/01/88
2.	Ratneswar Sonowal	-	01/01/88
3.	Rohit Sonowal	-	01/01/88
4.	Dambaru Chutia	-	01/01/88

*Attended
by
B. B. Barua*

5.	Dilip Neog	SDOTNMP	01/01/88
6.	Maina Sonowal	-	01/01/88
7.	Jogeswar Borah	-	01/01/88
8.	Gahin Sonowal	-	01/01/88
9.	Dimbeswar Sonowal	-	01/01/88
10.	Jiten thengal	-	01/01/88
11.	Mahendra Chelleng	-	01/01/88
12.	Dhaniram Basumatary	-	01/01/88
13.	Rebat Sonowal	-	01/01/88
14.	Dimbeswar Saikia	-	01/01/88
15.	Motilal Mili	-	01/01/88
16.	Gobin Sonowal	-	01/01/88
17.	Lohit Borah	-	01/01/88
18.	Ghana Sonowal	-	01/01/88
19.	Lakeswar Sonowal	-	01/01/88
20.	Niju Hazarika	-	01/01/88
21.	Dibya Sonowal	-	01/01/88
22.	Atul Sonowal	-	01/01/88
23.	Prafulla Sonowal	-	01/01/88
24.	Giridhar Saikia	-	01/01/88
25.	Upendra Nath Saikia	-	01/01/88
26.	Siba Gogoi	-	01/01/88
27.	Nirmal Pawe	-	01/01/88
28.	Rudra Thengal	-	01/01/88
29.	Tulan Thengal	-	01/01/88
30.	Khargeswar Sonowal	-	01/01/88
31.	Anil Nath	-	01/01/88
32.	Ghana Kt. Sonowal	-	01/01/88
33.	Maheswar Saikia	-	01/01/88
34.	Jogen Sonowal	-	01/10/88

SDO(T), TEZPUR

1.	Dipali Hazarika	SDOTTZ	01/01/88
2.	Dwijen Baishya	-	01/05/88
3.	Atul Ch. Deka	-	01/05/88
4.	Mazibur Rahman	-	01/05/88
5.	Phulena(Golapmani)Baspore	-	01/05/88*Heldup
6.	Parimal Sarkar	-	10/05/88
7.	Sakiram Mazhi	-	15/05/88
8.	Karuna Ch. Lahkar	-	15/05/88
9.	Biswajit Malakar	-	15/05/88
10.	Mina Das	-	15/05/88
11.	Paramita Dey	-	20/05/88
12.	Rupen Ch. Das	-	21/05/88

*Attended
B. B. Das*

5

13.	Sanjoy Kr. Deb	SDOTTZ	21/05/88
14.	Dukhan Ray	-	21/05/88
15.	Anup Kr. Dutta	-	30/05/88
16.	Dina Kanta Ghatowal	-	01/06/88*heldup

- Held up due to non submission of Educational, Age Certificates & Employment Exchange card.

TDE, TEZPUR

1.	Manjula Das	TDETZ	01/01/88
2.	Sekhar Chetia	-	05/05/88
3.	Ranjan Das	-	05/05/88
4.	Aloke Shome	-	05/05/88
5.	Prasanta Das	-	05/05/88
6.	Sabitri Dasroy	-	07/05/88
7.	Ananda Rava	-	07/05/88
8.	Biswa Das	-	07/05/88
9.	Baneswar Baishya	-	07/05/88
10.	Rumi Kalita	-	07/05/88

Sd/-
TDE, Tezpur.

Copy for information to :-

1. CGMT/GH w.r.t. his letter No.
2. ADT(S&E),O/O CGMT,GH.
3. AMT/GH.
4. All Gr.'B' officers of Tezpur SSA
5. JAO's, SSS(Construction, Staff & General) O/O TDE,TZ.
6. Spares.
7. File No.E-38/CMPT/TZ.

Sd/-
TDE,Tezpur.

*Attested by
[Signature]
[Signature]*

Government of India
Department of Telecommunications
Office of The Chief General Manager Telecom Assam Circle
Ulubari Guwahati-7

NO. Rectt-3/10/Loos/Pt-V Dated at Guwahati the 18-9-96

To

Confidential

Recd ✓ Sri B.K. Goswami
Telecom Dist. Manager,
Tezpur

Sub:-

Conferment of Temporary status

Ref:-

TDE, TZ Memo No. X-1/CMFT/TA/Conf./97-98/38 dated
7-4-97

The case is examined in the context of the reports submitted by Tezpur during the preceding years wherein he consistently mentioned that no Casual Mazdoor has been engaged in the Tezpur SSA after 31-3-85. It follows from these reports that there is no Casual Mazdoor in the SSA. Obviously there showed not, in the normal course, arise a situation necessitating the conferment of Temporary status.

The Temporary status has been conferred solely on the basis of post facto certificate issued by line staff and countersigned by SDEs. Authenticity of these certificates has not been verified from Muster Roll paid voucher. There is also no supporting record indicating the sponsorship of Employment Exchange. The absence of these vital records has further complicated the issue and gives room for foulplay.

In view of the above anomaly it has been decided to cancel the order conferring the Temporary status. This should be followed by a renewed exercise to identify the Casual Mazdoors entitled for Temporary status on the basis of authenticated records as shown above. The exercise has to be completed within a period of one month. Simultaneously, the office who engaged the Casual Mazdoors in defiance of the ban order should be identified. I have been directed to request you to take action on the above line and to send detailed report in confidence.

(A.K. Cheleng)

Asstt. General Manager (Admn)
O/O The Chief General Manager,
Assam Telecom Circle Guwahati

Examine & take necessary action.
Summi
25/9/97

DE(P24)

Attended
W. S. D.

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TEL.COM. DISTRICT MANAGER, TEZPUR.

No. X-1/CMPT/96-97/Con.3

Dated at Tezpur, the 19-11-97

Memo No. X-1/CMPT/96-97/Con.7 dt. 20-10-97 issued
by D.E.(P&A), Tezpur may be treated as cancelled.

Sd:

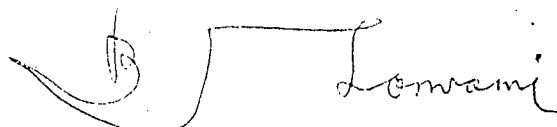
(D.K. Goswami.)

Telecom. District Manager,

Tezpur-784001.

Copy to:-

1. The C.G.M.T., Assam Telecom Circle, Guwahati - for information
~~and necessary action.~~
- ✓ 2. The D.E.(P&A), Tezpur - for information & necessary action.
3. The A.G.M.(Adm.), Guwahati - for information & ~~necessary~~
~~action.~~
4. All Group 'B' Officers.
5. The A.O.(Cash), C/O TDM/Tezpur.
6. File No. E-33/CMPT/Vol-III.

Lomami

Telecom. District Manager,

Tezpur-784001.

Attended
G. B. B. B.
Del.

90

No.X-1/CMPT/96-97/CON-7

Dated : 20.10.97 Tezpur.

With reference to the CGMT, Assam Telecom Circle Guwahati Office Order No. Rectt-3/10/Loos/Pt-V dated at Gauhati the 18.9.97, the provisional conferment of Temporary status to the casual Mazdoor at Tezpur vide the TDE/TZP order no: X-1/ CMPT/96-97/Con-7 dated 27.5.96 has been withdrawn with immediate effect. The entire exercise has to be completed within a period of one month from the date of issue of this letter. A Xerox copy of the above order is enclosed for reference and guidance.

(M.K. GOGOI)
DE(P&A) TEZPUR.

Copy to :-

1. The CGMT, Assam Telecom Circle, Gauhati for information and necessary action.
2. The TDM/Tezpur for information & necessary action.
3. The AGM(Admn) Gauhati for information & necessary action.
4. All Group-B officers.
5. The AO(Cash)
6. File No.E-38/CMPT/Vol-III.

DE(P&A)TEZPUR.

*Noted
for
action*

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELCOM. DISTRICT MANAGER, TEZPUR.

No. X-1/CMPT/96-97/Con.7

Dated at Tezpur, the 19-11-97

Memo No. X-1/CMPT/96-97/Con.7 dt. 20-10-97 issued
by D.E.(P&A), Tezpur may be treated as cancelled.

Sd:

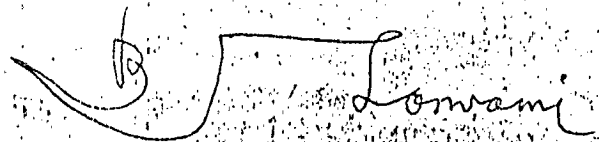
(B.K.Goswami.)

Telecom. District Manager,

Tezpur-784001.

Copy to:-

1. The C.G.M.T., Assam Telecom Circle, Guwahati - for information
~~and necessary action.~~
- ✓ 2. The D.E.(P&A), Tezpur - for information & necessary action.
3. The A.G.M.(Adm.), Guwahati - for information & necessary
~~action.~~
4. All Group 'B' Officers.
5. The A.O.(Cash), O/O TDM/Tezpur.
6. File No. E-33/CMPT/Vol-III.



Telecom. District Manager,

Tezpur-784001.

Attested
By
Adm.

No.8-180/2000-Vig.II
Government of India
Ministry of Communications
Department of Telecom

West Block-I, Wing-2
Ground Floor
R.K. Puram Sector-I
New Delhi-110066

Dated the 19th 2001
June

MEMORANDUM

The President proposes to have an inquiry held against Shri M.K. Gogoi, formerly TDE, Tezpur and now Director RTTC, Guwahati under Rule 14 of the CCS (CCA) 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 (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexures-III & IV).

A copy of the first stage advice of CVC for instituting major penalty proceedings against Shri M.K. Gogoi, is also enclosed.

2. Shri M.K. Gogoi is directed to submit within ten 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 M.K. Gogoi 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 M.K. Gogoi is invited to Rule 20 of the CCS (Conduct) Rules, 1964 under which no Government servant shall bring or attempt to bring any political


Contd... ..2

*Attested
[Signature]
[Signature]*

or outside influence to bear upon any superior authority to further his interests 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 M.K. Gogoi 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.

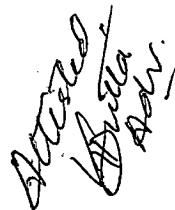
6. Receipt of this Memorandum may be acknowledged.

By order and in the name of the President.


(OM PARKASH)
ADG III (VIG II)

Encl: As above.

✓ Shri M.K. Gogoi,
Director;
RTTC, Guwahati.
(Through the CGM, BSNL, Assam Telecom Circle, Guwahati)



ANNEXURE-I

Statement of article of charge framed against Shri M.K. Gogoi, formerly TDE, Tezpur and now Director RTTC Guwahati.

ARTICLE

That the said Shri M.K. Gogoi while functioning as TDE, Tezpur during 1996 committed serious irregularities in as much as he in collusion with the Members of the Selection Committee constituted by him, regularised 34 numbers of Casual Mazdoors of North Lakshimpur as Temporary Status Mazdoors with mala fide intention although none of them was eligible for such regularisation that too without verifying the genuineness of the recommendations of different SDO's/SDE's and Experience Certificates issued by JTO/Lineman etc. and thus putting the Department to a huge financial loss.

Thus, by his above acts, the said Shri M.K. Gogoi failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Government servant thereby contravening the provisions of Rule 3 (1) (i), (ii) & (iii) of CCS (Conduct) Rules, 1964.

By order and in the name of the President.


(OM PARKASH)
ADG III (VIG II)


Shri M.K. Gogoi

ANNEXURE-II

Statement of imputations of misconduct/misbehaviour in support of article of charge framed against Shri M.K. Gogoi, formerly TDE, Tezpur and now Director, RTTC, Guwahati.

The said Shri M.K. Gogoi was functioning as TDE, Tezpur during 1996.

2. That the Directorate of Telecom, New Delhi issued a circular vide No. 269-4/93-STN-II dated 17-12-1993 for regularisation of Casual Labourers engaged in different circles of the Deptt. after 31-3-85 upto 22-6-88 and to appoint them as Temporary Status Mazdoors. In the said circular the following conditions are clearly mentioned in respect of the casual labourers, who are eligible for regularization under this scheme:

- (i) It extended the temporary status to all those casual mazdoors who were engaged by the Project Circle/Electrification circles during the period from 31-3-85 to 22-6-88 and who were still continuing for such works where they were initially engaged and who were not absent for the last more than 365 days counting from the date of issue of the said order dated 17-12-93.
- (ii) That all those causal mazdoors who were engaged as per the aforesaid Circular during the period from 31-3-85 to 22-6-88 and who are still continuing for such works in the circles, where they were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of this order, be brought under the said scheme.
- (iii) The engagement of casual mazdoors after 30-3-85 in violation of instructions of the Head Quarter, has been viewed seriously and it is decided that all past cases wherein recruitment has been made in violation of instructions of the Head Quarter should also be analysed and disciplinary action be initiated against defaulting Officers.
- (iv) That engagement of any casual mazdoor after the issue of the order should be viewed very seriously and brought to the notice of the appropriate authority for taking prompt and suitable action. This should be the personal responsibility of the Heads of Circles concerned/Class II Officers and amount paid to such Causal Mazdoors as wages should be recovered from the person(s) who has/have recruited/engaged casual mazdoors in violation of these instructions.
- (v) That the services of all the casual mazdoors who have not rendered at least 240 days (206 days in case of Administrative Offices observing 5 days a week) of service in a

*Attested
by
[Signature]*

[Signature]

year on the date of issue of those orders, should be terminated after following the conditions as laid down in I.D. Act, 1947 under Sec, 25 F.G. & H

(vi) These orders are issued with concurrence of Member (Finance) vide UO No. 3811/93-FA-1 dated 1-12-93.

3. That the above said circular/order dated 17-12-93 was sent to all Head of Telecom Circles, Metro Telecom district, all Heads of other Administrative Offices etc. The copy of this circular/order was circulated amongst the TDMs/TDEs under Assam Circle, Guwahati vide No. Rectt-3/10/General (E&R) for CGMT/Guwahati including TDE, Tezpur. The DE (P), Tezpur had also circulated the same to all Heads of Sub-Division vide endorsement No. E-98/Casual Labour/93-94/125 dated 28-1-1994 for information, guidance and necessary action.

4. That the field staff of Tezpur Telecom Division in collusion with these 34 persons, concerned JTOs and SDOs/SDEs, who issued 34 false and fabricated Experience Certificates in favour of the said 34 persons showing them as Casual Labourers working since 1988 to 1996 (Feb) and the same were got countersigned by the respective JTOs and SDOs/SDEs as a token of proof of their having worked under them without being based on any material evidences.

5. That the concerned SDOs/SDEs of Tezpur Telecom Division in collusion with Shri M.K. Gogoi, formerly TDE, Tezpur, forwarded all the Certificates to Shri M.K. Gogoi with their recommendation for consideration of the total 221 persons including these 34 casual mazdoors as Temporary Status Mazdoors (TSM). Shri M.K. Gogoi thereafter constituted a Selection Committee on 25-3-1996 with four persons namely (i) Shri P. Das, SDE (P), Tezpur (2) Shri U.C. Swargiary, AO (Cash), Tezpur (3) Shri D. Payeng SDO (P), Tezpur and (4) Shri A.K. Sarkar, SDE (HRD), O/o TDE, Tezpur for recommendation/selection of eligible casual labourers for regularisation as TSMs vide order No. X-1/CMPT/Tz/95-96/Con-1 dated 25-3-96.

6. That the Selection Committee had prepared/got prepared gradation list of all total 221 casual labourers including these 34 casual mazdoors sub-division wise and recommended for their regularisation as TSMs. Shri M.K. Gogoi, formerly TDE, Tezpur knowing fully that the said gradation lists were bogus and with malafide intention passed order for regularisation of 221 persons as TSM within his Telecom Division vide No. X-1/CMPT/96-97/Con-7 dated 27-5-96 by putting interest the of Department in jeopardy.

7. That it was within the knowledge of Shri M.K. Gogoi that no casual labourers were engaged in his SSA w.e.f. 31-3-85 as Shri K. Subramaniam, the then TDE, Tezpur had informed Shri S.C. Chakraborty, the then Assit. Director Telecom (E&R), O/o CGMT, Assam Circle, Guwahati vide his letter No. E-38/CMPT/VII.II/123 dated 7-12-93 in reply to a letter No. Rectt.3/10/Pt.III/5 dated 27-8-93 that no casual labourers were recruited in his SSA.

Attended
by
[Signature]

[Signature]

year on the date of issue of those orders, should be terminated after following the conditions as laid down in I.D. Act, 1947 under Sec. 25 F.G. & H

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4. That the field staff of Tezpur Telecom Division in collusion with these 34 persons, concerned JTOs and SDOs/SDEs, who issued 34 false and fabricated Experience Certificates in favour of the said 34 persons showing them as Casual Labourers working since 1988 to 1996 (Feb) and the same were got countersigned by the respective JTOs and SDOs/SDEs as a token of proof of their having worked under them without being based on any material evidences.

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7. That it was within the knowledge of Shri M.K. Gogoi that no casual labourers were engaged in his SSA w.e.f. 31-3-85 as Shri K. Subramaniam, the then TDE, Tezpur had informed Shri S.C. Chakraborty, the then Asstt. Director Telecom (E&R), O/o CGMT, Assam Circle, Guwahati vide his letter No. E-38/CMPT/VII.II/123 dated 7-12-93 in reply to a letter No. Rectt.3/10/Pl.III/5 dated 27-8-93 that no casual labourers were recruited in his SSA.

*Directed
by
[Signature]*

[Signature]

ANNEXURE-III

List of documents by which the articles of charge framed against Shri M.K. Gogoi, formerly TDE, Tezpur and now Director, RTTC, Guwahati are proposed to be sustained.

1. Gradation list of casual labours under SDO (T), North Lakshimpur.
2. Letter No.A-20/96-97/88 dated 1-5-1996 of SDO (T), North Lakshimpur addressed to TDE/Tezpur.
3. Attested copy of School Transfer certificate No. 21 dated 23-8-1991 of Gagaldubi Janajajti High School, Gagaldubi of Shri Gohin Sonowal S/o Khatiram Sonowal.
4. Attested copy of HSLC passed school certificate of Miss Niju Hazarika D/o Suren Hazarika passed from Badhakara High School.
5. Attested copy of leaving certificate No. 44 dated 10-2-1991 of Ruddhar Tengal S/o Haliram Tengal of Bhurbandha Jalbhari M.E. School, Gereki.
6. Attested copy of transfer certificate No.433 dated nil of Gagamukh Nagar High School, Moinapara of Shri Anil Nath.
7. List of 33 casual Majdoors under SDOT, North Lakshimpur duly recommended for conferring the status of TSM by selection committee.
8. Letter No.A-20/95-96/87 dated 15-3-1996 of ADOT, North Lakshimpur addressed to TDE/Tezpur in R/o casual laboures engaged after 30-3-1985 to 22-6-1988.
9. Certificate to Ghanakanta Sonowal issued by G. Das, SI.
10. Certificate to Maheswar Saikia issued by G. Das, SI.
11. Certificate to Bolo Saikia issued by G. Das, SI.
12. Certificate dated 11-3-1996 to Ratneswar Sonowal by G. Das, SI.
13. Certificate dated 11-3-1996 to Rohit Sonowal issued by G. Das, SI.
14. Certificate dated 11-3-1996 to Dambaru Chetia by G. Das, SI.
15. Certificate dated 11-3-1996 to Dilip Neog by G. Das, SI.
16. Certificate dated 11-3-1996 to Maina Sonowal by G. Das, SI.
17. Certificate dated 11-3-1996 to Jogeswar Borah by G. Das, SI.
18. Certificate dated 11-3-1996 to Gohin Sonowal by G. Das, SI.

*Attested
by
G. Das, SI.*

V

19. Certificate dated 11-3-1996 to Dimbeswar Sonowal by Maheswar Ray, SI.
20. Certificate dated 11-3-1996 to Jiten Thengal by Maheswar Ray, SI.
21. Certificate dated 11-3-1996 to Mahendra Chelleng by Maheswar Ray, SI.
22. Certificate dated 11-3-1996 to Dhaniram Basumatary by Maheswar Ray, SI.
23. Certificate dated 11-3-1996 to Rebot Sonowal by Maheswar Ray, SI.
24. Certificate dated 11-3-1996 to Dimeswar Saikia by G. Das, SI.
25. Certificate dated 11-3-1996 to Motilal Mili by G. Das, SI.
26. Certificate dated 11-3-1996 to Gobin Sonowal by G. Das, SI.
27. Certificate dated 11-3-1996 to Lohit Bara (Sonowal) by G. Das, SI.
28. Certificate dated 11-3-1996 to Ghana Sonowal by G. Das, SI.
29. Certificate dated 11-3-1996 to Lokeswar Sonowal by G. Das, SI.
30. Certificate dated 11-3-1996 to Miss Niju Hazarika by G. Das, SI.
31. Certificate dated 11-3-1996 to Dibya Sonowal by Md. Taslim.
32. Certificate dated 11-3-1996 to Atul Sonowal by Md. Taslim.
33. Certificate dated 11-3-1996 to Prafulla Sonowal by Md. Taslim.
34. Certificate dated 11-3-1996 to Giridhar Saikia by Md. Taslim.
35. Certificate dated 11-3-1996 to Upendra Nath Saikia by Md. Taslim.
36. Certificate dated 11-3-1996 to Siba Gogoi by Md. Taslim.
37. Certificate dated 11-3-1996 to Nirmal Pawe by Md. Taslim..
38. Certificate dated 11-3-1996 to Jogen Sonowal by Md. Taslim
39. Certificate dated 11-3-1996 to Radha Thengal by G. Das, SI.
40. Certificate dated 11-3-1996 to Tulon Thengal by G. Das, SI.
41. Certificate dated 11-3-1996 to Khargeswar Sonowal by G. Das, SI.
42. Certificate dated 11-3-1996 to Babul Nath (a) Anil Nath by M. Ray, SI.
43. Absence statement of TSM under SDO (T), North Lakshimpur for the Month of June '96 to Oct' 97.
44. Absentee statement of TSM under SDO (P), North Lakshimpur for the month of September '96 to October' 97.
45. Statement of Salary of TSM under SDO (P), North Lakshimpur for June, July & August, 1996.
46. Attendance Register of TSM under SDO (T) North Lakshimpur.

Attested,
B. D. Barua

V

47. Joining reports of TSMS.
48. Promotion order of Shri Guneswar Das and Md. Taslim order No. E-198/OTBP/88-89/149 dated 20-7-1988 of TDE, Tezpur.
- ✕ 49. Promotion order of Shri Guneswar Das and Md. Taslim as Lineman vide order No. E-198/OTBP/III dated 24-3-1997 of TDE, Tezpur.
50. Promotion order of Shri Maheswar Ray as Sub Inspector vide order No. E-198/OTBP/90-91/15 dated 7-6-1990 of TDE, Tezpur.
51. Joining report dated 22-4-1989, 26-6-1990 & 23-2-1997 earned leave application dated 30-12-1989, 6-9-1990, 1-6-1996 & C.L. application dated 2-1-1996 of Shri Maheswar Ray SI under SDOT, North Lakshimpur.
52. Joining report dated 21-1-1981 and Earned Leave application for 5 days w.e.f. 5-3-1995 dated Nil and dated 27-2-1986 of Shri Guneswar Das, SI under SDO (T). North Lakshimpur.
53. Joining order dated 5-12-1990 & Earned Leave applications dated 6-12-1989, 26-10-1990 15-5-1997 & 23-1-1998 of Md. Taslim the then SI under SDOT, North Lakshimpur.
54. Seizure memo dated 20-11-1997
- ✕ 55. —do - , dated 6-6-1998.
56. — do - dated 23-7-1998.
57. — do - dated 8-9-1998.
58. — do - dated 16-11-1998.
59. Order No.X-1/CMPT/96-97/Con-7 dated 27-5-1996 of TDE, Tezpur in R/o regularisation of casual labours under SDOT, North Lakshimpur as TSM.
60. Letter No. E-38/CMPT/Vol. III/96-97/15 dated 30-8-1996 of TDE, Tezpur addressed to DGM (Admn), O/o CGMT, Assam Circle, Guwahati regarding engagement of casual labourers.
61. Letter No. X-1/CMPT/TZ/95-96/Confdl/1 dated 25-3-1996 of TDE, Tezpur in respect of constitution of selection committee for conferring casual labours to TSM.

*Attested
by
B. D. Das*

[Signature]

62. Letter No. E-38/CMPT/94-95/168 dated 17-2-1995 of TDE, TZ addressed to Asstt. Director Telecom (E&R), O/o CGMT, Guwahati in respect of Nil report of casual labours w.e.f. 31-12-1993 onwards.
63. Letter No. E-38/CMPT/Vol.II/123 dated 7-12-1993 of TDE, Tezpur addressed to Asstt. Director Telecom (E&R), O/o CGMT, Guwahati in respect of Nil report of recruitment of casual labour after 31-3-1985.
64. Original letter No. 269-14/93-STN. II dated 17-12-1993 of Asstt. Director General (STN), New Delhi in respect of regularisation of casual labours engaged in circles after 30-3-1985 and upto 22-6-1988.
65. Letter No. 269-8/93-STN dated 29-7-1993 of Asstt. Director General (STN), New Delhi.
66. Letter No. Rectt. 3/10/Part.III/3 dated 26-8-1993 of Asstt. Director Telecom (E&R), O/o CGMT, GHY addressed to TDE, Tezpur.
67. Letter No. TDM/Tez/1005/CBI dated 11-8-1998 of Shri B.K. Goswami, TDM, Tezpur in respect of non-availability of payment documents ACG-17.
68. Letter No. 270/6/84-STN, New Delhi dated 30-3-1985 of Shri S. Krishnan, Director (ST), Posts & Telegraph in respect of banning of engagement of casual labours.
- X 69. FIR of the case.
- X 70. Part-III, Central Civil Services Group 'C' of CCS (CCA) Rules in respect of Authority competent to impose penalties under Rule 11.



*Attested by
[Signature]
[Signature]*

ANNEXURE-IV

List of witnesses by whom articles of charge framed against Shri M.K. Gogoi, formerly TDE, Tezpur and now Director, RTTC, Guwahati are proposed to be sustained.

1. Md. Islam Ahmed S/o Late Sh. Basiruddin Ahmed, Chief Accounts Officer, O/o TDM, Tezpur.
2. Shri B.K. Goswami, TDM, Tezpur R/o 100/5 Jessore Road, Dum-Dum, Bhagabati Park, Calcutta-74.
3. Shri Upen Swargswary, Sr. Accounts Officer, O/o TDM, Tezpur R/o Indira Nagar, PS & PO- Tezpur, Sonitpur (Assam).
4. Shri Ajit Kumar Sarkar, the then SDE (HRD) and now SDO (T), Tezpur R/o Village & P.O. - Dhekiajuli Ward No. 6, District-Sonitpur.
5. Shri Dharmeswar Payeng, the then SDO (P), Tezpur and now DE (Phones), Jorhat R/o Town Bantu, North Lakshimpur, Ward. No. 14.
6. Shri P. Das, the then SDE (Phones), Tezpur.
7. Shri B.C. Pal, Asstt. Director Telecom (E&R), O/o CGMT, Guwahati.
8. Shri Gajanan Deuri, Sr. Section Supervision (S.S.S.) under SDOT North Lakshimpur S/o Late Shri Maya Singh Deuri R/o Nakari Nagar, Baptist Mission Path, P.O. & P.S. North Lakshimpur.
9. Shri N.C. Kakati, JSO under SDOT, North Lakshimpur.
10. Shri K. Barman, I.O. or the Case.
11. Shri Gunja Ram Deuri, Sr. Telecom Supervision, O/o SDO (P) North Lakshimpur.
12. Shri H.S. Debnath, JAO, O/o TDM, Tezpur.



*Attested
by
[Signature]
[Signature]*

-64-
SN 5(I)

12
6/N
(9 4)

CONFIDENTIAL

NO.000/P&T/070. P&T case against the following
GOVERNMENT OF INDIA
CENTRAL VIGILANCE COMMISSION

Satarkta Bhawan,
TDE, IG: P.O. Complex,
Block-A, I.N.A.
New Delhi, the
then TDE and others- D/o Telecom.

04 AUG 2000

OFFICE MEMORANDUM

SIP: R.C.No. 14(A)/97-SHG against Shri M.K.Gogoi, the
then TDE and others- D/o Telecom.

Department of Telecom may please refer to their
I.O. Note No. 9-41/2000-Vig.I dated 16.06.2000 on the
subject cited above.

Commission in consonance with the recommendations
of the Department of Telecom advises initiation of major
penalty proceedings against Shri M.K.Gogoi, the then TDE
and 45 others. Department may hold inquiry proceedings
by appointing their own I.O and revert to the Commission
for second stage advice alongwith their recommendations
emanated from the findings of I.O's report.

Department's F.No. 9-41/2000-Vig.I has already
been returned vide Commission's D.O letter No.
000/P&T/070 dated 19.07.2000.

oel
(S.M.Batra)
Director
ROR
3/8

Attended
Adm.

Department of Telecom.
(Shri Ranbir Khanna, Sr.DDG(V))
New Delhi.

ISOM
ROR
W/S

DESPATCH UNIT	
C.V.C.	
Received	04 AUG 2000
Issued	Sign.

72

No.8-15/2001-Vig.II
Government of India
Ministry of Communications
Department of Telecom

West Block-I, Wing-2
Ground Floor
R.K. Puram Sector-I
New Delhi-110066

Dated 7-3-2002

MEMORANDUM

The President proposes to have an inquiry held against Shri M.K. Gogoi, formerly TDE, Tezpur and now Director, (RTTC), Guwahati under Rule 14 of the CCS (CCA) 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 (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexures-III & IV).

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2. Shri M.K. Gogoi is directed to submit within ten 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 M.K. Gogoi 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 M.K. Gogoi is invited to Rule 20 of the CCS (Conduct) Rules, 1964 under which no Government servant shall bring or attempt to bring any political


Contd.....2

*Attended
by
[Signature]*

or outside influence to bear upon any superior authority to further his interests 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 M.K. Gogoi 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. Receipt of this Memorandum may be acknowledged.

By order and in the name of the President.


(OM PARKASH)
ADG III (VIG II)

Encl: As above.

Shri M.K. Gogoi. ✓
Director (RTTC),
Guwahati
(Through the CGM, BSNL, Assam Circle, Guwahati)

*Noted,
B. B. B.*

ANNEXURE-I


Statement of Article of Charge framed against Shri M.K. Gogoi, formerly TDE, Tezpur and now Director, RTTC, Guwahati.

ARTICLE

That the said Shri M.K. Gogoi while functioning as TDE, Tezpur during 1996 committed serious irregularities in as much as he in collusion with the Members of the Selection Committee constituted by him, regularized 22 numbers of Casual Mazdoors of SDE (P), Tezpur as Temporary Status Mazdoors with mala fide intention although none of them was eligible for such regularization that too without verifying the genuineness of the recommendations of different SDO's/SDE's and Experience Certificates issued by JTO/Lineman etc. and thus putting the Department to a huge financial loss.

Thus, by his above acts, the said Shri M.K. Gogoi failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Government servant thereby contravening the provisions of Rule 3 (1) (i), (ii) & (iii) of CCS (Conduct) Rules, 1964.

By order and in the name of the President.


(OM PARKASH)
ADG III (VIG II)

*Attested
By
[Signature]
[Signature]*

Statement of imputations of misconduct/misbehaviour in support of Article of Charge framed against Shri M.K. Gogoi, formerly TDE, Tezpur and now Director, RTTC, Guwahati.

The said Shri M.K. Gogoi was functioning as TDE, Tezpur during 1996.

2. That the Directorate of Telecom, New Delhi issued a circular vide No. 269-4/93-STN-II dated 17-12-1993 for regularization of Casual Labourers engaged in different circles of the Deptt. after 31-3-1985 upto 22-6-1988 and to appoint them as Temporary Status Mazdoors. In the said circular, the following conditions are clearly mentioned in respect of the casual labourers, who are eligible for regularization under this scheme:

- i) It extended the temporary status to all those casual mazdoors who were engaged by the Project Circle/Electrification circles during the period from 31-3-1985 to 22-6-1988 and who were still continuing for such works where they were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of this order, be brought under the said scheme.
- ii) That all those casual mazdoors who were engaged as per the aforesaid Circular during the period from 31-3-1985 to 22-6-1988 and who are still continuing for such works in the circles, where they were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of this order, be brought under the said scheme.
- iii) The engagement of causal mazdoors after 30-3-1985 in violation of instructions of the Head Quarter, has been viewed seriously and it is decided that all past cases wherein recruitment has been made in violation of instructions of the Head Quarter should also be analysed and disciplinary action be initiated against defaulting officers.
- iv) That engagement of any casual mazdoor after the issue of the order should be viewed very seriously and brought to the notice of the appropriate authority for taking

2 *Attended,*
BB
BB

prompt and suitable action. This should be the personal responsibility of the Heads of Circles concerned/Class II Officers and amount paid to such Casual Mazdoors as wages should be recovered from the person(s) who has/have recruited/engaged casual mazdoors in violation of these instructions.

v) That the services of all the casual mazdoors who have not rendered at least 240 days (206 days in case of Administrative Officers observing 5 days a week) of service in a year on the date of issue of those orders, should be terminated after following the conditions as laid down in I.D. Act, 1947 under Sec. 25 F.G. & H.

vi) These orders are issued with concurrence of Member (Finance) vide UO No. 3811/93-FA-1 dated 1-12-1993.

3. That the above said circular/order dated 17-12-1993 was sent to all Heads of Telecom Circles, Metro Telecom District, all Heads of other Administrative Offices etc. The copy of this circular/order was circulated amongst the TDMs/TDEs under Assam Circle, Guwahati vide No. Rectt-3/10/General (E&R) for CGMT/Guwahati including TDE, Tezpur. The DE (P), Tezpur had also also circulated the same to all Heads of Sub-Divisions vide endorsement No. E-98/Casual Labour/93-94/125 dated 28-1-1994 for information, guidance and necessary action.

2 to 10 ✓ 4. That the field staff of Tezpur Telecom Division in collusion with these 22 persons, concerned JTOs and SDOs/SDEs, who issued 21 false and fabricated Experience Certificates in favour of the said 22 persons showing them as Casual Labourers working since 1988 to 1996 (Feb) and the same were got countersigned by the respective JTOs and SDOs/SDEs as a token of proof of their having worked as Casual Mazdoors under them without being based on any material evidences.

5. That the concerned SDOs/SDEs of Tezpur Telecom Division in collusion with Shri M.K. Gogoi, formerly TDE, Tezpur, forwarded all the Certificates to Shri M.K. Gogoi with their recommendation for consideration of the total 221 persons including these 22 casual mazdoors as Temporary Status Mazdoors (TSM). Shri M.K. Gogoi thereafter constituted a Selection Committee on 25-3-1996 with four persons namely (1) Shri P.Das, SDE (P), Tezpur (2) Shri U.C. Swargary. AO (Cash), Tezpur (3) Shri D.

Attended
by
[Signature]

Mayeng SDO (P), Tezpur and (4) Shri A.K. Sarkar, SDE (HRD), O/o TDE, Tezpur for recommendation/selection of eligible casual labourers for regularization as TSMs vide order No. X-1/CMPT/Tz/95-96/Con-1 dated 25-3-1996.

6. That the Selection Committee had prepared/got prepared gradation list of all total 221 casual labourers including these 22 casual mazdoors sub-division wise and recommended for their regularization as TSMs. Shri M.K. Gogoi, formerly TDE, Tezpur knowing fully that the said gradation lists were bogus and with malafide intention passed order for regularization of 221 (including these 22 casual mazdoors) persons as TSM within his Telecom Division vide No. X-1/CMPT/96-97/Con-7 dated 27-5-1996 by putting interest of the Department in jeopardy.

7. That it was within the knowledge of Shri M.K. Gogoi that no casual labourers were engaged in his SSA w.e.f. 31-3-1985 as Shri K. Subramaniam, the then TDE, Tezpur had informed Shri S.C. Chakraborty, the then Asstt. Director Telecom (E&R), O/o CGMT, Assam Circle, Guwahati vide his letter No. E-38/CMPT/Vol. II dated 7.12.1993 in reply to a letter No. Rectt.3/10/Pt.III/5 dated 27-8-1993 that no casual labourers were recruited in his SSA.

8. That Shri Gogoi had informed the Assam Telecom Circle vide his letter No. E-38/CMPT/94-95/168 dated 17-2-1995 and letter No. E-38/CMOT/Vol.III/96-97 dated 13-8-1996 that no casual labourers have been engaged in his division.

9. Even after appointing these 22 casual mazdoors conferring on them TSM status on 27-5-1996 Shri M.K. Gogoi was also found to have issued a false certificate to Shri M.K. Sudarsanam, DGM (Admn) vide his letter No. E-38/COMPT/Vol. III/96-97/15 dated 30-8-1996 certifying with reference to DGM's letter No. 1-3/COMPT/96 dated 20-8-1996 that no casual mazdoor was engaged in his division except 21 casual labourers in Traffic Wing on permanent basis. Shri M.K. Gogoi issued this letter when DGM wanted to fix responsibility for taking action against those who were responsible for making appointments of casual employees in spite of the ban order issued earlier.

1. started by ~~Dr. Dr.~~

10. Shri Gogoi again vide his letter No. X-1/COMPT/Confdl/29 dated 12-9-1996 addressed to Shri A. Baruah, AD Employment Exchange intimated that no employment in Grade 'D' under his SSA was made in view of total ban in employment.

11. It is also revealed that Shri M.K. Sudarsanam, DGM (Admn) vide his DO letter addressed to Shri B.K. Goswami, TDM informed him that the statement furnished to them vide letter No. E-38/COMPT/Vol. III/96-97/15 dated 30-8-1996 and No. X-I/COMPT/96-97/21 dated 7-8-1996 were contradicting to the information given by their SSA, regarding casual mazdoors. He was aghast as to how a 'nil' report has been sent by their SSA and at the time of relaxation of the ban order, TDE had appointed these 22 casual employees of SDEP, Tezpur out of 221 casual employees as TSM in 1996. He requested Shri Goswami to look into the matter and fix responsibility on all erring officers.

✓ 12. On the basis of recommendation of Shri P. Das, formerly SDE (Phones), Tezpur, Shri M.K. Gogoi issued order vide No. S-I/COMPT/96-97/CON/24 dated 14-8-1996 selecting them as TSM.

Thus, by his above acts, the said Shri M.K. Gogoi failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Government servant thereby contravening the provisions of Rule 3 (1) (i), (ii) & (iii) of CCS (Conduct) Rules, 1964

K. K. DAS

Noted!
B. K. Das

LIST OF DOCUMENTS BY WHICH THE ARTICLE OF CHARGE FRAMED AGAINST SHRI M.K. GOGOI FORMERLY TDE, TEZPUR NOW DIRECTOR, RTTC, GUWAHATI ARE PROPOSED TO BE SUSTAINED.

1. Certificate issued in favour of Smt. Chintamani Bora, D/O. Purna Bora by A.B. Dutta, P.I. (2 sheets).
2. Certificate issued in favour of Sh. Nayan Kalita, S/O Lt. Dhaniram Kalita by Jiten Baruah, L.M. (two sheets).
3. Certificate issued in favour of Abdul Jabbar S/O Lt. Equisur Ali by Balju Rai C/S (two sheets).
4. Certificate issued in favour of Hunki Devi D/O. Bharat Ray by Medini Baruah, Tech (Two sheets).
5. Certificate issued in favour of Dinan Ch. Deka S/O. Lt. Surya Deka by Jiten Baruah, L.M. (two sheets).
6. Certificate issued in favour of Ranjan Adhikary S/O. C. Adhikary by A.B. Dutta, P.I. for 1988, 1989 (two sheets).
7. Certificate issued in favour of Ranjan Adhikary L. Medini Baruah, Tech from 1989 to 1996 (two sheets).
8. Certificate issued in favour of Ajit Das S.O. Jogen Ch. Das by Jogen Ch. Baruah, S.I. for 1988 to 1996 (two sheets).
9. Certificate issued in favour of Ajit Baruah by D. Saha, JTO for 1996 (two sheets).
10. Certificate issued in favour of Shivjyoti Hazumdar S/O Lt. Arun Kr. Hazumdar by A.B. Dutta, P.I. for 1991 (two sheets).
11. Certificate issued in favour of Shivjyoti Hazumdar by D. Saha, JTO from 1991 to 1996 (two sheets).
12. Certificate issued in favour of Bipak Deka S/O. Kanta Deka by A.B. Dutta, P.I. for 1988 to 1991 (two sheets).
13. Certificate issued in favour of Bipak Deka by D. Saha, JTO for 1991 to 1996 (two sheets).
14. Certificate issued in favour of Satya Ranjan Kalita S/O Lt. Rupeswar Kalita by Jogen Ch. Baruah S.I. for 1988 to 1996.
15. Certificate issued in favour of Deba Das by A.K. Das by Jogen Ch. Baruah for 1988 to 1996 (two sheets).
16. Certificate issued in favour of Debasis Das for 1988 to 1996 (two sheets).
17. Certificate issued in favour of Chadesha Seal Lt. Parash Seal by Jogen Ch. Baruah, S.I. for 1988 to 1996 (two sheets).

*Submitted
to
H.D. Baruah
for
approval*

18. Certificate issued in favour of Shades Seal by Hemanta Bora for 1992 to 1996 (two sheets).
19. Certificate issued in favour of Reba Kanta Saikia S/O Lt. Hari Kanta Saikia by Sukan Ray, S.I. for 1988 to 1996 (one Sheet).
20. Certificate issued in favour of Abdul Karim S/O. Lt. Equisur Ali by A.B.Dutta P.I. for 1988 to 1991 (two sheets).
21. Certificate issued in favour of Abdul Karim by Hemanta Bora TTA (PRX) for 1991 to 1996 (two sheets).
22. Certificate issued in favour of Jadav Deka S/O. Jagnu Deka by Baiju Rai C/S for 1988 to 1996 .
23. Certificate issued in favour of Mahesh Baroi S/O. Lt. Manindra Baroi by A.D.Dutta, P.I. for 1988 to 1992 (two sheets).
24. Certificate issued in favour of Mahesh Baroi by Hemanta Bora for 1992 to 1996 (Two sheets).
25. Certificate issued in favour of Rashmi Acharjee D/O. Sushil Acharjee by A.B.Dutta, P.I. for 1988 and 1989 (two sheets).
26. Certificate issued in favour of Reshmi Acharjee by Sarat Hazarika, S. S(O) for 1990 to 1996 (two sheets).
27. Certificate issued in favour of Anil Kumar Das S/O. Kanak Ch.Das by A.B.Dutta, P.I. for 1988 to 1991 (two sheets).
28. Certificate issued in favour of Anil Kr. Das by Hemanta Bora, TTA (PRX) for 1991 to 1996 (two sheets).
29. Certificate issued in favour of Nabajyoti Deka S/O. Kamaleswar Deka for 1988 to 1996 by Baiju Rai, C/S (two sheets).
30. Certificate issued in favour of Shiva Prasad Sharma, S/O Lt. Hari Prasad Sharma by A.B.Dutta, P.I. for 1988 to 1996 (two sheets).

File No.8 of SDE(Phones) Tezpur Contains:

31. Recommendation sheet of Selection Committee in respect of Casual labourers of 22 Nos. (four sheets).
32. List of twenty one no. daily rated Mazdoors vide letter No.E-27/DRM/95-96/9 dt. 1.3.96 of Shri Prantosh Das, SDE(Phones), Tezpur with his recommendation.
33. Request letter of Shri Shiva Prasad Sharma for temporary Status Mazdoor with no. of days he worked yearwise from 1988 to 1996, duly certified and recommended by Sh. Prantosh Das, SDE (Phones), Tezpur.

Attended by [Signature]

-74-

21

File No. 1 of SDE (Phones), Tezpur.

35. Letter No. E-27/CM/96-97/2 dated 13.5.96 of P. Das, SDE (Phones), Tezpur addressed to Telecom District Engineer, Tezpur in r/o conferring of TSM to Casual / part time labourers.

36. Graduation List of 22 Nos. Casual labourers duly recommended by Selection Committee.

36. Proforma of 22 Nos. Casual labourers submitted by P. Das, SDE (Phones), Tezpur (two sheets).

37. H.S.L.C. Examination passed Certificate of Sh. Ajit Das, passed in 1992 from Vivekananda Vidyapeeth H.S. School, Tezpur (attested copy).

38. H.S.L.C. Exam. passed certificate of Abdul Jabbar passed in 1989 from Barmi High School, Barmi, Kamrup, now Dist. Nalbari (attested copy).

39. ADMIT Card to H.S.L.C. Exam - 1995 of Miss Chintamani Bora of SEBA No. 62573 (attested copy).

40. ADMIT Card No. 128702 and Certificate to H.S.L.C. Examination in 1991 of Hayan Kalita (2 Nos. attested copy).

41. H.S.L.C. Passed certificate of Sh. Navajyoti Deka passed in 1990 as a regular candidate from Tezpur Govt. H.S. School (attested copy).

42. Certificate No. 480 dt. 12.3.96 of H.S.L.C. Exam. 1991 passed Certificate of Sh. Jadav Deka.

45. Promotion / Posting order of Sh. Sarat Ch. Hazarika w.e.f. 20.4.88 vide order No. E-148/OTNP/90-91/45 dt. 25.9.90 of T.D.E., Tezpur.

46. Joining report dt. 17.7.96 of Sh. Hemanta Bora as TIA (PRX), Tezpur.

47. Posting Order No. E-4/P1/TFR/83-84/218 dt. 30.7.83 of DET, Tezpur in r/o. posting of Sh. Ashim Bijoy Dutta as Phone Inspector (P.I.) w.e.f. 9.7.83.

48. Joining report dt. 9.7.83 of Sh. Ashim Bijoy Dutta, as P.I..

49. Posting Order No. E-12/LN/84-85/223 dt. 18.10.84 of Shri Jiten Barma as Lineman at Tezpur.

50. Letter No. X-1/CMPT/96-97/CON-7 dt. 27.5.96 of TDE, Tezpur in r/o order for regularisation of Casual Labourers under SDE(P) Tezpur as TSM (relevant file page-4) (total 7 sheets) original in RC.10(A)/97).

51. Joining report of Sh. Shikhyoti Hazumdar dt. 30.6.96 as TSM.

Attended
Bhola
Adm.

82 ✓

- obj
52. Joining report of Sh. Nanki Devi, dt. 30.5.96 as TSM.
 53. Joining report of Sh. Hjjali Mahanta dt. 30.5.96 as TSM.
 54. Joining report of Sh. Ajit Das, dt. 30.5.97 as TSM.
 55. Joining report of Sh. Swadesh Shil dt. 30.5.96 as TSM.
 56. Joining report of Sh. Reshmi Acharjee dt. 30.5.96 as TSM.
 57. Joining report of Miss Chintamani Bora, dt. 30.5.96 as TSM.
 58. Joining report of Sh. Debasis Das dt. 30.5.96 as TSM.
 59. Joining report of Sh. Reba Kanta Salkia dt. 30.5.96 as TSM.
 60. Joining report of Sh. Jadav Deka dt. 30.5.96 as TSM.
Joining report of Abdul Jabbar dt. 30.5.96 as TSM.
 62. Joining report of Dinen Deka dt. 30.5.96 as TSM.
 63. Joining report of Nayan Kalita dt. 30.5.96 as TSM.
 64. Joining report of Ranjan Adhikary dt. 30.5.96 as TSM.
 65. Joining report of Mahesh Baroi dt. 30.5.96 as TSM.
 66. Joining report of Satya Ranjan Kalita dt. 30.5.96 as TSM.
 67. Joining report of Abdul Karim dt. 30.5.96 as TSM.
 68. Joining report of Dipak Deka dt. 30.5.96 as TSM.
 69. Joining report of P. Basphare dt. 30.5.96 as TSM.
 70. Joining report of Anil Kr. Das dt. 30.5.96 as TSM.
 71. Joining report of Nabajyoti Deka dt. 30.5.96 as TSM.
 72. Acquittance Roll in r/o. TSM under SDE (Phones) Tezpur for June, July, and August, 1996 (Total 05 Sheets).
 73. Attendance Register of TSM under SDE(P) Tezpur for June '96 to Nov. '97 in respect of Tezpur Telephone TK Exge.
 74. Attendance Register of TSM under SDE(P) Tezpur for June '96 to Feb '98 in r/o. Tezpur Telephone Exge.
 75. Attendance register of TSM under SDE(P) Tezpur for June '96 to Nov '97 in r/o O/O SDE(Phones) Tezpur.

attested
[Signature]
[Signature]

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76. Letter No.E-38/CMPT/VOL-III/96-97/15 dt. 30.8.96 of TDE, Tezpur addressed to Dy.GM (Admn), O/O CGMT, Assam Circle, Guwahati regarding engagement of casual labourer (File No. X-1/CMPT/TZ/Confdl., 1996 relevant page 72).

(Original letter at Sl. No.2406 listed documents in RC.10(A)/97-SHG)

77. Letter No. X-1/CMPT/TZ/95-96/Confdl/1 dt. 25.8.96 of TDE, Tezpur in r/o. constitution of selection committee for conferring casual labourers to TSM (File No. X-1/CMPT/TZ/Confdl., 1996 relevant page -15).

(Original letter listed document Sl.No.26 in RC.10(A)/97-SHG).

78. Letter No.E-38/CMPT/94-95/168 dt. 17.2.95 of TDE, Tezpur, addressed to Asstt. Director Telecom (E&R), O/O DGMT, Guwahati in r/o. NIL report of Casual Mazdoor w.e.f. 31.12.93 onward (File No.Rectt-3/10(Part-II)/Loose, Rectt-3/10/Part-II of O/O CGMT, Guwahati relevant page -117).

(Original letter at listed document Sl.No.28 in RC.10(A)/97-SHG).

79. Letter No.E-38/CMPT/Vol-III/123 Dt. 7.12.93 of TDE, Tezpur addressed to Asstt. Director Telecom (E&R) O/O CGMT, Guwahati in r/o NIL report of recruitment of Casual Labour after 31.3.85 (File No.Rectt.3/10(Part-II)/Loose, Rectt.3/10/Part-III of O/O CGMT, Guwahati relevant page -76)

(Original letter at listed document at Sl.No.29 in RC.10(A)/97-SHG).

80. Original letter No.269-4/93-STN-11 dt. 17.12.93 of Asstt. Director General (STN) New Delhi in r/o regularisation of Casual labourers engaged in Circles after 30.3.85 and upto 22.6.88. (File No. Rectt.3/10(Part-II)/Loose, Rectt. 3/10/Part-III of O/O CGMT, Guwahati, relevant page-35)

(Original letter listed document Sl.No.30 in RC.10(A)/97-SHG).

81. Letter No.289-8/43-STN dt. 29.7.93 of Asstt. Director General (STN), New Delhi.

82. L/No. rectt.3/10/Part-III/3 dated 26.8.93 of Asstt. Director Telecom (E&R) O/O CGMT, Guwahati addressed to TDE, Tezpur.

(Sl.No.81 and 82 are in the same file at Sl No.79 above).

83. Letter No.E-38/CMPT/VOL. III/96-97/15 dt.30.8.96 of TDE, Tezpur addressed to Dy.GM (Admn), O/O CGMT, Guwahati in r/o. engagement of Casual labour (NIL report) (File No.Rectt.3/10/Part-V of O/O CGMT, Guwahati, relevant page-4).

(Original letter at listed document Sl.No.33 in RC.10(A)/97-SHG).

*Attended
By
[Signature]*

I./No. TDM/TEZ/1005/CRI dt. 11.11.98 of Shri D. Daswami, TDM/Tezpur in r/o non-availability of APC 17 reports (Total page -2) (Original letter st SJ.No.58 of 10(A)/97-SHG).

L/No. 270/6/84-SIN, New Delhi dt. 30.3.91AS of Sh. S. Kashnan, Director (STN), posted Telegraph in r/o banning engagement of Casual labour (attested copy)

(Original at SJ. No.59 of listed documents in 10(A)/97-SHG.)

86. Seizure Memo dt. 16.11.98

87. Seizure memo dt. 6.11.98

88. FIR of Case No. Rc. 13 (A)/97-SGII.

89. Any other document which may be considered relevant.

Attested
V. D. S. S.

ANNEXURE-IV

List of witnesses by whom Article of Charge framed against Shri M.K. Gogoi, formerly TDE, Tezpur and now Director, RTTC, Guwahati are proposed to be sustained.

1. M. Islam Ahmed S/o Late Shri Basiruddin Ahmed, Chief Accounts Officer, O/o TDM, Tezpur.
2. Shri B.K. Goswami, TDM, Tezpur R/o 100/5 Jessore Road, Dum-Dum, Bhagabati Park, Calcutta-74.
3. Shri B.C. Pal. Asstt. Director Telecom (E&R), O/o CGMT, Guwahati.
4. Shri Babul Ch. Nath S/o Late Upen Ch. Nath, Telecom Office Asstt. (TDA), O/o TDM, Tezpur. Vill: Saikia Suburi, P.O. Dekragaon, P.S. Mission Chariali, Distt. Sonitpur (Assam)
5. Shri Badal Saha, SS (O), O/o TDM, Tezpur, S/o Radha Raman Saha, Vill. Tengabari, PO & PS Mangaldai, Dist. Darrang (Assam).
- ✓ 6. Shri K. Barman, Inspector, CBI, ACB, Guwahati (IO).
- ✓ 7. Shri Maheswar Bhuyan, SDE (Cable), Tezpur.
- ✓ 8. Shri H.S. Debnath, JAO, O/o TDM, Tezpur.

Attested
by
[Signature]
[Signature]

Commission in consonance with the recommendations of the C.B.I and the Department of Telecom advises initiation of major penalty proceedings against following officers:-

1. Shri H.K. Gogoi, the then TDE
2. A.K. Sarkar, the then SDE
3. D. Payeng, the then SDO
4. U. Sargiary, the then AO
5. Prantosh Das, the then SDE(P)
6. Manoj Karki, the then JTO
7. Harendra Ch. Paul, JTO
8. Dhiranjan Saha, JTO
9. Jogen Ch. Baruah, the then SI
10. Biju Rai, the then Cable Splicer
11. Sukan Rai, the then PSI
12. Ashim Bijoy Dutta, the then Instr.
13. Jiten Baruah, Lineman
14. Hemanta Kr. Borah,
15. Sarat Hazarika, the then SS
16. Medini Kr. Borah, the then Tech.
17. Mahesh Baroi, TSM
18. Anil Kumar Das, TSM
19. Shivjoti Hazumdar, TSM
20. Md. Abdul Karim, TSM
21. Ranjan Adhikari, TSM
22. Dipak Deka, TSM
23. Miss. Rashmi Acharjee, TSM
24. Swadesh Shil, TSM
25. Debasis Das, TSM
26. Ajit Das, TSM
27. Md. Abdul Jabbar, TSM
28. Smti Chintamani Borah, TSM
29. Nanki Devi, TSM
30. Nayan Kalita, TSM
31. Jadav Deka, TSM
32. Siba Prasad Sharma, TSM
33. Reba Kanta Saikia, TSM
34. Dinen Ch. Deka, TSM
35. Satya Ranjan Kalita, TSM

Dr. B. S. (Vig Telecom)

By. No. 6-586

29/11/2000

The Department is also advised to conduct inquiry proceedings by appointing their own I.O and revert to the Commission for 2nd stage advice after conclusion of the proceedings alongwith their recommendations since emanated from the findings of I.O's report.

Department's F.No. 9-27/2000-VTG-1 is returned herewith.

(S.M. Batra)
Director

Department of Telecom (Sh. Ranbir Khanna, Sr. DDA(V) N. Delhi.)
C.V.C's I.O Note No. 600/P&I/062 dated 28 NOV 2000

Encl: As above

By (Vig) m
29/11

29/11/2000

Attended
Banta
Adv.

No.8-181/2001-Vig.II
Government of India
Ministry of Communications & Information Technology
Department of Telecommunications
(Vigilance Wing)

West Block-1, Wing-2,
R.K. Puram, New Delhi-66.

Dated 11-9-2003

MEMORANDUM

The President proposes to have an inquiry held against Shri Madhurya Kr. Gogoi, the then TDE, Tezpur, presently Area Manager, Assam Telecom Circle under Rule 14 of the CCS(CCA) Rules, 1965. A 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 (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexures III & IV). A copy of the first stage advice of CVC for instituting major penalty proceedings against Shri Madhurya Kr. Gogoi is also enclosed.

2. Shri Madhurya Kr. Gogoi is directed to submit within ten 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 Madhurya Kr. Gogoi 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 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 Madhurya Kr. Gogoi is invited to Rule 20 of the CCS(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 interests 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 Madhurya Kr. Gogoi 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.

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Attested
11-9-2003
A. K. S.

6. Receipt of this Memorandum may be acknowledged by Shri Madhurya Kr. Gogoi.

By order and in the name of the President.

S.D. Kaushik
(S.D. Kaushik)

Assistant Director General (VT)

Shri Madhurya Kr. Gogoi,
Area Manager
BSNL
Assam Telecom Circle
Guwahati.
(Through CGMT, Assam Circle)

Deposited to BSNL

*Attested,
[Signature]
[Signature]*

ANNEXURE-I

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI M.K.GOGOI THE THEN TDE, TEZPUR NOW AREA MANAGER, ASSAM TELECOM CIRCLE

That the said Shri M.K.Gogoi while posted and functioning as TDE, Tezpur, now Area Manager, Assam Telecom Circle, during 1996 committed serious irregularities in as much as he appointed 221 Casual Labourers as Temporary Status Mazdoor in Tezpur SSA including 22 in Dhemaji Sub-Division on the basis of forged experience certificates.

By his above acts, Shri M.K.Gogoi failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant thereby violating Rule 3(1) (i),(ii) and (iii) of CCS(Conduct) Rules 1964.

By order and in the name of the President.



(S.D.Kaushik)
Assistant Director General (VT)

*Attested
Binita
Adm.*

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN
SUPPORT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI M.K.GOGOI, THE
THEN TDE, TEZPUR, NOW AREA MANAGER, ASSAM TELECOM CIRCLE

It is alleged that Shri M.K.Gogoi while posted and functioning as TDE Tezpur during 1996 failed to maintain absolute integrity and utmost devotion to duty and acted in a manner unbecoming of a Govt. servant in as much as he appointed 22 casual labourers as Temporary Status Mazdoors (TSM) in Tezpur Division including 22 in Dhemaji Sub-Division on the basis of forged experience certificates in the context of following facts and circumstances.

- i) Whereas it is alleged that Shri M.K.Gogoi was posted as TDE, Tezpur during 1996.
- ii) Whereas it is alleged that TSM scheme was introduced by the Department of Telecom to regularize Casual labourers engaged between 30-3-85 and 22-6-88 and it was circulated to different circles vide letter No. 296/4/93-STN dtd. 17-12-93. As per the scheme, a Casual labourer should complete at least 240 days when engaged in field work or 206 days when engaged in office and he should not be absent from his duties last 365 days from the date of issuance of the Circular. The casual labourers should also be engaged on Muster Roll basis.
- iii) Whereas it is alleged that Shri K.Balasubramaniam, TDE Tezpur had submitted a report through his letter No. E-38/CMPT/Vol.II/123 dtd. 7-12-93 stating that no casual labourer was recruited in Tezpur Division after 31-3-85. A similar NIL reply was sent to Telecom commission, Head Quarter, New Delhi by Sh. D.Payeng, the then SDO i/c of O/o TDE, Tezpur vide letter No. E-38/CMPT/Vol.II/167 dtd. 8-12-94.
- iv) Whereas it is alleged that the Casual labour can be engaged by SDO/SDE office on Muster roll basis as per Rule 150-170 given in Post and Telegraph Financial Hand Book-III Part-I. However, the engagement on Muster Roll basis was stopped from 30-3-85. The Muster Roll is stored permanently in the Office of TDE. The Casual Labour can also be engaged on ACG-17 basis to attend to works of emergency nature. No attendance register is maintained in this case. The ACG-17 payment vouchers are forwarded to the TDE office and only a broad ACE-2 account is maintained in the O/O SDE. Thus, no permanent records regarding the number of working days against particular orders for the casual labourers are available in the O/O SDE/SDO or with the field staff as such Line Man, Line Inspector, Sub-Inspector and Phone Inspector.
- v) Whereas, it is alleged that Shri B.K.Panyeng, the then P.I, P.C.Dowrah, the then SI, Indreswar Baruah, the then SI, Baijnath Prasad, L.I, J.C.Tamuli, SI issued 22 NOs. of false and fabricated experience certificates in favour of 22 casual labourers showing them as Casual labourers working since 1988 to February, 1996 in the O/O SDE(P) Dhemaji and Shri M.N.Pegu, the then SDE(P) Dhemaji alongwith S/Sh B.D.Pegu, SDE(P), Dhemaji countersigned the experience certificates without verifying the records and knowing that no records exists for the same and forwarded them to Sh. M.K.Gogoi, the then TDE, Tezpur. Shri Gogoi appointed these 22 persons as Temporary Status Mazdoor (TSM) on the basis of the recommendations of the members of the Departmental Promotion Committee (DPC) viz.S/Shri

Attested
by
[Signature]
[Signature]

D. Payeng, the then SDE(P) Tezpur, P. Das, the then SDOP Tezpur, A. K. Sarkar the then SDO(HRD), U. Swargiary, the then AO(Cash).

- vi) Whereas, it is alleged tht Shri M.K. Gogoi knew that no permanent records are maintained in the SDE office regarding the engagement of Casual Labourers either on Muster Roll basis or on ACG-17 basis as only broad ACE-2 accounts is maintained in SDE office. The permanent records are kept in his own office i.e. the O/O TDE Tezpur. Thus he appointed 221 Casual labourers including 22 in Dhemaji Sub-Division as TSM on the basis of the forged experience certificates in which the number of working days of a casual labourer in corresponding years from 1988 to 1996 were filled up by the field staff by sheer imagination. He knew that none of the field staff have records to support the certificates given by them as no records are available with the field staff such as Lineman, Line Inspector, Sub-Inspector, Phone Inspector, JTO.
- vii) Whereas it is alleged that Shri M.K. Gogoi did not verify the genuineness of the experience certificates before appointing the Casual labourers as TSM's. Though the Muster Roll Register is stored in the office of TDE, Sh. M.K. Gogoi did not check the Muster Roll Register. He also did not verify the ACG-17 payment vouchers before passing the order of appointment of TSM's.
- viii) Whereas, it is alleged that Shri M.K. Gogoi appointed 221 casual labourers as TSMs in Tezpur division including 22 in Dhemaji Division without obtaining approval of Telecom Commission, Head quarter and without giving an intimation to the CGMT, Assam Circle, Guwahati. But when he was asked to explain by Sh. S.K. Kayal, Area Director Telecom, Guwahati vide letter No. AMD-GH/CORR/96 dtd. 28-6-96, he deliberately gave a wrong and misleading reply vide letter No. X-1/CMPT/96-97/21 dtd. 7-7-96 explaining the DOT order for the appointment had been obtained and quoted the letter reference number which in fact, is the original Circular under which appointment was to be done. Likewise, while explaining the circumstances under which such recruitment was resorted to Shri M.K. Gogoi referred to the RJCMs meeting quoting minutes No. CMPT/L/Vol-VI/58 dtd. May 1996 whereas in the said minutes, there is no reference to the appointment of TSM under Tezpur Division at all.
- ix) Whereas it is alleged that Shri M.K. Gogoi joined as TDE in the Tezpur Division in Jan'95. In Feb'95 he had sent a letter to the then Area Director Telecom (E & R), Shri M. Biswas of the O/O CGMT Guwahati in which he has stated that from 31-12-93 onwards no candidate was given TSM status nor there was any candidate yet to be regularized as TSM. Thus, Sh. M.K. Gogoi had the full knowledge that there was no casual laborers under Tezpur Division eligible for appointment as TSM. Even if the casual laborers were not appointed as TSM on Muster roll basis but were appointed on ACG-17/ACE-2 basis even then their records relating to their appointments i.e. ACG-17 payment vouchers are preserved in the TDE office for a temporary period of two years. In view of the above fact TDE was well aware of the fact that the experience certificate submitted by different accused persons in favour of the casual laborers concerned were bogus ones, as there was no record to support those certificates.

By his above acts, Shri M.K. Gogoi failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant thereby violating Rule 3(1) (i), (ii) and (iii) of CCS(Conduct) Rules 1964.



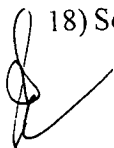
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ANNEXURE-III

LIST OF DOCUMENTS BY WHICH THE ARTICLE OF CHARGE FRAMED AGAINST SHRI M.K.GOGOI THE THEN TDE, TEZPUR, NOW AREA MANAGER, ASSAM TELECOM CIRCLE ARE PROPOSED TO BE SUSTAINED.

- 1) E-38/CMPT/94-95/168 Tz dtd. 17-2-95 giving details of TSM employed after 1989 written by Shri M.K.Gogoi TDE Tezpur.
- 2) Letter No. E-38/CMPT/Vol-II/167 Tz dtd. 8-12-94 written by D.Payeng SDOP (I/c) (Page 106)
- 3) Letter NO. AMT-GH/Corr/96 dtd. 28-6-96 written by Shri S.K.Koyal, Area Director GH.
- 4) Letter No. ZX-1/CMPT/96-97/21 dtd. 7-7-96 written by Shri M.K.Gogoi to AMT GH.
- 5) X-1/CMPT/Tz/95-96/Confdl/Tz dtd. 25-3-96 regarding constitution of DPC (Page-15)
- 6) Minutes of meeting of RJCM item -38 (Page-5)
- 7) E-38/CMPT/Vol-III/ 123 Tz dtd. 9-12-93
- 8) Letter No. 269-4/95-STN-II dtd. 17-12-93 of ADG(STN) New Delhi in regard of CL engagements in Circle after 30-3-85 upto 22-6-88
- 9) Letter No. 270/6/84-STN New Delhi dtd. 30-3-85 Barring engagement of casual labours.
- 10) DO No. Rectt 3/10/Pt.V dtd. 25-7-97 written by CGMT violation of name of Muster roll and sponsorship form of employment exge (Page-77)
- 11) Letter No. Estt 9/12 dtd. 30-6-2000 written by A.K.Challeng.
- 12) No. X-1/CMPT/96-97/CON-7 dtd. 27-5-96 by TDE Tz.
- 13) X-1/DMJ/96-97 DMJ dtd. 14-5-96 issued by B.D.Pegu forwarding a list of 22 casual labours (Page-83).
- 14) Certificate of Prafulla sonowal, Sunanda Sonowal, Ananda Sonowal, Mohan sonowal, Nabin sonowal, Lalit Sonowal, Khemson Pegu, Babul Bora, Dinesh Pegu, Jayanta Phukan, Kamal Ch. Nath, Kalyan Mech.
- 15) Proforma of selected and rejected candidate prepared and signed by DPC members (Page-33,32,31).
- 16) Letter No. A-21/95-96/06 Dhemaji dtd. 24-1-96 written by M.N.Pegu SDOP Dhemaji forwarding 15 Nos. documents of Casual labours.
- 17) Certificates of Kalipada Bora, Thagiram Taye, Bibekanandda Pegu, Bharat Baspore, Cheniram Bora, Biman Kr. Payeng, Rabin Dolley, Lilaram Payeng, Biren Dowrah and Gagan Deka.
- 18) Seizure Memos dt.20.8.1999, 13.9.1999 and 29.9.1999



ANNEXURE-IV

LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGE FRAMED
AGAINST SHRI M.K.GOGOI THE THEN TDE TEZPUR NOW AREA MANAGER,
ASSAM TELECOM CIRCLE ARE PROPOSED TO BE SUSTAINED.

- 1) Shri A.K.Challeng, AGM(Admn) O/O CGMT Guwahati.
- 2) Shri Dilip Kumar Rai Barman, AO(Cash) O/O TDE Tezpur
- 3) Shri Rajiv Yadav TDM Tezpur, Vill.Vedi, PO Ramaipatty Dist. Varanasi UP.
- 4) Shri S.K.Kayal, Area Manager (T) Howrah, Kolkata Telephones R/o 23/3/2A Rup
Narayan Nanda Lane, Kolkata-25.
- 5) Shri M.K.Bhattacharjee, SDE O/O TDM Tezpur.
- 6) Shri Bishnu Kr. Paul, AAO O/O TDM Tezpur.
- 7) Devalal Lazhon SS O/O SDEAP Dhemaji
- 8) Shri Lakshminath Saikia TOA O/O SDEP Dhemaji
- 9) Shri Vaibhav Agashe, DSP CBI Shillong.
- 10) Shri B.K. Pegu, JTO(Jonai), Dhemaji
- 11) Shri H.S. Debnath, JAO in the O/o TDM, Tezpur
- 12) Surendra nath Boro, SI(Stores), in O/o Dhemaji
- 13) Shri K. Barman, Inspector/CBI
- 14) Shri D. Dutta, Inspector/CBI





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CENTRAL VIGILANCE COMMISSION

The Commission observes that CBI had registered two other regular cases viz RC.13(A)/97-SHG and RC-14(A)/97-SHG against Shri M.K.Gogoi and others where charges were similar in nature i.e appointment of casual labourers as TSM wherein the Commission has agreed with the recommendation of CBI for initiation of RDA for major penalty against Shri M.K.Gogoi and others. Keeping in view the conformity with the earlier decision the Commission agrees with the recommendations of the DOT and advises initiation of major penalty proceedings against the following officers.

1. S/Shri M.K.Gogoi, the then TDE
2. D.Payeng, SDE
3. P.Das, the then SDE
4. Ajit Kr. Sarkar, the then SDO
5. Upen Swargiary, the then AO
6. M.N.Pegu, the then SDE
7. B.D.Pegu, the then SDE
8. B.K.Panyang, the then PI
9. P.C.Dowrah, SI
10. I.Baruah, SI
11. B.N.Prasad, LI
12. J.C.Tamuli, SI
13. J.Phukhan, TSM
14. A.Sonowal, TSM
15. Mohan Sonowal, TSM
16. S.Sonowal, TSM
17. B.K.Payeng, TSM
18. D.Pegu, TSM
19. R.Doley, TSM
20. T.R.Taye, TSM
21. Babul Bora, TSM
22. Kalipada Bora, TSM
23. Kamal Ch. Nath, TSM
24. Lalit Sonowal, TSM
25. Prafulla Sonowal, TSM
26. Nabin Sonowal, TSM
27. K.Pegu, TSM
28. Lila Ram Panyang, TSM
29. Bharat Bosphore, TSM
30. Biren Dowrah, TSM
31. Kalyan Mech, TSM
32. Cheniram Bora, TSM
33. G.Deka, TSM
34. B.Pegu, TSM

Department may conduct the inquiry proceedings by appointing their own I.O and revert to the Commission for 2nd stage advice on conclusion of inquiry proceedings alongwith their recommendations since emanated from the findings of I.O's report.

Department's F.No 9-56/2001-VIG.I is returned herewith.

(Ms. Indu Gupta)
Director

Department of Telecom (Sh.Ranbir Khannar, Sr.DDG(V)N.Deihi

C.V.C's I.D Note No. 001/P&T/120

20 AUG 2001

Encl: As above -

DDG (V) N. Deihi
1584
23/8/01

Shri AT
23/08/01

S (V&T)

DDG (V&T) 23/8/01

23/8/01
Attested
B. D. Bora

No.8-186/2001-Vig.II
Government of India
Ministry of Communications & Information Technology
Department of Telecommunications
(Vigilance Wing)

West Block-1, Wing-2,
R.K. Puram, New Delhi-66.

Dated 11-9-2003

MEMORANDUM

The President proposes to have an inquiry held against Shri Madhurya Kr. Gogoi, the then TDE, Tezpur, presently Area Manager, Assam Telecom Circle under Rule 14 of the CCS(CCA) Rules, 1965. A 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 article of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of the article of charge is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom the article of charge is proposed to be sustained are also enclosed (Annexures III & IV). A copy of the first stage advice of CVC for instituting major penalty proceedings against Shri Madhurya Kr. Gogoi is also enclosed.

2. Shri Madhurya Kr. Gogoi is directed to submit within ten 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 if the article of charge is not admitted. He should, therefore, specifically admit or deny the article of charge.

4. Shri Madhurya Kr. Gogoi 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 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 Madhurya Kr. Gogoi is invited to Rule 20 of the CCS(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 interests 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 Madhurya Kr. Gogoi is

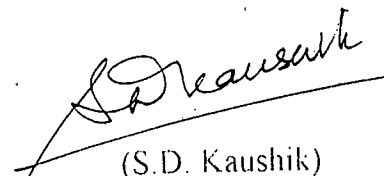
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aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS(Conduct) Rules, 1964.

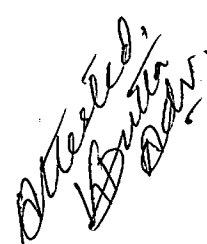
6. Receipt of this Memorandum shall be acknowledged by Shri Madhurya Kr. Gogoi.

By order and in the name of the President.



(S.D. Kaushik)
Assistant Director General (VT)

✓ Shri Madhurya Kr. Gogoi,
Area Manager
BSNL
Assam Telecom Circle
Guwahati.
(Through CGMT, Assam Circle)

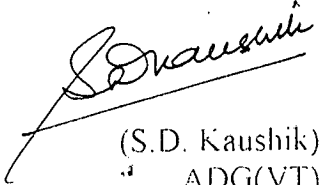


ANNEXURE-I

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SHRI
M.K.GOGOI THE THEN TDE TEZPUR, NOW AREA MANAGER, ASSAM
TELECOM CIRCLE

It is alleged that Sh. M.K.gogoi while posted and functioning as TDE Tezpur, during 1996, failed to maintain absolute integrity and utmost devotion to duty and acted in a manner unbecoming of a Government servant in as much as he appointed 221 Casual Labourers as Temporary Status Mazdoor in Tezpur Division including 21 in Udalguri Sub-division on the basis of forged experience certificates and thereby violated provisions of Rule 3 (1) (i) (ii) & (iii) of CCS(Conduct) Rules 1964.

By order and in the name of the President.


(S.D. Kaushik)
ADG(VT)

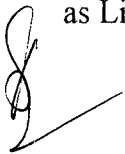
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B. B. B. B. B.

ANNEXURE-II.

**STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR
IN SUPPORT OF ARTICLE OF CHARGE FRAMED AGAINST SHRI
M.K.GOGOI, THE THEN TDE TEZPUR, NOW AREA MANAGER, ASSAM
TELECOM CIRCLE**

It is alleged that Shri M.K.Gogoi while posted and functioning as TDE, Tezpur during 1996 failed to maintain absolute integrity and utmost devotion to duty and acted in a manner unbecoming of a Government servant in as much as he appointed 221 casual labourers as Temporary Status Mazdoors (TSMs) in Tezpur Division including 21 in Udalguri Sub-Division on the basis of forged experience certificates in the context of following facts and circumstances.

1. Whereas it is alleged that Shri M.K.Gogoi was posted as TDE Tezpur during 1996.
2. Whereas it is alleged that TSM scheme was introduced by the Department of Telecom to regularize Casual labourers engaged between 30-3-85 and 22-6-88 and it was circulated to different Circles vide letter No.296/4/93-STN dt.17-12-93. As per the scheme, a Casual labourer should complete at least 240 days when engaged in field work or 206 days when engaged in office and he should not be absent from his duties for last 365 days from the date of issuance of the circular. The casual labourers should also be engaged on Muster Roll basis.
3. Whereas it is alleged that Shri K.Balasubramaniam, TDE, Tezpur had submitted a report through his letter No.E-38/CMPT/Vol.II/123 dt.7.12.93 stating that no casual labourer was recruited in Tezpur Division after 31-3-85. A similar NIL reply was sent to Telecom commission, Head Quarter, New Delhi by Sh. D.Payeng, the then SDO i/c of O/O TDE Tezpur vide letter No. E-38/CMPT/Vol.II/167 dtd. 8-12-94.
4. Whereas it is alleged that the Casual labour can be engaged by SDO/SDE office on Muster roll basis as per Rule 150-170 given in Post and Telegraph Financial Hand Book-III Part-I. However, the engagement on Muster Roll basis was stopped from 30-3-85. The Muster Roll is stored permanently in the Office of TDE. The Casual Labour can also be engaged on ACG-17 basis to attend to works of emergency nature. No attendance register is maintained in this case. The ACG-17 payment vouchers are forwarded to the TDE office and only a broad ACE-2 account is maintained in the O/O SDE. Thus, no permanent records regarding the number of working days against particular orders for the casual labourers are available in the O/o SDE/SDO or with the field staff such as Line Man, Line Inspector, Sub-Inspector and Phone Inspector.



5. Whereas, it is alleged that S/Shri R.K.Das, the then JTO, Sailendra Swargiary, JTO, S.K.Dutta the then Sub-Inspector, S.Bhattacharjee. Sub-Inspector. Gopal Singh, the then Sub-Inspector, Lankeswar, Rava Lineman, N.C.Boro, Lineman, K.B.Chetri, Lineman issued 21 numbers of false and fabricated experience certificates in favour of 21 casual laborers showing them as Casual laborers working since 1988 to Feb'96 in the office of the SDE(P) Udalguri and Shri J.N.Deori the then SDE(P) Udalguri countersigned the experience certificates without verifying the records and knowing that no records exists for the same and forwarded them to Shri M.K.Gogoi, the then TDE Tezpur, who appointed these 21 persons as Temporary Status Mazdoor on the basis of the recommendations of the members of the Departmental Promotion Committee viz. Shri D.Payeng the then SDE(P) Tezpur, P.Das, the then SDOP Tezpur, A.K.Sarkar, the then SDO(HRD) and U.Swargiary the then AO(Cash).

6. Whereas, it is alleged that Shri M.K.Gogoi knew that no permanent records are maintained in the SDE office regarding the engagement of Casual Labourers either on Muster Roll basis or on ACG-17 basis as only broad ACE-2 account is maintained in SDE office. The permanent records are kept in his own office i.e. the O/O TDE Tezpur. Thus he appointed 221 Casual labourers including 21 in Udalguri Sub-Division as TSM on the basis of the forged experience certificates in which the number of working days of a casual labourer in corresponding years from 1988 to 1996 were filled up by the field staff by sheer imagination. He knew that none of the field staff have records to support the certificates given by them as no records are available with the field staff such as Lineman, Line Inspector, Sub-Inspector, Phone Inspector, JTO.

7. Whereas it is alleged that Shri M.K.Gogoi did not verify the genuineness of the experience certificates before appointing the Casual labourers as TSMs. Though the Muster Roll Register is stored in the office of TDE. Sh. M.K.Gogoi did not check the Muster Roll Register. He also did not verify the ACG-17 payment vouchers before passing the order of appointment of TSMs.

8. Whereas, it is alleged that Shri M.K. Gogoi appointed 221 casual labourers as TSMs in Tezpur division including 21 in Udalguri Division without obtaining approval of Telecom Commission, Head quarter and without giving an intimation to the CGMT, Assam Circle, Guwahati. But when he was asked to explain by Sh. S.K.Kayal, Area Director Telecom, Guwahati vide letter No. AMD-GH/CORR/96 dtd. 28-6-96, he deliberately gave a wrong and misleading reply vide letter No. X-1/CMPT/96-97/21 dt. 7-7-96 explaining the DOT order for the appointment had been obtained and quoted the letter reference number which in fact, is the original Circular under which appointment was to be done. Likewise, while explaining the circumstances under which such recruitment was resorted to, Shri M.K.Gogoi referred to the RJCMTs meeting quoting minutes No.CMPT/L/Vol-VI/58 dt. May 1996 whereas in the said minutes, there is no reference to the appointment of TSM under Tezpur Division at all.

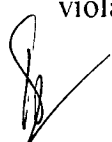
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9. Whereas it is alleged that Shri M.K.Gogoi joined as TDE in the Tezpur Division in Jan'95. In Feb'95 he had sent a letter to the then Area Director Telecom (E & R), Shri M.Biswas of the O/O CGMT Guwahati in which he has stated that from 31-12-93 onwards no candidate was given TSM status nor there was any candidate yet to be regularized as TSM. Thus, Sh. M.K.Gogoi had the full knowledge that there was no casual laborers under Tezpur Division eligible for appointment as TSM. Even if the casual laborers were not appointed as TSM on Muster roll basis but were appointed on ACG-17/ACE-2 basis. their records relating to their appointments i.e. ACG-17 payment vouchers are preserved in the TDE office for a temporary period of two years. In view of the above fact, the TDE was well aware of the fact that the experience certificates submitted by different accused persons in favour of the casual laborers concerned were bogus ones, as there was no record to support those certificates.

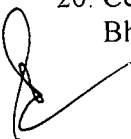
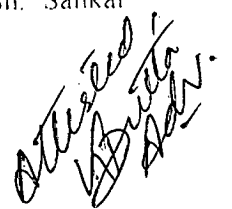
By his above said acts Shri M.K. Gogoi failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Government servant thereby violating Rule 3(1)(i),(ii) and (iii) of CCS(Conduct) Rules, 1964.



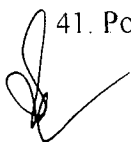
ANNEXURE-III

**LIST OF DOCUMENTS BY WHICH THE ARTICLE OF CHARGE FRAMED
AGAINST SHRI M.K.GOGOI THE THEN TDE TEZPUR, NOW AREA MANAGER,
ASSAM TELECOM CIRCLE IS PROPOSED TO BE SUSTAINED.**

1. Letter No. E-38/CMPT/94-95/168 Tezpur dtd. 17-2-95 written by Sh. M.K.Gogoi TDE Tezpur to ADT(E & R) giving details of TSM employed after 1989 (Page No. 117) Sl.No. 28 in RC-10(A)/97.
2. Letter No. E-38/CMPT/94-95/167 Tezpur dtd. 8-12-94 written by CAO to Head of Division and Accounts Officer (Page 110)
3. letter NO. AMT-GH/Corr/96 dtd. 28-6-96 written by Shri S.K.Kayal Area Director Telecom Guwahati to Sh. M.K.Gogoi TDE Tezpur.
4. Letter No. ZX-1/CMPT/96-97/21 dtd. Tezpur 7-7-96 written by M.K.Gogoi TDE(Tez) to Sh. S.K.Kayal Area Director Telecom Guwahati.
5. X-1/CMPT/Tz/95-96/Confdl./1 dtd. Tz 25-3-96 by Sh. M.K.Gogoi TDE(Tz) regarding constitution of DPC(Page 15)
6. Minutes of the meeting of RJCM Item No. 38(Page-5)
7. E-38/CMPT/Col.II/ 123 dtd. 9-12-93 written by Sh. Balasubramaniam, TDE Tz addressed to Sh. S.C.Choudhury Asstt. Director Telecom O/O CGMT listed in RC-10(A)/97 Sl.No. 29.
8. Original letter No. 269-4/95-STN-II dtd 17-12-93 of ADG(STN) New Delhi in respect of regularization of CLs engaged in Circle after 30-3-85 upto 21-6-88.
9. Attested copy of letter No. 270/6/84-STN New Delhi dtd. 30-3-1985 of Shri Krishnan, Director (STN) P & T in respect of barring of engagement of Casual labourers. Attested copy of letter listed in RC-10(A)/97 Sl.No. 59.
10. Letter No. D.O. No. Rectt-3/10 Pt.V dtd. 25-7-97 written by Sh. K.Padmanabhan, CGMT Assam Circle to Sh. G.D.Gaiha DDG(Tel) in respect of violation of name of Muster roll and sponsorship from employment exchange (Page-77)
11. letter NO. Estt.9-12 dtd. 30-6-2000 written by Sh. A.K.Chelleng AGM(Admn) O/O CGMT to the DSP CBI Shillong in respect of TDEs responsibility to implement TSM Scheme.
12. Proforma in which names of 21 nos of casual labourers and details were prepared signed and recommended by DPC members (Page 36, 84, 33, 32)
13. Letter No. Misc UDL/95-96/41 dtd. Udalguri dated the 18-3-96 written by Sh. J.N.Doeri SDOP Udalguri to forward a list of 19 CLs (Page 30).
14. Certificate issued to Shri Jatin Saloi, S/o late Padma Ram Saloi by Sh. R.K.Das, JTO(Page 29)
15. Certificate issued to Sh. Piar Ali, S/o Sh. Mahasin Ali by Sh. Sailendra Swargiary, JTO(Page 21)
16. Certificate issued to Sh.Durlabh Baruah, S/o Baddheswar Baruah by S. R.K.Das, JTO(Page 21)
17. Certificate issued to Sh.Moinul Haque, S/o Ayub Ali by Sh. R.K.Das, JTO (Page 20).
18. Certificate issued to Sh. Mozamil Hussain, S/o Sh. Mumtaz Ali by Sh. R.K.Das, JTO(Page 19)
19. Certificate issued to SH. Yamakanta Chamala Gai S/o Sh.Bhara Nandu Gai by Sh. Gopal Singh, SI(age 16)
20. Certificate issued to Sh. Miran Daimary S/o Shri Chiran Daimary by Sh. Sankar Bhattacharjee, SI(Page 15)

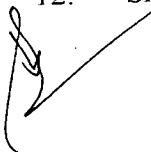
21. Certificate issued to Sh. Bhupen Barman, S/O Sh. Suresh Barman by Sh. K.B. Chetri, SI(Page 14)
22. Certificate issued to Sh. Rajat Bhattacharjee S/o Sh. Rajendra Bhattacharjee by S.K.Dutta, SI(Page 13)
23. Certificate issued to Sh. Kameswar Narzary S/O Sh. Upen Narzary issued by N.C.Boro L/M (Page 12)
24. Certificate issued to Sh. Biren Rabha S/o Sh. Rabindra Rabha by Sh. Gopal Singh, SI(Page 11)
25. Certificate issued to Sh. Tanuram Boro, S/O Late Sh. Badung Boro by Shri S.K. Dutta, SI(Page 10)
26. Certificate issued to Sh. Navin Rava S/O Sh. Ratiram Rava by Sh. S.K. Dutta SI(Page 9)
27. Certificate issued to Sh. Sanjay Dutta S/O Sh. Sudhendra Kr. Dutta SI(Page 8)
28. Certificate issued to Sh. Dayaram Boro, S/o Sh. Bayan Boro by Sh. Sankar Bhattacharjee, SI(Page 7)
29. Certificate issued to Sh. Nigam Swargiary S/o Sh. Raghu Nath Swargiary by Sankar Bhattacharjee, SI(Page 6)
30. Certificate issued to Sh. Binanda Basumatary S/o Sh. Late Ramendra Basumatary by Sh. Gopal Singh SI (Page 5).
31. Certificate issued to Sh. Rohini Kant Basumatary S/o Sh. Guni Ram Basumatary by Sh. Lankeswar Rava (Page 4)
32. Certificate issued to Sh. Banerwar Boro, S/o Late Sh. Golap Ch. Boro by Sh. S.K. Dutta SI(Page 3)
33. Certificate issued to Sh. Rajendra Boro S/o Sh. Dandi Ram Boro by Sh. Gopal Singh. SI (page 2)
34. Certificate issued to Sh. Narendra Basumatary, S/O Sh. Abhiram Basumatary By Sh. Gopal Singh, SI(Page 1)
35. Seizure Memo dtd. 13-9-99.
36. Seizure Memo dtd. 11-10-99
37. FIR of the case.
38. Letter NO. E-1/96-97/7 Udalguri Dt. 6-5-97 by Sh. J.N. Deori SDE(P) Udalguri in respect of forwarding names of 21 casual labourers in proper format File 7B Udalguri.
39. Joining reports of all the 21 casual labourers in Udalguri in File 7A Udalguri.
40. Post and Telegraph Financial Hand Book (III) Part I
41. Posts and Telegraph Manual, Vol. X



ANNEXURE-IV

LIST OF WITNESSES BY WHOM THE ARTICLE OF CHARGE FRAMED
AGAINST SHRI M.K.GOGOI THE THEN TDE TEZPUR, NOW AREA MANAGER,
ASSAM TELECOM CIRCLE IS PROPOSED TO BE SUSTAINED.

1. Shri A.K.Challeng, AGM(Admn) O/O CGMT Guwahati.
2. Shri Dilip Kumar Rai Barman, AO(Cash) O/O TDE Tezpur
3. Shri Rajiv Yadav TDM Tezpur, VillVedi, PO Ramaipatty Dist. Varanasi UP.
4. Shri S.K.Kayal, Area Manager (T) Howrah, Kolkata Telephones R/o 23/3/2A Rup Narayan Nanda Lane, Kolkata-25.
5. Shri M.K.Bhattacharjee, SDE O/O TDM Tezpur.
6. Shri Bishnu Kr. Paul, AAO O/O TDM Tezpur.
7. Biraj Mohan Basumatary, Sr. TOA O/O SDE Udalguri
8. Shri H.S.Debnath, JAO O/O TDM Tezpur.
9. Shri R.N.Choudhury, SDE(P) Udalguri
10. Shri K.Barman , Inspector the then IO of the case
11. Shri D.Dutta, Inspector the then IO of the case.
12. Shri Vaibhav Agashe, DSP CBI Shillong.





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CENTRAL VIGILANCE COMMISSION

The Commission observes that CBI had registered two other regular cases viz RC.13(A)/97-SHG and RC-14(A)/97-SHG against Shri M.K.Gogoi and others where charges were similar in nature i.e appointment of casual labourers as TSM wherein the Commission has agreed with the recommendation of CBI for initiation of RDA for major penalty against Shri M.K.Gogoi and others. Keeping in view the conformity with the earlier decision the Commission agrees with the recommendations of the DOT and advises initiation of major penalty proceedings against the following officers.

- | | |
|-------------------------------------|----------------------------------|
| ✓ 1. S/Shri M.K.Gogoi, the then TDE | ✓ 2. D.Payeng, DE |
| ✓ 3. P.Das, the then SDE | 4. Ajit Kr. Sarkar, the then SDO |
| ✓ 5. Upen Swargiary, the then AO | 6. J.N.Deori, DE(T) |
| 7. R.K.Das, JTO | 8. Sailendra Swagiary, JTO |
| 9. S.K.Dutta, SI | 10. S.Bhattacharjee, SI |
| 11. Gopal Singh, SI | 12. L.Rava, Lineman, |
| 13. N.C.Boro, Lineman | 14. K.B.Chetri, Lineman, |
| 15. Tanuram Bodi, TSM | 16. Kamleswar Narazary, TSM |
| 17. Biran Rava, TSM | 18. Y.K.C.Gain, TSM |
| 19. Rajin Kr. Bodo, TSM | 20. N.Basumatary, TSM |
| 21. Nabin Rava, TSM | 22. Jatin Soloi, TSM |
| 23. Durlabh Baruah, TSM | 24. Mozamil Hussain, TSM |
| 25. R.K.Basumatary, TSM | 26. Dayaram Boro, TSM |
| 27. Bhupen Barman, TSM | 28. Moinul Haque, TSM |
| 29. Rajat Bhattacharjee, TSM | 30. Sanjay Dutta, TSM |
| 31. Nigam Swargiary, TSM | 32. Baneshwar Boro, TSM |
| 33. Miran Daimary, TSM | 34. Piar Ali, TSM |
| 35. Binendra Basumatary, TSM. | |

Department may conduct the inquiry proceedings by appointing their own I.O and revert to the Commission for 2nd stage advice on conclusion of inquiry proceedings alongwith their recommendations since emanated from the findings of I.O's report.

Department's F.No. 9-61/2001-VIG.I is returned herewith.

Indu Gupta
(Indu Gupta)
Director

Department of Telecom (Sh. Ranbir Khanna, Sr. DDG(V) N. Delhi)

C.V.C's I.D Note No. 001/P&T/126

20 AUG 2001

Encl: As above

(V&T)

ADG(V&A) 23/8 80 (V/S.F) Shri A7 23/08/01

Attested by
Indu Gupta

- 97 -

No.8-167/2001-Vig.II
Government of India
Ministry of Communications & Information Technology
Department of Telecommunications
(Vigilance Wing)

West Block-1, Wing-2,
R.K. Puram, New Delhi-66.

Dated 11-9-2003

MEMORANDUM

The President proposes to have an inquiry held against Shri Madhurya Kr. Gogoi, the then TDE, Tezpur, presently Area Manager, Assam Telecom Circle under Rule 14 of the CCS(CCA) Rules, 1965. A 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 (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexures III & IV). A copy of the first stage advice of CVC for instituting major penalty proceedings against Shri Madhurya Kr. Gogoi is also enclosed.

2. Shri Madhurya Kr. Gogoi is directed to submit within ten 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 the article of charge.

4. Shri Madhurya Kr. Gogoi 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 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 Madhurya Kr. Gogoi is invited to Rule 20 of the CCS(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 interests 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 Madhurya Kr. Gogoi 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. Receipt of this Memorandum may be acknowledged by Shri Madhurya Kr. Gogoi.

Attended
W. B. Datta
11-9-2003

By order and in the name of the President.

S. D. Kaushik

(S.D. Kaushik)
Assistant Director General (VT)

✓ Shri Madhurya Kr. Gogoi,
Area Manager
BSNL
Assam Telecom Circle
Guwahati.
(Through CGMT, Assam Circle)

Attested:
[Signature]
Adm.

ANNEXURE-I

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI M.K.GOGOI THE THEN TDE, TEZPUR NOW AREA MANAGER, ASSAM TELECOM CIRCLE

That the said Shri M.K.Gogoi while posted and functioning as TDE, Tezpur, now Area Manager, Assam Telecom Circle, during 1996 committed serious irregularities in as much as he appointed 221 Casual Labourers as Temporary Status Mazdoor in Tezpur SSA including 15 in the office of SDO(T), Tezpur on the basis of forged experience certificates.

By his above acts, Shri M.K.Gogoi failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant thereby violating Rule 3(1) (i),(ii) and (iii) of CCS(Conduct) Rules 1964.

By order and in the name of the President.

S.D. Kaushik

(S.D.Kaushik)

Assistant Director General (VT)

*Attested
by
S.D. Kaushik*

ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI M.K.GOGOI, THE THEN TDE, TEZPUR, NOW AREA MANAGER, ASSAM TELECOM CIRCLE

It is alleged that Shri M.K.Gogoi while posted and functioning as TDE Tezpur during 1996 failed to maintain absolute integrity and utmost devotion to duty and acted in a manner unbecoming of a Govt. servant in as much as he appointed 221 casual labourers as Temporary Status Mazdoors (TSM) in Tezpur Division including 15 in the office of SDO(T), Tezpur on the basis of forged experience certificates in the context of following facts and circumstances.

- i) Whereas it is alleged that Shri M.K.Gogoi was posted as TDE, Tezpur during 1996.
- ii) Whereas it is alleged that TSM scheme was introduced by the Department of Telecom to regularize Casual labourers engaged between 30-3-85 and 15-6-88 and it was circulated to different circles vide letter No. 296/4/93-STN dtd. 17-12-93. As per the scheme, a Casual labourer should complete at least 240 days when engaged in field work or 206 days when engaged in office and he should not be absent from his duties last 365 days from the date of issuance of the Circular. The casual labourers should also be engaged on Muster Roll basis.
- iii) Whereas it is alleged that Shri K.Balasubramaniam, TDE Tezpur had submitted a report through his letter No. E-38/CMPT/Vol.II/123 dtd. 7-12-93 stating that no casual labourer was recruited in Tezpur Division after 31-3-85. A similar NIL reply was sent to Telecom commission, Head Quarter, New Delhi by Sh. D.Payeng, the then SDO i/c of O/o TDE, Tezpur vide letter No. E-38/CMPT/Vol.II/167 dtd. 8-12-94.
- iv). Whereas it is alleged that the Casual labour can be engaged by SDO/SDE office on Muster roll basis as per Rule 150-170 given in Post and Telegraph Financial Hand Book-III Part-I. However, the engagement on Muster Roll basis was stopped from 30-3-85. The Muster Roll is stored permanently in the Office of TDE. The Casual Labour can also be engaged on ACG-17 basis to attend to works of emergency nature. No attendance register is maintained in this case. The ACG-17 payment vouchers are forwarded to the TDE office and only a broad ACE-2 account is maintained in the O/o SDE. Thus, no permanent records regarding the number of working days against particular orders for the casual laoburers are available in the O/o SDE/SDO or with the field staff such as Line Man, Line Inspector, Sub-Inspector and Phone Inspector.
- v) Whereas, it is alleged that s/Shri P.Deka, the then JTO, D.K. Ghosh, JTO, Dhekiajuli, Ganapati Mukherjee, JTO, R.C. Haloi, JTO, Bijan Behari Nath, AE, A.C.Dutta, Line Inspector, P.S. Prasad, Sub Inspector, N.C. Paul, Sub Inspector and N.C. Boro, issued 15 NOs. of false and fabricated experience certificates in favour of 15 casual labourers showing them as Casual labourers working since 1988 to February, 1996 in the O/O SDO(T), Tezpur and Shri Khiren Choudhary countersigned the experience certificates without verifying the records and knowing that no records exists for the same and forwarded them to Sh. M.K.Gogoi, the then TDE, Tezpur. Shri Gogoi appointed these 15 persons as Temporary Status Mazdoor (TSM) on the basis of the recommendations of the members of the Departmental Promotion Committee (DPC) viz.S/Shri

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D.Payeng, the then SDE(P) Tezpur, P.Das, the then SDOP Tezpur, A.K.Sarkar the then SDO(HRD), U. Swargiary, the then AO(Cash).

- vi) Whereas, it is alleged that Shri M.K.Gogoi knew that no permanent records are maintained in the SDE office regarding the engagement of Casual Labourers either on Muster Roll basis or on ACG-17 basis as only broad ACE-2 accounts is maintained in SDE office. The permanent records are kept in his own office i.e. the O/O TDE Tezpur . Thus he appointed 221 Casual labourers, including 15 in the office of SDO(T), Tezpur as TSM on the basis of the forged experience certificates in which the number of working days of a casual labourer in corresponding years from 1988 to 1996 were filled up by the field staff by sheer imagination. He knew that none of the field staff have records to support the certificates given by them as no records are available with the field staff such as Lineman, Line Inspector , Sub-Inspector , Phone Inspector , JTO.
- vii) Whereas it is alleged that Shri M.K.Gogoi did not verify the genuineness of the experience certificates before appointing the Casual labourers as TSM's. Though the Muster Roll Register is stored in the office TDE, Sh. M.K.Gogoi did not check the Muster Roll Register. He also did not verify the ACG-17 payment vouchers before passing the order of appointment of TSM's.
- viii) Whereas, it is alleged that Shri M.K. Gogoi appointed 221 casual labourers as TSMs in Tezpur division including 15 in the office of SDO(T), Tezpur without obtaining approval of Telecom Commission, Head quarter and without giving an intimation to the CGMT, Assam Circle, Guwahati. But when he was asked to explain by Sh. S.K.Kayal, Area Director Telecom, Guwahati vide letter No. AMD-GH/CORR/96 dtd. 28-6-96, he deliberately gave a wrong and misleading reply vide letter No. X-1/CMPT/96-97/21 dtd. 7-7-96 explaining the DOT order for the appointment had been obtained and quoted the letter reference number which in fact, is the original Circular under which appointment was to be done. Likewise, while explaining the circumstances under which such recruitment was resorted to Shri M.K.Gogoi referred to the RJCMTs meeting quoting minutes No. CMPT/L/Vol-VI/58 dtd. May 1996 whereas in the said minutes, there is no reference to the appointment of TSM under Tezpur Division at all.
- ix) Whereas it is alleged that Shri M.K.Gogoi joined as TDE in the Tezpur Division in Jan'95. In Feb'95 he had sent a letter to the then Area Director Telecom (E & R) , Shri M.Biswas of the O/O CGMT Guwahati in which he has stated that from 31-12-93 onwards no candidate was given TSM status nor there was any candidate yet to be regularized as TSM. Thus, Sh. M.K.Gogoi had the full knowledge that there was no casual laborers under Tezpur Division eligible for appointment as TSM. Even if the casual laborers were not appointed as TSM on Muster roll basis but were appointed on ACG-17/ACE-2 basis even then their records relating to their appointments i.e. ACG-17 payment vouchers are preserved in the TDE office for a temporary period of two years. In view of the above fact TDE was well aware of the fact that the experience certificate submitted by different accused persons in favour of the casual laborers concerned were bogus ones, as there was no record to support those certificates.

*Attended by
SDO(T) Tezpur*

By his above acts, Shri M.K.Gogoi failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant thereby violating Rule 3(1) (i),(ii) and (iii) of CCS(Conduct) Rules 1964.

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Attested,
D. D. D. D.

ANNEXURE-III

LIST OF DOCUMENTS BY WHICH THE ARTICLE OF CHARGE FRAMED AGAINST SHRI M.K.GOGOI THE THEN TDE, TEZPUR, NOW AREA MANAGER, ASSAM TELECOM CIRCLE ARE PROPOSED TO BE SUSTAINED.

- 1) E-38/CMPT/94-95/168 Tz dtd. 17-2-95 giving details of TSM employed after 1989 written by Shri M.K.Gogoi TDE Tezpur .
- 2) Letter No. E-38/CMPT/Vol-II/167 Tz dtd. 8-12-94 written by D.Payeng SDOP (I/c)
- 3) Letter NO. AMT-GH/Corr/96 dtd. 28-6-96 written by Shri S.K.Koyal, Area Director GH.
- 4) Letter No. X-1/CMPT/96-97/21 dtd. 7-7-96 written by Shri M.K.Gogoi to AMT GH.
- 5) Letter No: X-1/CMPT/Tz/95-96/Confdl/Tz dtd. 25-3-96 regarding constitution of DPC
- 6) Minutes of meeting of RJCM item -38
- 7) Letter No: E-38/CMPT/Vol-III/123 Tz dtd. 9-12-93 written by K. Balasubramaniam, TDE, Tezpur
- 8) Letter No. 269-4/95-STN-II dtd. 17-12-93 of ADG(STN) New Delhi in regard of CL engagements in Circle after 30-3-85 upto 15-6-88
- 9) Letter No. 270/6/84-STN New Delhi dtd. 30-3-85 Barring engagement of casual labours .
- 10) DO No. Rectt .3/10/Pt.V dtd. 25-7-97 written by CGMT
- 11) Letter No. Estt 9/12 dtd. 30-6-2000
- 12) E-14/Part.II dated 11-3-1996 issued by SDO(T) forwarding names of 15 casual labours
- 13) Certificate of Smt. Paramita Dey d/o late Narayan Chandra Dey
- 14) Certificate of Sh. Atul Chandra Deka s/o late Madan Deka
- 15) Certificate of Sh. Biswajit Malakar s/o Sachin Malakar
- 16) Certificate of Sh. Dinakanta Ghatowal s/o Phaguna Ghatowal
- 17) Certificate of Sh. Anoop Datta s/o A.C.Dutta
- 18) Certificate of Sh. Dukhan Roy s/o Shankar Roy
- 19) Certificate of Smt. Meena Das d/o Gemini Das
- 20) Certificate of Sh. Parimal Sarkar s/o Rati Ranjan Sarkar
- 21) Certificate of Sh. Phulena Bosphor s/o Shri S. Bosphor
- 22) Certificate of Sh. Rupen Das s/o Sarat Das
- 23) Certificate of Sh. Sanjay Kumar Deb w/o Nani Gopal Deb
- 24) Certificate of Sh. Karuna Lahkar s/o Dasrath Lahkar
- 25) Certificate of Sh. Saki Ram Majhi s/o Durga Majhi
- 26) Certificate of Sh. Duijan Baishya s/o H. N. Baishya
- 27) Proforma (25 sheets which contain the names of 16 numbers of casual labourers and their particulars, such as DOB, community, date of entry in deptt, educational qualifications, no. of duty days worked. It contains the signatures of TSMS.)
- 28) Recommendation sheets of DPC in favour of 15 numbers of casual labourers (3 sheets). It contains the signatures of DPC members
- 29) Experience Certificates of Smt. Deepali Hazarika issued by Shri Haloi, Wireless Operator
- 30) Gradation list of 16 persons prepared by DPC members (F.3/10/Part III)
- 31) P&T Financial Hand Book III Part I
- 32) Seizure Memos dt. 13.9.1999 and 28.10.1999

*Attended
B. Deka
S. Deka*

ANNEXURE-IV

LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGE FRAMED AGAINST SHRI M.K.GOGOI THE THEN TDE TEZPUR NOW AREA MANAGER, ASSAM TELECOM CIRCLE ARE PROPOSED TO BE SUSTAINED.

- 1) Shri A.K.Challeng, AGM(Admn) O/O CGMT Guwahati.
- 2) Shri Dilip Kumar Rai Barman, AO(Cash) O/O TDE Tezpur
- 3) Shri Rajiv Yadav TDM Tezpur, Vill.Vedi, PO Ramaipatty Dist. Varanasi UP.
- 4) Shri S.K.Kayal, Area Manager (T) Howrah, Kolkata Telephones R/o 23/3/2A Rup Narayan Nanda Lane, Kolkata-25.
- 5) Shri M.K.Bhattacharjee, SDE O/O TDM Tezpur.
- 6) Shri Bishnu Kr. Paul, AAO O/O TDM Tezpur.
- 7) Shri Bhaban Kumar Talukdar, Sr.TOA in o/o TDM, Tezpur
- 8) Shri Niranjana Hazarika, Sr.Clerk in o/o SDOT, Tezpur
- 9) Shri Ashim Chakraborty, Sr. TOA, in the o/o SDOT, Tezpur
- 10) Shri Vaibhav Agashe, DSP CBI Shillong.
- 11) Shri K. Barman, Inspector/CBI
- 12) Shri D. Dutta, Inspector/CBI

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*Attested.
[Signature]
[Signature]*

CENTRAL VIGILANCE COMMISSION

The Commission observes that CBI had earlier registered two regular cases against Shri M.K.Gogoi, and others, where the charges relates to irregularities in appointment of casual labourers viz TSMs and had advised initiation of major penalty proceedings against Shri M.K.Gogoi and others in consonance with the recommendation of CBI.

Commission accordingly in agreement with the views of Department of Telecom advises initiation of major penalty proceedings against the following officers:-

S/Shri:-

1. Khiren Choudhary, the then SDO(T),
2. Pulakesh Deka, JTO, 3. Dilip Kumar Ghosh, JTO
4. Amol Ch.Dutta, Line Inspector
5. Prem Sankar Prasad, Phone Inspector
6. Naresh Ch.Paul, SI, 7. Narayan Ch.Boro, Lineman
8. Madhuryya Kr. Gogoi, Director(T)
9. Sakiram Majhi, TSM, 10. Dwijen Baishya, TSM
11. Karuna Ch.Lahkar, TSM 12. Rupen Ch.Das, TSM
13. Parimal Kumar Sarkar, TSM 14. Biswajit Malakar, TSM
15. Paramita Dey, TSM 16. Sanjay Kr. Deb, TSM
17. Atul Ch. Deka, TSM 18. Anup Kr. Dutta, TSM
19. Dina Kanta Ghatowal, TSM 20. Mina Das, TSM
21. Phaneswar Payeng, DE(P&A)
22. Upen Swargiary, then AO(Cash),
23. Ajit Kr. Sarkar, then SDO(HRD) now SDO(T)
24. Smt. Dipali Hazarika, TSM 25. Dukhen Ray, TSM
26. Phulena Basphore, TSM 27. Prantosh Das, then SDE
28. Bijan Bihari Nath, then AE(C)
29. Ganapati Mukherjee, JTO, 30. Ramesh Ch.Haloi, JTO

Department of Telecom is also advised to conduct the inquiry proceedings by appointing their own I.O and revert to the Commission for 2nd stage advice on conclusion of inquiry proceedings alongwith their recommendations since emanated from respective I.O's reports.

Department's F.No. 9-65/2001-VIG.I is returned herewith.

S. DDG (Vig Telecom)

Fy No-365 7/8/01

(S.M.Batra)
Director

Department of Telecom (Sh. Ranbir Khanna, SR.DDG(V) N.Delhi

(Vig) L.D Note No. 001/P&T/127 dated

03 AUG 2001

Encl. - As above

Sy/8/1

ADG

08/08/01

ADG(V&A)

8/8

Attended to by ADG

Could be

No.8-165/2001-Vig II
Government of India
Ministry of Communications & Information Technology
Department of Telecommunications
(Vigilance Wing)

West Block-1, Wing-2,
R.K. Puram, New Delhi-66.

Dated 9-10-2003

MEMORANDUM

The President proposes to have an inquiry held against Shri Madhurya Kr. Gogoi, the then TDE, Tezpur, presently Area Manager, Guwahati, Assam Telecom Circle under Rule 14 of the CCS(CCA) Rules, 1965. A 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 (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexures III & IV). A copy of the first stage advice of CVC for instituting major penalty proceedings against Shri Madhurya Kr. Gogoi is also enclosed.

2. Shri Madhurya Kr. Gogoi is directed to submit within ten 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 Madhurya Kr. Gogoi 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 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 Madhurya Kr. Gogoi is invited to Rule 20 of the CCS(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 interests 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 Madhurya Kr. Gogoi 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. Receipt of this Memorandum may be acknowledged by Shri Madhurya Kr. Gogoi.

*Attested:
[Signature]
[Signature]*

By order and in the name of the President.

S.D. Kaushik

(S.D. Kaushik)
Assistant Director General (VT)

✓ Shri Madhurya Kr. Gogoi,
Area Manager
BSNL
Assam Telecom Circle
Guwahati.
(Through CGMT, Assam Circle)

*Attested
By
Adm.*

ANNEXURE I

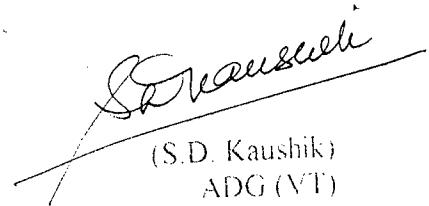
STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI MADHURYA
KR. GOGOI, THE THEN TDE, TEZPUR, PRESENTLY AREA MANAGER, ASSAM
TELECOM CIRCLE

ARTICLE OF CHARGE

It is alleged that Shri M.K. Gogoi while posted and functioning as TDE, Tezpur during 1996 failed to maintain absolute integrity and utmost devotion to duty and acted in a manner unbecoming of a Govt servant in as much as he appointed 221 Casual Labourers as Temporary Status Mazdoor in Tezpur Division including 7 in O/o SDE(Comp), Tezpur on the basis of forged experience certificates.

By his aforesaid acts Shri Madhurya Kr. Gogoi, contravened Rule 3(1)(i),(ii)&(iii) of CCS(Conduct) Rules, 1964.

By order and in the name of the President.


(S.D. Kaushik)
ADG (VT)

*Attested,
B. Datta
ADG.*

ANNEXURE II

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF THE ARTICLE OF CHARGE FRAMED AGAINST SHRI MADHURYA KR. GOGOI, THE THEN TDE, TEZPUR, PRESENTLY AREA MANAGER, ASSAM TELECOM CIRCLE

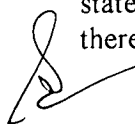
It is alleged that Shri M.K. Gogoi while posted and functioning as TDE, Tezpur during 1996 failed to maintain absolute integrity and utmost devotion to duty and acted in a manner unbecoming of a Govt servant in as much as he appointed 221 Casual Labourers as Temporary Status Mazdoor in Tezpur Division including 7 in the O/o SDE (Comp), Tezpur on the basis of forged experience certificates in the context of following facts and circumstances.

- i) Whereas it is alleged that Shri M.K. Gogoi was posted as TDE, Tezpur during 1996
- ii) Whereas it is alleged that TSM scheme was introduced by the Department of Telecommunications to regularize Casual labourers engaged between 30/3/1985 and 7/6/1988 and it was circulated to different Circles Vide letter No.296/4/93-STN dt.17.12.1993. As per the scheme a Casual Labourer should complete at least 240 days when engaged in field work or 206 days when engaged in office and he should not be absent from his duties for last 365 days from the date of issuance of the circular. The casual labourers should also be engaged on Muster Roll basis.
- iii) Whereas it is alleged that Shri K. Balasubramaniam, TDE, Tezpur submitted a report through his letter No.E-38/CMPT/Vol.II/123 dt.7/12/1993 stating that no casual labourer was recruited in Tezpur Division after 31/3/1985. A similar NIL reply was sent to Telecom Commission Hqrs, New Delhi by Shri D. Payeng the then SDO, I/c of O/o TDE, Tezpur vide letter No.E-38/CMPT/Vol.II/167 dt.8/12/1994.
- iv) Whereas it is alleged that the Casual Labourer can be engaged by SDO/SDE office on Muster Roll basis as per rule 150-170 given in Post and Telegraph Financial Hand Book-III, Part-I. However the engagement on Muster Roll basis was stopped from 30.3.1985. The Muster Roll is stored permanently in the office of TDE. The Casual Labourers can also be engaged on ACG-17 basis to attend to works of emergency nature. No attendance register is maintained in this case. The ACG-17 payment vouchers are forwarded to the TDE office and only a broad ACE-2 account is maintained in the O/o SDE. Thus, no permanent records regarding the number of working days against particular orders for the casual labourers are available in the office of the SDE/SDO or with the field staff as such Line Man, Line Inspector, Sub Inspector and Phone Inspector
- v) Whereas it is alleged that S/Sh. Pitambar Sharma, JTO, Sukan Ray the then SI, Sarat Chandra Nath, Line Inspector, M.P Ray, the then Sub Inspector, H.N. Haloi the then Cable Splicer, Jatin Sharma the then JSO issued 7 nos of false and fabricated experience certificates in favour of 7 casual labourers showing



them as Casual Labourers working since 1988 to February 1996 in the office of the SDE(Comp), Tezpur and Md. Bazlur Rehman the then SDE(Comp). Tezpur countersigned the experience certificates without verifying the records and knowing that no records exists for the same and forwarded them to Shri M.K. Gogoi, the then TDE, Tezpur. Shri M.K. Gogoi, the then TDE, Tezpur appointed these 7 persons as Temporary Status Mazdoor (TSM) on the basis of the recommendations of the members of the Departmental Promotion Committee (DPC) viz., S/Shri D. Payeng the then SDE(Comp), Tezpur, P. Das the then SDO(P), Tezpur, A.K. Sarkar, the then SDO(HRD), U. Swargiary the then AO(Cash).

- vi) Whereas it is alleged that Shri M.K. Gogoi knew that no permanent records are maintained in the SDE office regarding the engagement of casual labourers either on muster roll basis or on ACG-17 basis as only broad ACE-2 accounts is maintained in SDE Office. The permanent records are kept in his own office i.e. the O/o TDE, Tezpur. Thus he appointed 221 Casual labourers including 7 in O/o SDE(Comp), Tezpur as TSM on the basis of the forged experience certificates in which the number of working days of a casual labourer in corresponding years from 1988 to 1996 were filled up by the field staff by sheer imagination. He knew that none of the field staff have records to support the certificates given by them as no records are available with the field staff such as linemen, line inspector, sub-inspector, phone inspector, JTO.
- vii) Whereas it is alleged that Shri M.K. Gogoi did not verify the genuineness of the experience certificates before appointing the Casual Labourers as TSMs. Though the Muster Roll Register is stored in the office of TDE, Shri M.K. Gogoi did not check the Muster Roll Register. He also did not verify the ACG-17 Payment Vouchers before passing the order of appointment of TSMs.
- viii) Whereas it is alleged that Shri M.K. Gogoi appointed 221 Casual Labourers as TSMs in Tezpur Division including 7 in O/o SDE(Comp), Tezpur Division without obtaining approval of Telecom Commission Hqrs and without giving an intimation to the CGMT, Assam Circle, Guwahati. But when he was asked to explain by Shri S.K. Kayal, Area Director, Telecom, Guwahati vide letter No.AMD-GH/CORR/96 dt.28.6.1996 he deliberately gave a wrong and misleading reply vide letter No.X-1/CMPT/96-97/21 dt.7.7.96 explaining the DOT order for the appointment had been obtained and quoted in the letter reference number which in fact is the original circular under which appointment was to be done. Likewise while explaining the circumstances under which such recruitment was resorted to, Shri M.K. Gogoi referred to the RJCMS meeting quoting minutes No.CMPT/L/Vol-VI/58 dt. May, 1996 whereas in the said minutes there is no reference to the appointment of TSM under Tezpur Division at all.
- ix) Whereas it is alleged that Shri M.K. Gogoi joined as TDE in Tezpur Division in January, 1995. In February 1995 he had sent a letter to the then Area Director Telecom (E&R) Shri M. Biswas of the O/o CGMT, Guwahati in which he had stated that from 31.12.1993 onwards no candidate was given TSM status nor there was any candidate yet to be regularized as TSM. Thus Shri M.K. Gogoi



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had the full knowledge that there was no casual labourers under Tezpur Division eligible for appointment as TSM. Even if the casual labourers were not appointed as TSM on Muster Roll basis but were appointed on ACG-17/ACE-2 basis even then their records relating to their appointments i.e. ACG-17 payment vouchers are preserved in the TDE office for a temporary period of two years. In view of the above fact TDE was well aware of the fact that the experience certificate submitted by different accused persons in favour of the casual labourers concerned were bogus ones as there was no record to support those certificates.

Thus Shri Madhurya Kr. Gogoi had failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a public servant and committed gross misconduct. He thereby contravened Rule 3(1)(i)(ii)&(iii) of CCS(Conduct) Rules, 1964.



ANNEXURE III

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED AGAINST SHRI MADHURYA KR. GOGOI, DIRECTOR ARE PROPOSED TO BE SUSTAINED

File No.9(A) of SDE(Computer), Tezpur

1. Certificate issued in favour of Sri Dandadhar Das, S/o Lt Mahendra Nath Das by Shri H.N. Haloi the then Cable Splicer, O/o SDE(C), Tezpur
2. Certificate issued in favour of Shri Nagen Saikia, S/o Sri Chandra Kt. Saikia by Sri Sarat Nath the then Line Inspector, O/o SDE(C), Tezpur
3. Certificate issued in favour of Sri Mridul Kr. Das, S/o Manik Das by Sri Sarat Nath, LI of the O/o SDE(C), Tezpur
4. Certificate issued in favour of Shri Naba Kr. Sarmah, S/o Lt. Dharani Sarmah by Sri Sukan Roy, SI, O/o SDE(C), Tezpur
5. Certificate issued in favour of Shri Dharani Swargiary by Sri Sukan Roy, SI, O/o SDE(C), Tezpur
6. Certificate issued in favour of Sri Rajib Gogoi, S/o Shri Nila Kt. Gogoi by Sri Sukan Roy, SI, O/o SDE(C), Tezpur
7. Certificate issued in favour of Shri Avani Ch. Talukdar, S/o Sri Upen Ch. Talukdar by Sri Mohan Prasad Roy, SI, O/o SDE(C), Tezpur
8. Certificate issued in favour of Shri Avani Ch. Talukdar, S/o Sri U.C. Talukdar regarding engagement for line maintenance by Shri M.P. Roy, SI, O/o SDE(C), Tezpur.

File No.9(B) of SDE(Computer), Tezpur

9. Letter No.E-8/Casual/95-96/1 dt.12.3.1996 addressed to TDE, Tezpur requesting him for consideration and regularization for 6 numbers of casual labourer.
10. Recommendation Sheets of Selection Committee in favour of 6 numbers of Casual Labourers (Two sheets)
11. Pro forma of 7 casual labourers submitted by Sri B. Rahman the then SDE(Computer), Tezpur
12. Forwarding letter No.E-8/CL/96-97/1 dt.10.5.1996 by Shri B. Rahman the then SDE(Comp), Tezpur addressed to TDE, Tezpur
13. Draft Gradation list of 7 numbers of casual labourers submitted/duly recommended by Selection Committee.

FILE NO:3/10/PART II/LOOSE SEIZED IN RC.12(A)/98-SHG

14. Letter No.E-38/CMPT/94-95/168, Tezpur dt.17.2.1995 written by Sri M.K. Gogoi, TDE, Tezpur to ADT(E&R) giving details of TSMs employed after 1989 (page 117) Sl.No.28 in RC-10(A)/97-SHG
15. Letter No.E-38/CMPT/VOL.II/167, Tezpur dt.8.12.1994 written by D. Payeng, SDO(P), i/c o/o TDE, Tezpur(Page 106)
16. Letter No.AMT-GH/Corr/96 dt.28.6.1996 by Shri S.K. Kayal, Area Director, Telecom Guwahati to Shri M.K. Gogoi, TDE, Tezpur(P.56)

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17. Letter No.X-1/CMPT/96-97/21 dt.Tezpur 7.7.96 written by Shri M.K. Gogoi, TDE(Tezpur), to Shri S.K. Kayal, Area Director, Guwahati
18. X-1/CMPT/TZ/95-96/Confdl dt.Tezpur 25.3.1996 by Shri M.K. Gogoi, TDE, Tezpur regarding constitution of DPC(P.15)
19. Minutes of the meeting of RJCM item No.38(p.5)
20. E-38/CMPT/VOL.II/123. Tezpur dt.9.12.1993 written by Shri K. Balasubramaniyam, TDE, Tezpur addressed to Shri S.C. Choudhary, Assistant Director, Telecom, O/o CGMT, Listed in RC/10(A)/97-Sl.No.29
21. Original Letter No.269-4/95-STN-11 dt.17.12.1993 of ADG(STN), Department of Telecommunications, New Delhi in respect of regularization of casual labourers engaged in Circle after 30.3.1985 up to 7.6.88. Original letter listed in RC-10(A)/97- Sl.No.30
22. Attested copy of letter No.270/6/84-STN, New Delhi dt.30.3.1985 of Shri Krishan, Director (STN), P&T in respect of banning of engagement of Casual Labourers. Attested copy of letter listed in RC-10(A)/97-SHG- sl.No.59
23. Seizure Memo dt.13.9.1999
24. Seizure Memo dt.13.9.1999
25. Joining Reports of the casual labourers (file No.9B of SDE(Compt), Tezpur
26. FIR of the case
27. Post and Telegraph Financial Handbook(III) Part I
28. Letter No.Estt-9/12 dt.30.6.2000 written by Shri A.K. Chelleng. AGM. in the O/o CGMT, Guwahati to DSP/CBI/SHG in respect of TDE's responsibility to implement TSM Scheme



ANNEXURE IV

LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGE FRAMED AGAINST SHRI M.K. GOGOI, THE THEN TDE, TEZPUR, PRESENTLY DIRECTOR(RTTC), GUWAHATI ARE PROPOSED TO BE SUSTAINED

1. Shri A.K. Chelleng, AGM (Admn)
2. Shri Dilip Kumar Rai Barman, AO(Cash) in the O/o TDE, Tezpur, LS-type III/7/6 Baishnabghata Palebi Telecom Complex, Kolkata
3. Shri Rajiv Yadav, TDM, Tezpur, Vill. Vedi, PO Ramaipatty, District Varanasi, UP
4. Shri M.K. Bhattacharjee, SDE in the O/o TDM, Tezpur
5. Sri Bishnu Kr. Paul, AAO, in the O/o TDM, Tezpur
6. Sri Sarbeshwar Nath, ISO in the O/o TDE(FRs)
7. Sri Biren Ch. Das, TOA in the O/o SDE(FRs)
8. Md. Islam Mansoori, Sr. TOA(O) in the O/o SDE(FRs), Tezpur
9. Shri S.K. Kayal, Area Manager, Howrah, Calcutta Telephones, R/O 23/3/2A, Rup Narayan Nanda Lane, Calcutta 25
10. Shri K. Barman, Inspector/CBI, IO of the case
11. Shri D. Dutta, Inspector/CBI, IO of the case.
12. Shri Vaibhav Agashe, IO of the case.

[Handwritten signature]

*Attested by
[Signature]
[Signature]*

CENTRAL VIGILANCE COMMISSION

The Commission observes that CBI had earlier registered two other cases against Sh. M.K. Gogoi and others where the charges were similar in nature i.e. appointment of casual labourers as TSMs and Commission has agreed with the recommendations of CBI for initiation of RDA for major penalty against Sh. M.K. Gogoi and others. In view thereof keeping conformity with the earlier decision, the Commission in consonance with the recommendations made by Department of Telecom advises initiations of major penalty proceedings against the following officers:-

- S/Shri
1. Md. Bazlur Rahman, SDE
2. Pitambar Sarmah, the then JTO
3. Sukan Ray, the then SI
4. Sarat Nath, the then Line Inspector
5. Harinder Nath Hali, the then Cable Splicer
6. Mohan Prasad Ray, the then SI
7. Naba Kumar Sharma, TSM
8. Dharani Swargiary, TSM
9. Nagen Saikia, TSM
10. Rajiv Gogoi, TSM
11. Mridul Kumar Das, TSM
12. Dandadhar Das, TSM
13. Arani Ch. Talukdar, TSM
14. Daneswar Payeng, DE
15. Upen Swargiary, the then AO
16. Ajit Kumar Sarkar, the then SDE
17. M.K. Gogoi, Director
18. Jatin Sharma, Jr. Supervisory Operator
19. Prantosh Das, the then SDE

2. Department may conduct the inquiry proceedings against above 19 officers by appointing their own IO and revert the Commission for second stage advice on conclusion of inquiry proceedings alongwith their recommendations since emanated from the findings of IO's reports.

3. Deptt.'s file NO. 9-58/2001-Vig.I is returned herewith.

DDG (Vig Telecom)
No 36/67/8/01

S.M. Batra
(S.M. Batra)
Director

Department of Telecom (Sh. Ranbir Khanna, DDG(V), New Delhi.

CVC ID No.001/P&T/118 dated the

Encl:As above.

7 AUG 2001
7/8

Attended
7/8

DDG (Vig Telecom)
No 36/67/8/01
Date 8/8

8/8

C.V.I.T) ADG(V&A) 7/8

1. 2 MAY 2005

গুৱাহাটী বেঞ্চ
Guwahati Bench

Filed by
the Respondent
through
12. Alaka Das
Addl. Secy
CAT/AN
12/5/05

S. Ranjan Chandra Das
Assistant Director Telecom (Legal)
In the Chief General Manager's Office
Assam Telecom Circle, Guwahati-7

1
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA NO. 47/05

MADHURJYA KR. GOGOI

.....APPLICANT

-VERSUS-

UNION OF INDIA & ORS

.....RESPONDENTS

WRITTEN STATEMENT FILED BY THE RESPONDENTS

- 1) That the Respondents have received a copy of OA and have gone through the same. The respondents have understood the contents thereof. Save and except, the statements, which are specifically admitted herein below, rest may be treated as total denial. The statements, which are not borne on record, are also denied and the applicant is put to the strictest proof thereof.
- 2) That with regard to the statements made in paragraph 1, 2 & 3 of OA, the respondents do not offer any comment.
- 3) That with regard to the statements made in paragraphs 4.1 to 4.6 of OA, the respondents offer no comment.
- 4) That with regard to the statement made in paragraphs 4.7 of OA, the respondents beg to state that the charge sheets have been issued on the investigation conducted by the CBI. Separate charge-sheets have been issued since the cause of action occurred in respect of separate Sub-Divisions under the control of the applicant.
- 5) That with regard to the statement made in paragraph 4.8 of OA, the respondents offer no comment.
- 6) That with regard to the statement made in paragraphs 4.9 to 4.15 of OA, the respondents beg to state that the applicant has stated that the Casual labours were engaged prior to his appointment as TDE, Tezpur. But the applicant has appointed a

large number of casual Labours as Temporary Status Mazdoors (TSM) in violation of the DOT's instructions and without verifying their experience certificates from the issuing authority.

- 7) That with regard to the statement made in paragraph 4.16 to 4.18 of OA, the respondents while denying the contentions made therein beg to state that the applicant himself has agreed in paragraph 4.17 that the relaxation was not applied for by the Assam Circle. Therefore, it is clear that the ban on engagement of casual labours was applicable to Assam Circle. As such the appointment made by the applicant were irregular and against the rules.
- 8) That with regard to the statement made in paragraphs 4.19 to 4.21 of OA, the respondents beg to state that the applicant himself has agreed in paragraph 4.19 that he has made the appointments. Those appointments were irregular for which the applicant has been proceeded under Rule 14 of CCS(CCA) Rules, 1965.
- 9) That with regard to the statement made in paragraph 4.22 to 4.25 of OA, the respondents beg to state that separate charge sheets have been issued for the irregularities in the cause of action, which occurred in respect of separate Sub-Divisions under the control of the applicant. In all these cases Inquiry Officers have been appointed. In two cases inquiries have been completed and reports have been processed as per the rules. In the remaining cases inquiries are under progress. The Inquiry Officers are being reminded from time to time to complete the inquiry. Hence the plea of the applicant that the department does not follow the provisions of the Constitution of India is not correct.
- 10) That with regard to the statement made in paragraph 4.26 of OA, the respondents beg to state that promotions are made by the department after following the due procedure in this regard. This is decided by the DPC which considers the suitability of the officer based on his past performance, clearance from Vigilance etc. Since disciplinary cases are pending against the applicant, his request for promotion cannot be agreed to at this stage.
- 11) That with regard to the statement made in paragraphs 4.27 to 4.33 of OA, the respondents beg to state that the Charge Sheets have been issued basing on the

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investigation conducted by the CBI. Separate charge sheets have been issued since the cause of action occurred in respect of separate Sub-Divisions under the control of the applicant. Therefore the request of the applicant for combining all the charge sheets cannot be agreed to. However, it is mentioned that in two cases inquiries have been completed and reports have been processed as per rules. In the remaining cases inquiries are under progress. The Inquiry Officers are being reminded from time to time to complete the inquiry. The Inquiry Proceedings involve examination and cross examination of the prosecution witnesses. Defense witnesses etc. , examination of various documents by the PO, CO etc. Non-compliance with the laid down procedure can be considered as denial of natural justice to the Charge Officer.

12) That with regard to the statement made in paragraphs 5.1 to 5.2A of OA, the respondents while denying the contentions made therein beg to state that as indicated earlier inquiry in two cases have been completed and in the remaining cases the same are in progress. The Inquiry proceedings involved examination and cross-examination of the prosecution witnesses. Defense witness etc., examination of various documents by the PO/CO etc. Non-compliance with the laid down procedure can be considered as denial of natural justice to the Charge Officer. Therefore the orders of the Tribunal Passed in OA No. 119/2004 have been partly complied with. Application has been filed in the Hon'ble Tribunal on 21.2.2005 for extension of time to complete the inquiry in the remaining cases in accordance with the prescribed procedure. The orders of the Hon'ble Tribunal are awaited.

13) That with regard to the statement made in paragraphs 5.3 to 5.10 of OA, the respondents beg to state that the charge sheets have been issued based on the investigation conducted by the CBI. Separate charge sheets have been issued since the cause of action occurred in respect of separate Sub-divisions under the control of the applicant. As indicated earlier inquiry in two cases have been completed and in the remaining cases, the same are in progress. The Inquiry proceedings involved examination and cross-examination of the prosecution witnesses. Defence witnesses etc., examination of various documents by the PO/CO etc. Non-compliance with the laid down procedure can be considered as denial of natural justice to the Charge Officer. Therefore, the allegation of the applicant that his cases are being deliberately delayed is not correct. On the other hand all the cases of the applicant

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are being processed on priority. The Inquiry Officers are being reminded regularly to complete the inquiry proceedings.

- 14) That with regard to the statement made in paragraphs 6 & 7 of OA, the respondents offer no comment.
- 15) That with regard to the statement made in paragraphs 8 & 9 of OA, the respondents beg to state that the prayer of the applicant to quash the charge sheet is devoid of any merit. The charge sheets have been issued as per the provisions of the statutory rules. The inquiry proceedings, which are of quasi-judicial nature, are also in progress.
- 16) That with regard to the statement made in paragraphs 10 to 12 of OA, the respondents offer no comment.
- 17) That in view of the fact and circumstances stated above, the respondents beg to state that the present OA is devoid of any merit hence pray before this Hon'ble Tribunal that the Hon'ble Tribunal may be pleased to dismissed the same with costs.

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VERIFICATION

I Shri Shankar Chandra Das at present
working as Asstt. Director, Telecom, O/o the
CGM, Assam Telecom Circle, GHY-7 who is taking steps in this
case, being duly authorized and competent to sign this verification, do
hereby solemnly affirm and state that the statement made in paragraph
1, 16 & 17 are true
to my knowledge and belief, those made in paragraph
2 to 15 being matter of records, are
true to my information derived there from and the rest are my humble
submission before this Humble Tribunal. I have not suppressed any material
fact.

And I sign this verification this 11th the day of May 2005 at
Guwahati.

Shankar Chandra Das
Assistant Director Telecom (B&T)
O/o the Chief General Manager
Assam Telecom Circle, Guwahati-7