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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

*8/1/14*

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

ORDER SHEET

50/05

Original Application No.

Misc. Petition No.

Contempt Petition No.

Review Application No.

P. Bandari

U. O. T. Tors

Applicants:-

Respondents

Advocates for the Applicant J.L. Sarkar, A. Chakrabarty  
 Miss U. Das, Mrs. K. Dutta

Advocates of the Respondent C.G.S.C. - G. Baruah

Order of the Tribunal

Notes of the Registry

Date

application is in form  
 is filed/C. F. for as 0/  
 deposited wgs. P. D.  
 No. 209/1/62450

25.02.2005

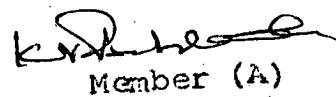
Present The Hon'ble Mr. K.V.  
 Prahladan, Member (A).

Dated 24.2.05

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

The application is admitted.  
 Call for the records. Issue notice  
 to the parties. Returnable within  
 four weeks.

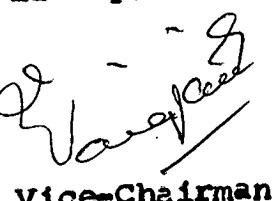
List on 01.04.2005 for  
 orders.

  
 Member (A)

mb

01.04.2005

Ms. U. Das, learned Addl.  
 C.G.S.C. for the respondents  
 seeks time for filing written  
 statement. Post on 29.4.2005.  
 Written statement, if any, in the  
 meantime.

  
 Vice-Chairman

Steps taken  
 on 29/3/05.

Notice & order

sent to D/Section for  
 issuing to resp.

Nos. 1, 2, 3 by regd.  
 A/D post.

mb

29/3/05.

27/1 O.A. 50/2005

29.4.2005 Ms. U. Das, learned Addl.

C.G.S.C. for the respondents seeks further time for filing written statement. Post on 27.5.2005. No further adjournment shall be granted for that purpose.

31-3-05

S/P- as Thd  
D

Notice duly  
Served on  
resp. No-3.

25/4

28-4-05

No-3/5 Re-Recd. 27/4

Da

26-5-05

No-3/5 Re-Recd. 27/5

lm

Da

No written statement

has been filed by the respondents.

Zy

27/6/05  
No said

29.6.05

Ms. filed Am  
the respondents.

bb

4.8.05

Mr. J.L. Sarkar learned counsel for the applicant is not present. Mr. M.U. Ahmed learned Addl. C.G.S.C. seeks time for adjournment.

Post the matter on 6.9.05.

① No. rejoinder has  
been filed.

Zy  
38/05

lm

K. B. Deobhakar  
Member

Vice-Chairman

5.9.05

Ready for hearing  
before D/B.

by -

6.9.2005 Post before the next Division Bench.

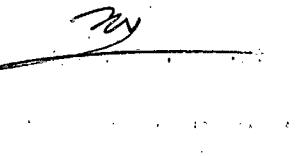
① Who has been filed.

② No Rejoinder has been filed.

  
Vice-Chairman

mb

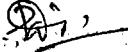
8.3.2006 Due to personal inconvenience Dr. J.L. Sarkar, learned counsel for the applicant is absent. Hence adjourned for two weeks.

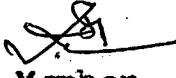
  
1-8-06  
Rejoinder filed by the Applicant.

  
Vice-Chairman(J)

  
Vice-Chairman(A)

bb

  
07.08.2006 Post on 09.08.2006.

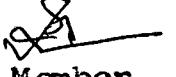
  
Member

  
Vice-Chairman

mb

09.08.2006

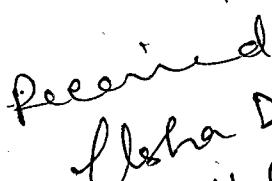
Post tomorrow, 10.08.2006.

  
Member

  
Vice-Chairman

mb

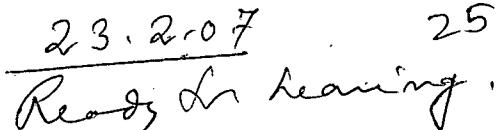
10.08.2006 Learned counsel for the BSNL is not present. The contention of the learned counsel for the applicant is that the order of dismissal has been passed by the Deputy ~~Manager~~ General Manager, BSNL. The said authority has no right to pass the order. Since, learned counsel for the BSNL is not represent, learned counsel for the respondents wanted time to take instruction. Let the case be posted ~~for~~ before the next Division Bench.

  
Debra Das  
Addl Chd C  
25/8/06

  
Member

  
Vice-Chairman

mb

  
23.2.07  
Ready for hearing.

- 4/ OA. 50/2005

26.2.2007

D.J.L.Sarkar, learned counsel for the Applicant, Ms.U.Das, learned Addl.C.G.S.C. and Mr.B.C.Pathak, learned counsel for the BSNL are present.

When the matter came up for hearing, Mr.B.C.Pathak submitted that he has received an instruction dated 1.2.2007 wherein it was stated that on examination of records it is found that the case had not been forwarded to the Director (Staff), DOT, New Delhi earlier for approval and legal opinion obtained on the issue opined to have the prior approval of DOT to impose the penalty. Therefore, he wanted to take further instruction on the point.

Considering the submissions made and the urgency in the matter that has been canvassed by the learned counsel for the applicant let the case be posted on 01.03.2007 for hearing.

cl

Member (A)

Vice-Chairman

The case is ready  
for hearing

/bb/

05.05.2008

This matter stands

adjourned to

21.05.2008 for hearing.

/bb/

(Khushiram)  
Member (A)

21.05.2008 None appears for either of the parties.

Dt. 21.5.08

Pl. send copies of this order to the Applicant and to the respondent

order dt. 21/5/08  
Send to D/Section  
for issuing to applicant  
and to the respondent  
by post.

(Clerk) D/No- 265462662  
21/6/08 Dt- 4-6-08

nkm

Call this matter on 25.06.2008 for hearing.

Send copies of this order to the Applicant and to the Respondents in the addresses given in the O.A.; so that they shall come ready for hearing of this case on the date fixed. Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, also takes notice of the next date of hearing of this case.

GR

(Khushiram)  
Member (A)

MR

(M.R. Mohanty)  
(Vice-Chairman)

The case is ready  
for hearing.

MR  
24.6.08.

25.06.08 Mr S.N.Tamuli, Advocate (appearing for Dr J.L.Sarkar) makes a statement that no pensionary benefits has yet been disbursed in favour of the Applicant. He has also filed an additional statement today, after serving a copy thereof on Mr G.Baishya, learned Sr. Standing Counsel for Union of India. Mr B.C.Pathak, Advocate <sup>has</sup> makes a statement that he will take instructions from BSNL to appear in this case and he undertakes to file Vakalatnama. Mr S.N.Tamuli <sup>of the Addl. Statement</sup> undertakes to serve a copy on Mr B.C.Pathak.

Call this matter for hearing on 27.07.2008; by which Mr G.Baishya and Mr B.C.Pathak should file appearance memo/Vakalatnama, Instruction, if any on the additional statement, <sup>should be filed</sup> well before the date of hearing.

MR  
VICE-CHAIRMAN

01-50/05

(M.R.Mohanty)  
Vice-Chairman

pg

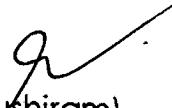
21.07.2008 Heard Dr.J.L.Sarkar, learned counsel for the Applicant and Mr.G.Baishya, learned Sr. C.G.H.C. for the Respondents in part.

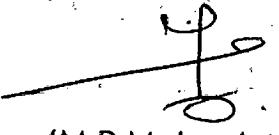
Call this matter on 25.07.2008 under the heading "To Be Spoken To".

11.8.08

Additional  
W.S. submitted,  
by Respondent No.  
2 & 3, undertaking  
given for service  
--65px.

/bb/

  
(Khushiram)  
Member (A)

  
(M.R.Mohanty)  
Vice-Chairman

25.07.2008. This matter was finally heard on 21<sup>st</sup> July, 2007; when Dr.J.L.Sarkar, learned counsel appearing for the Applicant raised the point that for the reasons of provision of Rule 20 of CCS(CCA) Rule 1965 the compulsory Retirement order (passed against the Applicant as a major penalty) could not have been issued by the officers of BSNL and that such an order only could have been passed by the Officers of Government of India in DOT.

2. The said point has not been raised in the O.A.
3. Since as a point of law, the aforesaid point was raised, for the first time, at the hearing; Mr.G.Baishya, learned Sr.Standing Counsel appearing for the Government of India, took an adjournment and, that is how, the matter has been listed to-day under the heading 'to be spoken'

Contd/-

Contd/-

25.07.2008

25.07.08  
 Pl. supply copies  
 as per order to the Advo-  
 cates of the parties.

✓  
 25/7/08

Copies of order dated  
 25/7/08 send to  
 D/Section for issuing  
 to learned advocates  
 of the parties.

6/8/08. D/No -

DT

18. 8. 08

Reply to the addendum  
 will be submitted.

DR.

4. To-day Mr. B. C. Pathak, Advocate has entered appearance for BSNL by filing 'Vakalat' (executed by the Assistant Director of Telecom (legal) in the office of the CGMT/ BSNL, Telecom Circle, Guwahati) and filed an additional written statement (on behalf of the Respondents No.2 & 3) along with several documents as Annexures. He has served the copies of the said additional written statement on Mr. S. N. Tamuli (who has received the same on behalf of Dr. J. L. Sarkar, learned counsel for the Applicant). Mr. B. C. Pathak, counsel for the BSNL, undertakes to serve a copy of the additional written statement on Mr. G. Baishya, learned Sr. Standing counsel appearing for the Government of India, in course of the day.

5. Mr. B. C. Pathak, has also filed a bunch of documents to substantiate the case of the Respondents/ BSNL. He undertakes to serve the copies of these documents on the counsel for the Applicant and on Mr. G. Baishya, learned Sr. Standing counsel in course of the day.

6. In order to give further chance to the Applicant and the counsel for the Applicant (to go through the additional written statement and other connected documents filed by the BSNL) hearing of this part heard matter is adjourned to be taken up on 19<sup>th</sup> August, 2008. Mr. S. N. Tamuli, undertakes to inform Dr. J. L. Sarkar, about the next date of hearing.

7. Copies of this order be supplied to the Advocate of the parties.

25.7.08  
 (Khushiram)  
 Member(A)

25.07.08  
 (M. R. Mohanty)  
 Vice-Chairman

19.08.2008

Dr.J.L.Sarkar, learned counsel ap

Dt. 19.8.08-

Pl. send a copy of this order  
to Mr.B.C.Pathak, learned  
counsel for the BSNL.

for the Applicant is present. Mr.G.Balshya, learned Sr. Standing counsel for the Union of India is also present. However, Mr.B.C.Pathak, learned counsel appearing for the BSNL is not present.

By mistake, as it appears, Mr.Pathak's name has not been shown in the cause list of the hearing and he has to appear today.

*Rinjushankar  
Pathak  
Advocate  
21.9.08*

In the aforesaid premises, call this part heard matter on 08.09.2008 for hearing.

Send a copy of this order to Mr.B.C.Pathak, learned counsel for the BSNL.

*The case is ready  
for hearing.*

*JK*  
(Khushiram)  
Member (A)

*MR*  
(M.R.Mohanty)  
Vice-Chairman

/bb/

*On  
5.9.08.*

08.09.2008

Counsels for the parties are not present.

Call this matter on 03.11.2008 for

*The case is ready  
for hearing.*

*BB  
31.10.08.*

On

*JK*  
(Khushiram)  
Member(A)

03.11.2008 None appears for either of the parties.

Call this matter on 10.11.2008 for

hearing.

*SN*  
(S.N. Shukla)  
Member (A)

*MR*  
(M.R. Mohanty)  
Vice-Chairman

nkm

10.11.2008

Call this matter on 02.12.2008.

✓

(S.N.Shukla)  
Member(A)

(M.R. Mohanty)  
Vice-Chairman

14.11.08

Type copy of  
Annexure No. 15  
has been submitted  
by Sir B. C. Pather

14.11.08

02.12.2008 Fresh hearing in the matter is given to the learned Counsel for the parties. We have heard Dr J.L. Sarkar, learned Counsel for the Applicant, Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, and Mr B.C. Pathak, learned Counsel representing the BSNL, in part.

Call this matter on 16.12.2008 for further hearing, when the Respondents should produce the records of the departmental proceedings.

10

(M.R. Mohanty)  
Vice-Chairman

The case is ready  
for hearing

nKBD

33  
15.12.08

16.12.2008 Heard Dr J.L. Sarkar, learned Counsel appearing for the Applicant, Mr B.C. Pathak, learned Counsel appearing for the BSNL and Mr G. Baishya, learned Sr. Standing Counsel for the Union of India/DOT, and perused the materials placed on record.

For the reasons recorded separately,  
this case is allowed.

Send copies of this order to the Applicant and to the Respondents in the addresses given in the O.A. Free copies of the order should also be handed over to the learned counsel for the parties.

(S.N. Shukla)  
Member (A)

(M.R. Mohanty)  
Vice-Chairman

3/09  
copy of the first  
and to the place  
on issue the same  
in application as  
well as to the  
expm. no. 1 to 3  
Post,  
7  
S.

nkm

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

O.A. No. 50 of 2005

Date of order 16<sup>th</sup>December, 2008

Shri Prafulla Bordoloi

Applicant

By Advocate Dr. J.L. Sarkar

Versus

The UOI & others

Respondents

By Advocates Mr. B.C.Pathak, for BSNL  
Mr. G. Baishya, Sr.C.G.S.C.

CORAM

The Hon'ble Mr. Manoranjan Mohanty, Vice-Chairman  
The Hon'ble Mr. S.N. Shukla, Member [Administrative]

1. Whether reporters of local newspapers may be  
Allowed to see the Judgment?

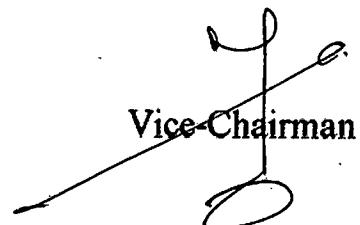
Yes/No

2. Whether to be referred to the Reporter or not?

Yes/No

3. Whether their Lordships wish to see the fair  
Copy of the Judgment ?

Yes/No

  
Vice-Chairman

12

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI**

**O.A. No. 50 of 2005**

Guwahati, this the 16<sup>th</sup> Day of December, 2008

The Hon'ble Mr Manoranjan Mohanty, Vice-Chairman  
The Hon'ble Mr S. N. Shukla, Member [Administrative]

Shri Prafullia Bordoloi  
C/o Runali Bordoloi,  
DGM Office, BSNL, Jorhat-1.

By Advocate Dr. J.L. Sarkar

Applicant

**Versus**

1. Union of India represented by  
the Secretary to the Govt. of India,  
Ministry of Communication,  
Department of Telecommunication,  
New Delhi-1.
2. General Manager,  
Bharat Sanchar Nigam Limited,  
Silchar Telecom District Silchar.
3. Deputy General Manager,  
Office of the General Manager,  
Telecom District, BSNL, Jorhat.

Respondents

By Advocates: Mr B.C. Pathak for BSNL  
Mr G. Baishya, Sr. C.G.S.C.

**ORAL ORDER Dated 16.12.2008**

**Manoranjan Mohanty, Vice-Chairman:-**

Applicant joined the services as a Clerk of Telecommunications Department of Govt. of India on 15.02.1972. He was given "SANCHAR SHREE AWARD" in recognition of his outstanding performance in Assam Telecom Circle during the year 1998-99 and a certificate to that effect was issued, on 17.05.1999, by the Chief General Manager of Assam Telecom Circle. While serving as Senior Telecom Office Assistant [General] in the Office of the General Manager

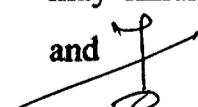
J  
D

of Jorhat Telecom District, he was called upon [by a letter dated 26.08.1999] to put up an explanation as to why disciplinary actions should not be taken against him; for it was alleged that the Applicant withheld 24 number of dishonoured cheques for more than a year. Applicant submitted his reply on 27.08.1999. He was charge-sheeted on 17.09.1999 and, in response thereto, the Applicant submitted his written statement of defence on 27.09.1999. An Enquiry Officer was appointed on 15.10.1999; who gave a preliminary hearing on 05.05.2000. By notice dated 28.08.2001, the Enquiry Officer fixed the date of regular hearing to 10.10.2001 & 11.10.2001 and also gave intimation to the Defence Assistant [S.K.Das] of the Applicant about the said dates of enquiry and, accordingly, by a communication dated 05.10.2001, the Defence Assistant [S.K.Das] of the Applicant was asked to be relieved from his work place in the afternoon of 08.10.2001 to enable him [Defence Assistant] to report at the enquiry on the date fixed i.e. 10<sup>th</sup> & 11<sup>th</sup> October 2001. It has been alleged that the Enquiry Officer, whimsically, postponed the date of enquiry to 08.10.2001; compelled the Applicant to participate in the enquiry, by nominating another Defence Assistant [on the said postponed date [08.10.2001] of enquiry] and intimated [over telephone] the higher authority of the Defence Assistant [S.K. Das] not to relieve him. In the said premises, the enquiry was held on the postponed dates i.e. 8<sup>th</sup> & 9<sup>th</sup> October 2001; when the Enquiry Officer dropped one of the cited witness [who was very important for effective adjudication of the matter] and hurriedly closed the enquiry to the prejudice of the Applicant. It has also been pointed out that during the pendency of the disciplinary proceeding, the services of the Applicant was placed at the disposal of BHARAT SANCHAR NIGAM LIMTED; but for the reason of the pendency of the disciplinary proceeding in question, he was not absorbed in the said BSNL. By its letter dated 08.01.2001, BSNL decided that the employees

with ongoing disciplinary cases can opt for absorption in BSNL but their absorption will be subject to the outcome of the departmental proceedings. It is the case of the Applicant that Enquiry Officer submitted a Report on 20.05.2002; which was supplied to the Applicant on 03.07.2002 and that the Applicant submitted his representation [directed against the said Enquiry Report] on 17.07.2002. On 25.04.2003, Applicant was dismissed from service by an order issued by the BSNL. A revised dismissal order was issued on 11.06.2003 by giving effect to the 'dismissal' retrospectively w.e.f. 25.04.2003. On 27.05.2003 [and on 08.07.2003] the Applicant preferred Appeals against the orders of dismissal and, again, submitted a representation on 01.03.2004. The penalty of dismissal was converted to that of "Compulsory Retirement" w.e.f. 06.10.2004 [vide an order dated 06.10.2004 passed in Appeal] and the period between 25.04.2003 to 06.10.2004 was asked to be treated as 'leave not due'. The Applicant, who was not given pensionary benefits, has, finally, raised a point that BSNL was incompetent to impose punishment on the Applicant and that DOT/GOI was only competent to punish him. Challenging the above-said actions of the Respondents, the Applicant filed the present Original Application [on 24.02.2005] under Section 19 of the Administrative Tribunals Act, 1985 with the following prayers:-

- “8.1 The impugned order dated 06.10.2004 [Annexure-R] be set aside and quashed;
- 8.2 The applicant be re-instated into services with all consequential service benefit;
- 8.3 The applicant is entitled to the cost of the case which may kindly be quantified by the Hon'ble Tribunal

and



15

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

2. In the Written Statement [filed on behalf of the Respondents] dated 28.06.2005, among others, it has pointedly been stated that “the date of hearing on 08.10.2001 was not fixed unilaterally; because the Applicant was informed accordingly and with his full understanding the date of proceeding was fixed on 08.10.2001 and 09.10.2001 instead of 10.10.2001 and 11.10.2001”. It has also been pointed out, in the Written Statement, as under,-

“...the preliminary hearing against the applicant was held on 05/05/2000 and regular hearing started and held on 08/10/2001 and 09/10/2001 when the P.O. added all the documents to the case. In case of regular hearing the P.O. produced four State witnesses, out of five in support of charges who were examined by the P.O. and cross-examined on behalf of the suspected public servant [SPS] conclusively, they are as under-

1. Sri D. Baruah, the then A.O. [Cash], O/O the TDM/Jorhat, presently GM/Jorhat.
2. Sri. J. Hazarika, the JAO [Cash], O/O the TDM/JRT, presently GM/JRT.
3. Md. M. Islam, the then Divisional Cashier, O/O the TDM/JRT, presently GM/JRT.
4. Mrs. Anupama Baruah, the then Sr. TOA [G] as TRA Clerk under TDM/JRT, presently GM/JRT.

Sri M.U. Guresswamy, [State witness], the then A.O.[TR], O/O the TDM/JRT has been consented to be dropped by P.O. for his non-appearance before the inquiry on consecutive two days of hearing. It is the Presenting Officer [P.O.] who can drop a person during inquiry proceedings if he not present before the inquiry committee. In such cases, it is the Presenting Officer who is satisfied enough that there is sufficient evidence against the applicant and the presence of person is negligible. Defence side should not have objection to it.”

The Respondents also proceeded to state as under in para 19 of their above-said written statement;-

T  
O

“...that dismissal of service was effected against the official w.e.f.25/04/2003, and final order issued on 11/06/2003 after review the punishment order issued on 25/04/2003. Hence the period from 25/04/2003 to 10/06/2003 cannot be treated as duty as per rules.”

In para 1 of the above-said written statement, the Respondents disclosed as under;—

“...considering the length of service of the applicant, his outstanding performance of past service records for which he was selected for ‘Sanchar Shree Award’ for the year 1998-1999, having taken the appeal of the dismissed official into consideration and to meet the fair end of the justice, the authority competent was pleased to issue ‘Penalty of compulsory retirement’ against the applicant vide No.X-1/BB/2003-2004/7 dated 11.06.2003.”

3. By filing a Rejoinder [on 31.07.2006] the Applicant, among other points, stated as under;—

“...applicant has been highly prejudice for enforcing the hearing on 8.10.2001 ignoring the already fixed date which denied him the scope of his defence by the duly consented and appointed defence assitant. This is violative of the procedure and offends Article 21 of the Constitution. Suddenly taken defence counsel was under compulsion and could not studied the brief fully and put up the defence adequately. This is violence of the principles of Natural Justice. The inquiry officer should learn that the duly appointed defence counsel, Shri Shankar Das is very thorough and in colourable exercise of power change the date of hearing to avoid Shri Shankar Das.

xxx

xxx

xxx

The State witness was dropped who was AO[TR] and his evidence could have been very important in showing the true picture and procedure. Malice in law is explicit in dropping the State Witness.

xxx

xxx

xxx

It is denied that evidence of State witness have gone against the applicant. The vital State witness was not

examined. The inquiry report therefore perverse. This was done deliberately and for which the hearing date was altered."

4. On 25.07.2008, the Respondents side filed an Additional Written Statement in this case. In the Additional Written Statement the Respondents have stated as under:-

"That the Government of India pursuant to the New Telecom Policy, 1999, decided to set up a company under the name and style as Bharat Sanchar Nigam Limited [hereinafter referred to as the 'BSNL']. The said BSNL has been registered and incorporated under the Companies Act, 1956 on 15.9.2000. The date of Certificate of Incorporation of the said BSNL, and the commencement of business is 15.9.2000. The said BSNL is a Govt. Company under Section 617 of the Companies Act, 1956 and is a body corporate. The BSNL is a State within the meaning of Article 12 of the Constitution of India as the Central Government has its deep and pervasive control in the affairs of the said company.

That as a matter of policy, the Government of India decided to transfer all the assets and liabilities of the Department of Telecommunications [referred to as the 'DOT'] to the said newly set up BSNL with effect from 1.10.2000. This was done vide Govt. of India Office Memorandum No.2-31/2000-Resig dated 30.9.2000. Amongst other, it was provided by the said OM that the matter relating to personnel [Governments servants] pending before various Administrative Tribunals, High Courts and Supreme Court, the company will defend as assigns and successor in interest as per existing rules till the time employees are on deemed deputation with the company. It has also been provided that any judgment/order/award delivered by an authority/Tribunal/Court/Arbitrator in respect of all the matters described there shall be implemented in letter and spirit by the company, in accordance with rules, regulations, directions and statutes.

That the aforesaid change over/transformation started with effect from 1.10.2000 as a process. Although this change took place, the personnel [both the officers in the Group A & B and the employees in the Group C & D remained the same under the same roof and the same set up having the same functions. The change took place by fiction of law only for the purpose of determination of legal status regulating the rights and duties and in order to achieve the purpose of the New Telecom Policy, 1999. The said officers and the employees are/were the same in their official

hierarchy as they were in the erstwhile DOT and then in BSNL after 1.10.2000. However, all of them were considered to be employees of the DOT on deemed deputation w.e.f. 1.10.2000 till they were finally absorbed in BSNL

That the process of absorption of the Group C & D employees started first and they were given the chance to exercise option either to be absorbed in BSNL, or to remain in DOT. The said process started vide BSNL, communication No.BSNL/4/SR/2000 dated 2.1.2001, D.O.No. BSNL/4/SR/2000 dated 3/4.1.2001,STES-BSNL/Assam/2-58/2 dated 8.1.2001, DOT letter No.27-1/2001-SNG dated 13.11.2001 and such process were to be completed by 19.2.2002. However, these employees against whom the disciplinary action were contemplated or pending were treated differently. Those who exercised option to be absorbed in BSNL have been absorbed through a Presidential Order. Thereafter, the process of absorption of the Group B officers started in the year 2003 and the said process is, except few cases, also almost over. The process of absorption of Group a officers [Indian Telecom services] has not yet been taken up so far.

The answering respondents crave the leave of the Hon'ble Tribunal to allow them to refer to and reply upon the said letters/communication dated 2.1.2001, 3/4.1.2001, 8.1.2001 and 13.11.2002 at the time of hearing.

That as stated above, Sri Prafulla Bordoloi was not absorbed in BSNL as the disciplinary action was pending against him and accordingly he remained the employee of DOT in deemed deputation by virtue of the operation of the provisions of the OM dated 30.9.2000 till he was given the punishment as he found guilty. By the provisions of the OM dated 30.9.2000, the applicant was not exactly on deputation within the true import of the meaning of 'deputation' as the borrowing and the lending departments remained the same except the concept of being determined as different entity attributed by fiction of law. Therefore, the term 'deemed deputation' has been used in the said OM. That being the ground reality, the disciplinary and the appellate authority remained the same either in DOT or in BSNL, in the instant case. In BSNL [the deemed borrowing authority] they are the authority for the purpose of disciplinary action as required under Rule 20 of the CCS [CCA] Rules, 1965 as in deemed deputation as they were not absorbed in BSNL at the said relevant point of time. Whereas, the same authority were also the authority for the DOT [lending department] for the purpose of the provisions of the Rule 20 of the CCS [CCA] Rules, 1965. Hence the provisions of Rule 20 [2] [ii] cannot be applied in the instant case as the disciplinary/appellate

authorities are the same as indicated above. Therefore, there was no infirmity in the award of punishment to the applicant.

That the BSNL vide their circular letter No.250-80/2001-Pers-III dated 5.11.2001 decided to adopt the CCS[CCA] Rules, 1965 till they frame their own Administrative/Disciplinary Rules. The Board of Directors of 11.7.2002 took the decision to adopt the CCS[CCA] Rules, 1965 and the CCS[Conduct] Rules, 1964 for the Group C & D and clarified certain authorities to be therein. The DOT vide their Circular letter No.15-7/2003-Vig. III dated 23.12.2003 has also issued direction to the BSNL that the cases of dismissal/removal of the employees absorbed in BSNL be referred to the DOT for confirmation/ratification to ensure the protection given under Rule 37 A sub-rule 24 [c] of the CCS[Pension] Rules, 1972. In the instant case the applicant was never absorbed in BSNL and therefore the question of confirmation/ratification by the lending department [DOT] does not arise.

That after 1.10.2000, when the personnel of the erstwhile DOT got absorbed in BSNL, such absorbed employee were debarred from approaching the Central Administrative Tribunal to implicate the BSNL as a party respondent as there has been no notification as required under Section 14[2] of the Administrative Tribunals Act, 1985 to bring the BSNL within the jurisdiction of the said Hon'ble Tribunal. There are a plethora of decision of the Hon'ble Tribunal and High Court by which it has been held that the Central Administrative Tribunal has no jurisdiction over the BSNL as there is no notification so far issued by the Govt. of India in this regard as required under Section 14[2] of the Administrative Tribunals Act, 1985. Hence, in this instant case the respondent No.2 and 3 were the official respondents under the DOT prior to 1.10.2000 and after that they are authority under the BSNL. The said posts of respondent No.2 and 3 are Group A posts held by ITS officers. Such officers are in deemed deputation in BSNL [the borrowing authority] and are still the public servants under the DOT [the lending authority]. The said posts/official designation and the authorities has merged into one instead of two different authorities on 1.10.2000 onwards and the erstwhile posts/designations/authority under the DOT have ceased to exist. For the said typical reasons and ground reality, the case of the applicant cannot be referred to the non-existing authority. Hence the procedure adopted to arrive at a decision to punish the delinquent employee does not suffer from any illegality or infirmity as alleged by the applicant.

That after the award of punishment of compulsory retirement, the respondents asked the applicant to fill up the

necessary forms/applications for grant of pension and other DRCG benefits. Accordingly the applicant submitted all the relevant forms and applications supported by necessary information. The case of grant and payment of GPF, Group Insurance and Leave Encashment has already been settled and paid to the applicant by Rs.4,58,334/- as GPF, Rs.17,760/- as Group Insurance and Rs.1,46,590/- as Leave Encashment. The case of sanction of pension has also already been sent to the appropriate authority vide communication dated 21.9.2006. All these information are provided by the concerned authority of the BSNL vide letter No.E-1/Pen/PB/Ex.Sr. TOA[G]/GMTD-JRT/08-09/15 dated 6.7.2008 along with the enclosure annexed thereto.”

5. On 18.08.2008, the applicant filed a reply [to the Additional Written statement] in this case; wherein it has been pointed out that “when a disciplinary case is pending, the same should be completed by DOT and BSNL has no jurisdiction” and that “Applicant, an employee of DOT was in deputation to BSNL and hence his case will be governed by Rule 20[2] [ii] of CCS[CCA] Rules” etc. Stating this, the Applicant has contested the stand of the Respondents.

6. We have heard Dr. J.L. Sarkar, learned Counsel appearing for the Applicant and Mr. B.C. Pathak, learned Counsel for BSNL and Mr. G.Baishya, learned Senior Standing Counsel for the Union of India.

7. In this case, by way of touching the merits of the matter, Dr. J.L.Sarkar, learned Counsel appearing for the Applicant, pointed out that the procedure, as to how the cases of “dis-honouring of cheques” should be dealt with, having only been prescribed subsequently; the Applicant [in absence of any prescribed guideline at or about the time of commission of negligence alleged against him in the disciplinary proceeding] ought not have been charge-sheeted for the alleged commission or omission. To this, it has been argued on behalf of the Respondents that the Tribunal not being an Appellate Authority ought not to enter into the merits of the matter. Dr. Sarkar, arguing for the Applicant, has, however, rightly pointed out that the actions of the Respondents in alleging a conduct [for which ~~✓~~ ✓]

prescriptions were made subsequently] of the Applicant to be bad [in the departmental charge-sheet] led to gross miscarriage of justice in the ultimate decision and, as such, this Tribunal can interfere in the matter touching the merits. If the procedure to deal with dis-honoured cheques were prescribed on a subsequent date, then the charges against the Applicant can safely be branded as an outcome of non-application of mind.

8. Dr. Sarkar also pointed out that non-examination of a vital witness [who was originally named in the charge-sheet] in the enquiry has led the enquiry proceeding to a stage of denial of natural justice to the Applicant. He resisted the stand of the Respondents [as raised in the written statement] that 'the Presenting Officer, having right to withhold any listed witness, rightly withheld a witness in course of the enquiry'. At the hearing, learned Counsel appearing for BSNL supported the said stand of the Respondents raised in their written statement.

9. The Disciplinary Authority, while drawing the charge-sheet, named the witness to sustain the charges. Neither the Presenting Officer nor the Enquiry Officer have got the powers to drop any such witness named [by the Disciplinary Authority] in the charge-sheet; because that would amount to over-reaching the Disciplinary Authority. That apart, non-production of such a witness leads to miscarriage of justice; because the charged officer gets no opportunity to examine/cross-examine such a witness [named in the charge-sheet] in the enquiry. Applicant has pointed out that non-production of such a witness has grossly prejudiced him; because [it has been pointed out] he would have thrown light on the aspect of absence of prescribed procedure pertaining to the dis-honoured cheques etc. Thus, we are inclined to hold that there were miscarriage of justice, in the decision making process, against the Applicant.



10. Apart from the points [of "no merit in the allegations raised in the charge-sheet" and the point of "violation of the principles of natural justice during the enquiry"] raised on behalf of the Applicant at the hearing of this case; a very important point was raised by Dr. Sarkar, learned Counsel appearing for the Applicant. It has been pointed out that charge-sheet under Annexure-E dated 17.09.1999 was drawn against the Applicant by Divisional Engineer [P&A] of the Department of Telecommunications of Govt. of India [stationed at Jorhat] and the Applicant submitted his written statement of Defence to the said Divisional Engineer [P&A] of the Office of TDM, Jorhat of DOT/GOI under Annexure-F dated 27.09.1999. The Enquiry Officer was appointed on 15.10.1999. In the meantime, as per Telecom Policy [1999] of Govt. of India, a Company under the name and style as BHARAT SANCHAR NIGAM LIMITED [in short BSNL] was set up and registered under the Companies Act, 1956 on 15.09.2000 [as a Govt. Company] under Section 617 of the said Act of 1956. The said Company [BSNL] commenced its business on said 15.09.2000. As it appears, the Govt. of India decided to transfer all the assets and liabilities of the Department of Telecommunications [DOT] to the said Company/BSNL with effect from 01.10.2000 and the same was done vide Govt. of India Memo dated 30.09.2000. Despite that, all Group A & B officers and Group C & D employees engaged in Telecom activities of Govt. of India continued to be officers & employees of DOT on deemed deputation to BSNL w.e.f. 01.10.2000. In the process of absorption of Group C & D employees [of DOT/GOI] in BSNL, they were given the chance to exercise their option either to be absorbed in BSNL or to remain in DOT [vide BSNL communication dated 02.01.2001, dated 3/4.01.2001, dated 08.01.2001 and dated 13.11.2001] and the said process was to be completed by 19.02.2002. However, those employees, against whom disciplinary actions were contemplated

or pending, were treated differently. In BSNL communication dated 02.01.2001, it was noted as under in para 5 thereof:-

**“5. OPTIONS OF STAFF FACING DISCIPLINARY CASES.**

It was agreed that the employees with on-going disciplinary cases can also opt for absorption in BSNL but their absorption will be subject to the outcome of the vigilance case. Their pending cases will be expedited on a fast track mode by DOT. The appeal/petition cases for those employees will also be decided by DOT authorities.”

It is submitted by Dr. J.L.Sarkar that for the above reason, the Applicant continued to be “an employee of DOT/GOI in a deemed deputation to BSNL” and authorities of DOT/GOI [not BSNL] were to handle his case/disciplinary proceeding in question.

11. As it appears, the enquiry report under Annexure-K dated 20.05.2002 was not only drawn by an officer of BSNL; the final order imposing major penalty was also imposed by Officers of BSNL/BSNL under Annexure-M dated 25.04.2003/Annexure-N dated 11.06.2003 in gross disregard to their own guideline dated 02.01.2001. Thus, we are inclined to hold that the final order that was passed by the BSNL against the Applicant is not sustainable; as he was not an absorbed employee of BSNL. Actions taken against him [by the BSNL] is bound to be quashed for the reason of BSNL’s own communication dated 02.01.2001.

12. Since it is the case of the Respondents that the Applicant was in deemed deputation [from DOT/GOI] to BSNL, we also examined the matter from that angle. Rule 20 of CCS[CCA] Rules, 1965 deals with the cases of Govt. of India servants on deputation to other bodies. Relevant portion of Rule 20 of the Rules of 1965 reads as under:-

**“20. Provisions regarding officers lent to State Governments, etc.**

[1] Where the services of a Government servant are lent by one department to another department or to a State Government or an authority subordinate thereto or to a local or other authority [hereinafter in this rule referred as "the borrowing authority"], the borrowing authority shall have the powers of the appointing authority for the purpose of placing such Government servant under suspension and of the Disciplinary Authority for the purpose of conducting a disciplinary proceeding against him;

Provided that the borrowing authority shall forthwith inform the authority which lent the services of the Government servant [hereinafter in this rule referred to as "the lending authority"] of the circumstances leading to the order of suspension of such Government servant or the commencement of the disciplinary proceeding, as the case may be.

[2] In the light of the finding in the disciplinary proceeding conducted against the Government servant-

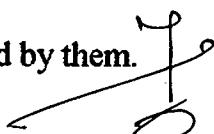
XXX            XXX            XXX

[ii] If the borrowing authority is of the opinion that any of the penalties specified in clauses [v] to [ix] of Rule 11 should be imposed on the Government servant, it shall replace his services at the disposal of the lending authority and transmit to it the proceedings of the inquiry and thereupon the lending authority may, if it is the disciplinary authority, pass such orders thereon as it may deem necessary, or, if it is not the disciplinary authority, submit the case to the disciplinary authority which shall pass orders on the case as it may deem necessary;

Provided that before passing any such order the disciplinary authority shall comply with the provisions of sub-rules [3] and [4] of Rule 15.

EXPLANATION. - The disciplinary authority may make an order under this clause on the record of the inquiry transmitted to it by the borrowing authority or after holding such further inquiry as it may deem necessary, as far as may be, in accordance with Rule 14."

13. Under the above-said Rules of 1965, before passing the final orders, the matter should have been sent to/placed before the Disciplinary Authority [of the Applicant] in the Department of Telecom of Govt. of India and final orders only could have been passed by them.

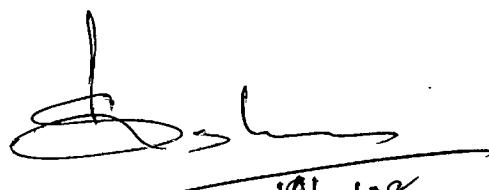


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14. Mr. G. Baishya, learned Senior Standing Counsel appearing for the Govt. of India and Mr. Pathak appearing for BSNL fairly stated that no such procedure [as are required under Rule 20 [2] [ii] of CCS[CCA Rules] were followed [by way of sending/placing the papers to/before the authorities in DOT/GOI] before passing of the impugned orders against the Applicant. Thus, judging from this angle also, the penal orders passed against the Applicant are also not sustainable against the Applicant.

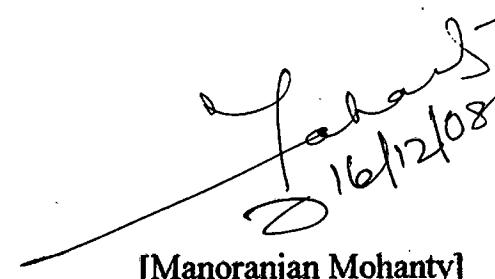
15. Thus, we are inclined to hold that the penal orders under Annexure-M dated 25.04.2003 and the one under Annexure-N dated 11.06.2003 issued by the BSNL/Officers of BSNL against the Applicant are not sustainable against the Applicant [an employee of Department of Telecom of Govt. of India] and the said orders having not been passed in terms of Rule 20[2] [ii] of CCS[CCA] Rules, 1965, the same are hereby quashed along with the Appellate Order under Annexure-R dated 06.10.2004.

16. As a consequence, this case is allowed, the impugned orders of 'dismissal' & "Compulsory Retirement" etc. [passed by BSNL] are hereby quashed. There shall, however, no order as to costs.



16/12/08

[S.N. Shukla]  
Member[A]



16/12/08

[Manoranjan Mohanty]  
Vice-Chairman

cm

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File in Court on 27/1/08

Court Officer:

Bharat Sanchar Nigam Limited,  
(A Government of India Enterprise)Annexure - P  
3No.BSNL/4/SR/2000  
Dated the 2<sup>nd</sup> January, 2001

SUB:- Record of discussions held on 2.1.2001 in the meeting with the three Federations presided by CMD, BSNL regarding terms and conditions for absorption of Group C & D staff in BSNL.

In connection with the absorption of Group C & D staff working in BSNL, preliminary meetings were held with the three Federation(s). The decisions taken were discussed in the BSNL Board meeting held on 09.11.2000, which empowered the Management to negotiate with Unions. Accordingly, a meeting was held with the three Federations on 2.1.2001 as the following proposals were approved.

1. IMPLEMENTATION OF STANDING ORDERS OF THE INDUSTRIAL EMPLOYMENT ACT, 1946:

BSNL service rules are to be finalized after discussion with the recognized union formed by the optees of BSNL and the standing orders of Industrial Employment Act, 1946.

2. SERVICE RULES

In the meantime, it was agreed that Government will continue to apply existing rules / regulations. This is in line as per the provision of Rule 13B of Standing Orders of Industrial Employment Act, 1946. However, certain provisional terms and conditions for absorption are enclosed at Annexure I.

3. ABSORPTION OF CASUAL LABOURS

Orders have been issued by DoT for regularizing Ayahs & all casual labourers including part time casual labourers. Left out cases, if any, will be settled by BSNL in accordance with order No.259-94/98-STN-II dated 29.9.2000.

4. OPTION OF STAFF FOR ABSORPTION IN BSNL

The BSNL will absorb the optees on as is where is basis. A list of optees will be made available to the three federations/unions.

attested as true copy  
Deshaij 27/1/08  
Advocate

File in Court on 05/12/2001

Court Officer.

F.O.

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## 5. OPTIONS OF STAFF FACING DISCIPLINARY CASES

It was agreed that the employees with on-going disciplinary cases can also opt for absorption in BSNL but their absorption will be subject to the outcome of the vigilance case. Their pending cases will be expedited on a fast track mode by DOT. The appeal / petition cases for these employees will also be decided by DOT authorities.

## 6. PROMOTIONAL AVENUES

After absorption there will be negotiations with the newly formed recognized union regarding promotional avenues. Pending adoption of Standing Orders on promotional policy, the present OTBP/BCR/ACP (whichever is applicable) etc. will continue to be followed by BSNL.

## 7. CHANGE OVER TO IDA PAY SCALES

The pay scales and fixation formula will also be adopted through Standing Orders after negotiations with the recognized union in respect of non-executives. After detailed discussions, it was mutually agreed that pending fixation in the IDA pay scales, the Group C & D optees will continue in the Central Government (CDA) pay scales. In addition to this, they will also be paid an adhoc amount of Rs.1000/- per month w.e.f. 1.10.2000 which will be adjusted from their IDA emoluments, perks and benefits on fixation of the same in revised IDA scales. The revised negotiated IDA pay scales will be applicable from the date of absorption i.e. 1.10.2000.

## 8. TIME FRAME FOR VARIOUS POST ABSORPTION ACTIVITIES

It was agreed that the options will be called in January, 2001 providing about one month time to the employees to give their options and the entire activity is expected to be completed by the end of 28<sup>th</sup> Feb. 2001. A list of optees of BSNL will be exhibited to rectify inaccuracies, if any.

The existing system of informal meetings with applicant Unions, as on 30.9.2000 and formal meetings with the three Federations shall continue.

9. The employees who opt for permanent absorption in BSNL would be governed by the provisions of Rule 37-A of CCS Pension Rules, notification for which was issued by the Department of Pension & Pensioners Welfare on 30.9.2000. For the purpose of reckoning emoluments for calculation of pension and pensionary benefits, the emoluments as defined in CCS(Pension)Rules, in PSU in the IDA pay scales shall be treated as emoluments.

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File in Court on 28/1/88

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Court Officer.

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10. DoT has already clarified that the word "formula" mentioned in clause 8 of Rule 37-A means payment of pension as per Government Rules in force at that time. It has also been clarified by the DoT that BSNL will not dismiss / remove an absorbed employee without prior review by the Administrative Ministry / Department.

11. The Group C & D employees who appear for any promotional examination whether direct or departmental and qualify in such examinations / outsiders coming through direct recruitment process, would rank junior to all the other employees in the promotional cadre who had already been qualified in earlier examinations even though they get absorbed in BSNL subsequently.

The above modalities have been worked out in consultation with the following three federations for termination of the deemed deputation status in BSNL and the parties have put their signatures in token of their consent and agreement on this date 02.01.2001.

The Proforma for exercising the option is enclosed.

(DR.D) S SETTD  
CMD, BSNL

(KRANTI KUMAR)  
DIRECTOR(HRD) BSNL

(S P PUNWAR)  
DIRECTOR(FIN.) BSNL

(MALLIKARJUN)  
SECRETARY GENERAL, BTEF

K. Vallinayagam  
( K. VALLINAYAGAM )  
SECRETARY GENERAL, FNTO

(O P GUPTA)  
SECRETARY GENERAL, NFTE.

A.K. PATHAK  
DY. DIRECTOR GENERAL(SR)

File in Court on...../...../.....

Court Officer.

IMMEDIATE/BY FAX / POST

D.O.No.BSNL/4/SR/2000

Dated the 3<sup>rd</sup> January, 2001  
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CGM,

Consequent upon the Corporatisation of the DTS / DTO vide DoT orders dated the 30<sup>th</sup> September, 2000, an agreement has been signed with the three Staff Federations of Group C & D employees regarding option for absorption in BSNL. A list of provisional terms and conditions for absorption in BSNL has also been finalized in consultation with the three Staff Federations.

2. A copy of the agreement signed with the Federations along with the proforma for exercising option for absorption in BSNL / retention of Government status is enclosed (six pages).

3. The exercise for giving options and their acceptance shall be at SSA level for the staff in the field and at the office of COM for circle office staff. For other units like Metro districts of Calcutta and Chennai, project circles, civil, electrical and architectural wings, maintenance regions, specialized telecom units namely Data Network, NCES, T&D, QA (except TEC), training institutions, other units like telecom factories, stores, electrification etc. the concerned CGM will decide the level and nominate the concerned officer.

4. Four copies of the Option Form numbered 1 to 4 with one set of provisional terms and conditions will be sent to each employee of Group C and D latest by 15<sup>th</sup> January 2001 and the process of exercising option completed preferably within a period of one month and in no case later than 28<sup>th</sup> February, 2001. All the four copies of the Option Form will be got filled by each employee and dealt as follows:

- 1<sup>st</sup> copy to be kept by the Accepting Authority.
- 2<sup>nd</sup> copy to go to the Service Book of the employee.
- 3<sup>rd</sup> copy to be sent to the Circle Office for record, and
- 4<sup>th</sup> copy to be acknowledged by a Group B officer and returned to the employee for his record

allied as true copy  
orignal  
27/10/08  
Advocate

Date in Court on..... 10.8.00

Court Officer (2) -

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5. The option exercised by the employee should be accepted by an officer not below the rank of Sr. Time Scale officer in charge of administration in the SSA. It should be ensured that the employee is not inconvenienced in the matter of exercising and acceptance of the option.

6. As per the strike agreement, the officials who opt for absorption in BSNL may be paid Rs.1000/- per month as adhoc payment w.e.f. 01.10.2000 to be adjusted against their IDA emoluments, perks and benefits admissible to them on finalization of the same in the revised IDA scales w.e.f. 1.10.2000 after taking necessary undertaking from the employer.

7. Efforts may be made to ensure that this adhoc payment along with arrears is paid to the optees only within 10 days of the acceptance of their option for absorption in BSNL. Necessary action for demanding required funds is to be taken to ensure payment as stated above. Suitable arrangements may also be made to ensure that there is no undue delay in acceptance of the options so exercised by the optees and adhoc payment along with arrears.

8. The list of optees for the BSNL and of those desiring to retain the Government status may be prepared SSA-wise and displayed prominently to rectify the inaccuracies, if any.

9. The figures regarding total number of optees in each SSA and those retaining Government status, should be consolidated circle-wise. These circle-wise figures should be furnished to Shri B Sharma, DDG(Pers.), BSNL (HQRS.) latest by 10<sup>th</sup> March, 2001 for record.

With regards,

Yours sincerely,

Arpan

(A K PATHAK)

3737887 fax  
3714232 To

To

All C GMs.

Copy to:

All S: DDGs/DDGs in DoT/BSNL

BHARAT SANCHAR NIGAM LIMITED  
(A Govt. of India Enterprise)  
OFFICE OF THE CHIEF GENERAL MANAGER  
ASSAM TELECOM CIRCLE:GUWAHATI-781 007.

NO. STES-BSNL/Assam/2-58/2 DATED AT GUWAHATI, THE 08.01.2001

TO

01. The CGM,T/F,N.E.Telemc Region,Guwahati.  
 02. The CE(Civil/Elect.),Civil Wing,Guwahati.  
 03-06. The GMTD,Guwahati/Silchar/Jorhat/Dibrugarh.  
 07-09. The TDM,Nagaon/Bongaigaon/Tezpur.  
 10. The Director,RTTC,Guwahati.  
 11. The Director(Mtce.),ETR,Guwahati.  
 12. The Principal,CTTC,Guwahati.  
 13. The AGM(Admn),Circle Office,Guwahati.  
 14. The AGM(MM),Circle Office,Guwahati.  
 15. The CAO,Circle Office,Guwahati.  
 16. The DE(Installation),Circle Office ,Guwahati.  
 17. The AGM(A/T),T&D Circle,Guwahati.

File in Court on.....

Court Officer.

Sub: Permanent absorption in BSNL.

Ref: BSNL D.O.No.BSNL/4/SR/2000 dated 3/4.01.2001.

Please find enclosed herewith photocopy of the letter from Shri A.K.Pathak,DDG(SR),BSNL. The letter is self-explanatory. This is regarding the absorption of Group 'C' & 'D' officials in BSNL. They will get Rs.1000.00 per month as adhoc payment w.e.f. 01.10.2000 if they opt for BSNL which will be adjusted against their IDA emoluments perks and benefits admissible to then on finalization of the same in the revised IDA scales w.e.f 01.10.2000. Necessary undertaking will be taken from the employees in this regard.

Hence the letter should be widely circulated to get options from each Group 'C' & 'D' officials for absorption/retention of Government status within time limits which are as under.

Sl.No.	Item	Target date
1.	Four copies of option forms plus terms & conditions to be give to all Group 'C' & 'D' employees.	<u>15th January, 2001</u>
2.	Exercising option to be completed preferably with one month.	<u>15th February, 2001</u>
3.	The list of optees for BSNL and of those desiring retain to Govt. status must reach Circle Office Guwahati and to be displayed prominently to rectify the inaccuracies.	<u>28th February, 2001</u>

The matter is most URGENT.

*Makesh Shukla*  
(Makesh Shukla)  
Dy. General Manager(Admn)  
O/o the Chief General Manager  
Assam Telecom Circle,Guwahati-7.

*affixed as true copy*  
*29/1/08*  
*Probable*

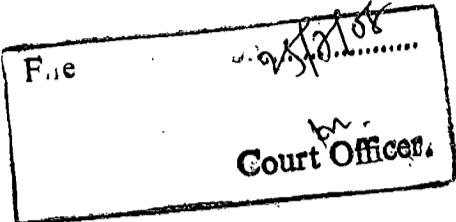
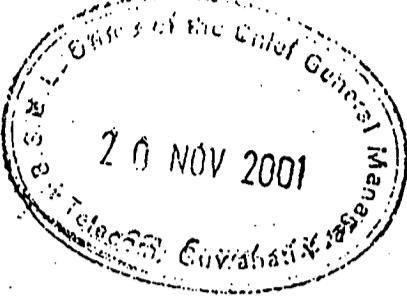
*Advocate*

Government of India  
Ministry of Communications  
Department of Telecommunications  
Sanehar Bhawan, 20 Ashoka Road, New Delhi - 110 001

~~No. 27-1/2001-SNG~~

Shri J.K. Chhabra,,  
Chief General Manager,  
Assam Circle,  
Guwahati,

Dated: 13-11-2001.



Subject: Presidential Order in respect of employees seeking absorption in Bharat Sanchar Nigam Ltd.

S11

Please refer to this office letter of even no. dated 3.8.2001 and 5.9.2001 on the subject cited above.

2. A copy of the draft proforma for issue of Presidential Order is enclosed herewith (Annexure - I). It is requested that the work of issue of Presidential Order may be commenced immediately and the process of issue of Presidential Orders be completed by 19.2.2002.

3. The list of designated officers, who will be issuing Presidential Orders is enclosed at Annexure - II. The designated officer will work under DDG (Estt) w.e.f. 20.11.2001 to 19.2.2002 and he will sign the P.O. in his capacity as Director (Estt.- xxx). Circle HQ will remain the HQ of the designated officer and he will draw his pay and allowances from the Circle concerned.

NB: 'xxx' as per column 5 of Annexure-II.

4. Since, a number of officials are under various stages of appointment as JTO, and decision regarding absorption in JTO's cadre is yet to be taken, such employees can be appointed as JTOs only if their status before appointment remains that of a Government servant. Similar is the case of some officials who are under process of appointment as Sr. PA and AD (OL). The PO is, therefore, not required to be issued in respect of such employees.

5. It is further clarified that those who have not opted for BSNL will continue to work at their existing place and drawing pay and allowances in CDA scale. A complete list of such officials may be supplied to this office for taking up the matter with DoP&T for their redeployment.

W. G. Johnson  
January 22, 1960

Attest to the foregoing  
on behalf of  
25/7/08  
Advocate

File in Court on..... 17/3/01

(8)

Court Officer.

6. The absorption letter is to be issued only to Group 'C' and Group 'D' staff. Any official who has been appointed in the pay scale of Rs. 5500-9000 is considered to be in Group 'B'. However, those Group 'C' officials who have been placed in the above and higher scales due to OTBP/BCR/Grade IV or any other time bound advancement scheme are not considered to be in Group 'B'.

7. To maintain uniformity in the matter of allotting the file number for the Presidential Orders to be issued, it has been decided that the Presidential Order will be issued under the Head '27'. The file number would be '27-1/ABC/XYZ/@/2001' where ABC denotes name of the Circle, XYZ denotes the name of SSA and @ denotes the serial number of PO issued. For example, PO to be issued for the employees working in Adilabad, Andhra Pradesh would carry file no. "27-1/AP/Adilabad/001/2001" and for the employees working in AP Circle Office, the number would be "27-1/AP/CO/001/2001". The above file numbering scheme may be brought to the notice of the designated officer and in case of any doubt, the same may be got clarified from this office.

J.K. Gupta  
(J.K. Gupta)

Deputy Director General (Estt)

Copy to:

Shri Sanjib Narang,  
DGM (Instl.),  
O/o Chief General Manager Telecom,  
Assam Circle,  
Guwahati.

For Assam  
@ = x x x = 003.

Draft Presidential Order

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS

No. .

Dated \_\_\_\_\_

File in Court on...../...../.....

Court Officer.

ORDER

Subject: Permanent absorption of Sh/Smt \_\_\_\_\_ (Name)  
(Designation) \_\_\_\_\_ (Staff No.)  
in Bharat Sanchar Nigam Limited.

1. Pursuant to letter no. BSNL/4/SR/2000 dated 2.1.2001 on the above subject, and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time sanction of the President is hereby conveyed to the permanent absorption of Shri/Smt/Kumari \_\_\_\_\_, a permanent/temporary employee of the Department of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below.

2. Date of effect:- The permanent absorption shall take effect from 01.10.2000, forenoon.

3. Pension/Gratuity:- Shri/Smt./Kumari \_\_\_\_\_ shall be eligible for pensionary benefits including gratuity as per the provisions of Rule 37-A of the CCS (Pension) Rules, as amended from time to time.

4. Family Pension:- The family of Shri/Smt./Kumari \_\_\_\_\_ shall be eligible for family pension as per provisions of Rule 37-A read with Rule 54 (13-3) of CCS (Pension) Rules, 1972, as amended from time to time.

5. Regulation of Pay on absorption:- To be regulated in terms of para 4 of DOP & PW O.M. No. 4/18/87-P&PW (D) dated 5.7.1989.

6. Leave:- The Earned Leave and Half Pay Leave at the credit of Shri/Smt./Kumari \_\_\_\_\_ stands transferred to BSNL on the date of absorption as provided for under Sub-rule 24 (b) of Rule 37-A of the CCS (Pension) Rules.

7. Provident Fund:- The amount of subscription together with interest there on standing to the credit of Shri/Smt./Kumari \_\_\_\_\_ in the General Provident Fund account will be transferred to his/her new Provident Fund account under the BSNL as provided for under Sub-rule 24 (a) of Rule 37-A of the CCS (Pension) Rules, as amended from time to time.

DIRECTOR (Estt-xxx)  
DOT

To.

Chairman and Managing Director,  
Bharat Sanchar Nigam Limited,  
20, Ashoka Road, New Delhi.

Copy to:

1. SSA/Officer in-charge for maintaining the service book for keeping this order in the service book along with suitable entries.
2. Officer concerned
3. CGM of the concerned recruiting Circle.

File in Court on.../...../.....

10

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Court Officer.

ANNEXURE-II

Name of the Officer	Unit from which the JAG Officer shall be taken & placed under the DDG(Estt.),DOT	Placed at	Circle/Unit for which the JAG officer is authorized to issue Presidential Order	Designation to be used by the designated officer for signing the Presidential Order.
(1)	(2)	(3)	(4)	(5)
1. Shri G. Parameswara Reddy, DGM(Admin), C.O., Hyderabad	AP Telecom Circle	Hyderabad	All staff of AP Telecom Circle including those on deputation to other Circles/Units except staff working at places as indicated at Sl. No. 2 below.	Director (Estt-AP1)
2. Shri V. Balasubramanyam, DGM(OP), O/o PGM, HTD, Hyderabad	AP Telecom Circle	Hyderabad	All Staff of Hyderabad Telephones, Warangal, Nalgonda, Mahboobnagar and Medak SSAs;	Director (Estt-AP-2)
3. Shri Sanjib Narang, DGM(Instl.)	Assam	Guwahati	All staff of Assam Circle including those on deputation to other Circles/Units.	Director (Estt-Assam)
4. Shri Ram Nath Singh, DGM(Admin), O/o PGM, Patna	Bihar	Patna	All staff of Bihar Circle including those on deputation to other Circles/Units.	Director (Estt-Bihar)
5. Shri Lalu Hansda, DGM(Admin)	Jharkhand	Ranchi	All staff of Jharkhand Circle including staff under deputation to Other Circles/Units.	Director (Estt-Jhar.)
6. Shri S.C. Jain, DGM(A), O/o CGMT, Ahmedabad	Gujarat	Ahmedabad	All staff of Gujarat Circle including those on deputation to other circles/units except staff working at places as indicated at Sl. No. 7 below.	Director (Estt-Guj.-1)
7. Shri S.C. Jain, DGM(A), Ahmedabad Telecom District, Ahmedabad	Gujarat	Ahmedabad	All Staff of Ahmedabad Telephones, Baroda, Bharuch, Himatnagar, Godhra and Surat SSAs;	Director (Estt-Guj-2)
8. Shri Sunil Niraniyan, DGM (New services)	Haryana	Ambala	All staff of Haryana Circle including those on deputation to other Circles/Units.	Director (Estt-HR).

File in Court on... 05/07/88  
Court Officer.

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9. Shri P.S. Dipta, DGM(A)	HP Circle	Shimla	All staff of HP Circle including those on deputation to other Circles.	Director (Estt-HP).
10. Shri V.K. Chopra, DGM (Admn), DOT Cell, O/o CGMT, J&K Circle	J & K Circle	Jammu	All staff of J & K Circle including those on deputation to other Circles/Units.	Director (Estt-J&K).
11. Shri Paul Pinto, DGM (PR), BGTD, BG	Karnataka	Bangalore	All staff of Karnataka Circle including those on deputation to other Circles/Units except staff working at places as indicated at Sl. No. 12 below.	Director (Estt-KTK-1).
12. Shri J. Ganta, DGM (LTP), BGTD, BG	Karnataka	Bangalore	All staff of Bangalore Telephones, Mysore, Kolar, Mandya and Tumkur SSAs.	Director (Estt-KTK-2).
13. Shri A. Sukumaran, DGM(TS)	Kerala	Thiruvanan dapuram	All staff of Kerala Circle including staff under deputation to Other Circles/Units.	Director (Estt-Kerala).
14. Shri Imtiaz Ahmad, DGM (CMTS)	MP Circle	Bhopal	All staff of MP Circle including staff under deputation to Other Circles/Units.	Director (Estt-MP).
15. Shri Sanjay Sohni, DGM(Admn), Chattisgarh	Chattisgarh	Raipur	All staff of Chattisgarh Circle including staff under deputation to Other Circles/Units.	Director (Estt-Chatt.)
16. Smt. N.K. Cyclewala, DGM(OP)	Maharashtra	Mumbai	All staff of Maharashtra Circle including those on deputation to other Circles/Units except staff working at places indicated at Sl. 17 below.	Director (Estt-MH-1)
17. Shri S.S. Jha, DGM(Admn)	Maharashtra	Pune	All staff of Pune Telephones; Nasik, Star, Ahmednagar, Beed and Kohlapur SSAs	Director (Estt-MH-2)
18. Miss D. Giri, DGM(A)	North East -I	Shillong	All staff of NE - I & TF Circle including staff under deputation to Other Circles/Units.	Director (Estt-NE-1)
19. Shri S. Sudhakar, DGM O/o GMTD, Dimapur	North East - II	Dimapur	All staff of NE-II Circle including staff under deputation to Other Circles/Units.	Director (Estt-NE-2)

File in Court on 12/12/1988  
Court Officer.

12/12/1988  
32

20. Shri Sadhu Charan Behera, DGM(Admin), O/o GMTD, Bhubaneswar	Orissa	Bhubaneshwar	All staff of Orissa Circle including staff under deputation to Other Circles/Units.	Director (Estt-Orissa)
21. Shri Budh Prakash, DGM(A)	Punjab	Chandigarh	All staff of Punjab Circle including staff under deputation to Other Circles/Units.	Director (Estt-PB).
22. Shri Anoop Kumar, DGM(PG)	Rajasthan	Jaipur	All staff of Rajasthan Circle including staff under deputation to Other Circles/Units.	Director (Estt-Raj)
23. Shri A.S. Subbarayan, DGM(TT)	Tamil Nadu	Chennai	All staff of Tamil Nadu Circle including staff under deputation to Other Circles/Units.	Director (Estt-TN)
24. Shri V. Prabhakar, DGM, O&M STM, Chennai Telephones	Chennai Telephones	Chennai	All Staff of Chennai Telephones	Director (Estt-Chennai)
25. Shri K. Ram, DGM (A), O/O GMTD, Kanpur	UP (East)	Lucknow	All staff of UP (East) Circle including staff under deputation to Other Circles/Units.	Director (Estt-UP-E)
26. Shri Rajeev Gupta, DGM(TT) O/o CGMT, UP(W) Circle	UP (West)	Dehradun	All staff of UP (West) Circle including staff under deputation to Other Circles/Units.	Director (Estt-UP-W)
27. Shri S.K. Mittal, DGM(A&P)	Uttaranchal	Dehradun	All staff of Uttranchal Circle including staff under deputation to Other Circles/Units.	Director (Estt-Uttar.)
28. Shri B.K. Biswas, DGM(Admin)	West Bengal	Kolkata	All staff of WB Circle including staff under deputation to Other Circles & staff of A & N Circle/Units.	Director (Estt-WB)
29. Shri A.K. Petra, DGM(Admin)	Calcutta Telephones	Kolkata	All staff of Calcutta Telephones	Director (Estt-Kol)

File in Court on.....21/1/08

*DR*  
Court Officer.

39

IN THE CENTRAL ADMINISTRATIVE TRIEUNAL GUWAHATI BENCH, GUWAHATI.

O. A. No. .... 11/2005

Shri Prafulla Bardoloi

... Applicant

- Versus -

U. O. I & ORS.

... Respondents

LIST OF DATES.

SN.	Dates	Particulars	Para No. / Annexures
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1. , 15.2.1972 , The applicant joined service in Para 4.2

, the Department of Tele Communication and  
is a recipient of "SANCHAR SHREE" for  
the year 1998-99.

*Annexure A*

2. , 17.9.1999 , Memorandum of charges were issued Para 4.6

, alleging serious irregularities and that Annexure E  
, he kept large number of dishonoured  
, cheques without taking any action.

*Page 32*

3. , 27.9.1999 , The applicant submitted his Para 4.7

, written statement to the charge sheet Annexure F  
, denying the charges.

4. , 15.10.99 , Inquiry Officer was appointed. Para 4.8

Contd....2

Oct. 2000 - BSNL

SN.	Dates	Particulars	Para No. / Annexures
-----	-------	-------------	----------------------

5. 28.8.01 By letter dated 28.8.2001 next Para 4.8 K  
 10.10.2001 date was fixed on 10.10.2001 and 11.10. 4.9  
 11.10.2001 2001, Shri S.K. Das defence assistant Annexure G  
 was given a copy. Shri Das was ordered  
 to be relieved on 8.10.2001.

6. 8.10.2001 Inquiry date was unilaterally Para 4.10  
 changed to 8.10.2001 and applicant  
 compelled to participate in the inquiry.  
 The inquiry officer himself informed the  
 controlling officer of DA not to relieve  
 Shri Das. Applicant was compelled to  
 nominate Shri C.C. Sarmah as D.A.

7. Inquiry officer dropped witness Para 4.11  
 Shri M.U. Guruswami to the prejudice  
 of the applicant.

8. The Respondents adopted wrong Para 4.13,  
 procedures. There is no rule 57 of Vol. 4.14, 4.15,  
3 of CCS(CCA) Rules 1965. 4.16.

9. During the proceedings applicant Para 4.17  
 was on deputed to D.S.N.L. and  
 was not absorbed in P.S.N.L. He continu-  
 ed to be Civilian of Union of India.

Contd...3

Pint

Page 42

Recd

Non-applicable  
in mind

SN.	Date	Particulars	Para No.7
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Annexures.

9. '20/05/02 *Enq. Report* The Inquiry officer could find no loss to Govt. revenue. Para 4.18 Annex K Page-44

10. '17.7.02 The applicant submitted his reply to the inquiry report. Para 4.20 Annex K Page-53

11. '25.4.03 B.S.N.L. issued orders of dismissal of the applicant w.e.f. 25.4.03. Para 4.21 Annexure M Page 55

12. '11.6.03 This order dated 11.6.03 supercedes the penalty order dated 25.4.03 which becomes non-est. Para 4.21 Annexure M & No.

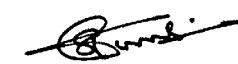
*Retrospectiv* Again by the same order dated 11.6.03 the penalty was effectious from 25.4.03. The penalty became retrospective in operation and is illegal.

13. '27.5.03 Annex-0 - The applicant submitted appeals on 08.07.03 - Annex-f. Para 4.22 Annexure 0 & P.

14. '01.8.2004 The applicant requested for revocation of the order of penalty and that disposal was by an officer lower than the appointing authority. (GM) Para 4.23 Annexure Q

SN.	Dates	Particulars	Para No.
			Annexures
15.	06.10.2004	The penalty of dismissal was converted to <u>compulsory retirement</u> w.e.f. 06.10.2004, 25.4.2003 to 06.10.2004 to be treated as leave not due. This period should be on duty.	Para 4.24 Annexure R
16.	7.8.06	The B.S.N.L. never informed the DOT, Govt. of India regarding the development of disciplinary proceedings.	
		Applicant not paid even <del>severated</del> retirement benefits putting him to prejudice in conducting this OA (Order in M.P. No. 81/06)	

Signed by

  
(S.N. Timli)  
Advocate.

Rule 20 of CCS (Advt) Rules

(1)

✓

Bharat Sanchar Nigam Limited,  
(A Government of India Enterprise)

No.BSNL/MSR/2000

Dated the 2<sup>nd</sup> January, 2001

RECORD OF DISCUSSIONS HELD ON 2.1.2001 IN THE MEETING WITH THE THREE FEDERATIONS PRESIDED BY CMD, BSNL REGARDING TERMS AND CONDITIONS FOR ABSORPTION OF GROUP C & D STAFF IN BSNL.

In connection with the absorption of Group C & D staff working in BSNL, preliminary meetings were held with the three Federation(s). The decisions taken were discussed in the BSNL Board meeting held on 09.11.2000, which empowered the Management to negotiate with Unions. Accordingly, a meeting was held with the three Federations on 2.1.2001 and the following proposals were approved:

**1. IMPLEMENTATION OF STANDING ORDERS OF THE INDUSTRIAL EMPLOYMENT ACT, 1946:**

BSNL service rules are to be finalized after discussion with the recognized union formed by the optees of BSNL and the standing orders of Industrial Employment Act, 1946.

**2. SERVICE RULES**

In the meantime, it was agreed that Government will continue to apply existing rules/regulations. This is in-line as per the provision of Rule 13B of Standing Orders of Industrial Employment Act, 1946. However, certain provisional terms and conditions for absorption are enclosed at Annexure I.

**3. ABSORPTION OF CASUAL LABOURS**

Orders have been issued by DoT for regularizing Ayahs & all casual labourers, including part time casual labourers. Left out cases, if any, will be settled by BSNL in accordance with order No.269-94/98-STN-II dated 29.9.2000.

**4. OPTION OF STAFF FOR ABSORPTION IN BSNL**

The BSNL will absorb the optees on as is where is basis. A list of optees will be made available to the three federations/unions.

### 5. OPTIONS OF STAFF FACING DISCIPLINARY CASES

It was agreed that the employees with on-going disciplinary cases can also opt for absorption in BSNL, but their absorption will be subject to the outcome of the vigilance case. Their pending cases will be expedited on a fast track mode by DOT. The appeal / petition cases for these employees will also be decided by DOT authoritatively.

### 6. PROMOTIONAL AVENUES

After absorption there will be negotiations with the newly formed recognized union regarding promotional avenues. Pending adoption of Standing Orders on promotional policy, the present OTBP/BCR/ACP (whichever is applicable) etc. will continue to be followed by BSNL.

### 7. CHANGE OVER TO IDA PAY SCALES

The pay scales and fixation formula will also be adopted through Standing Orders after negotiations with the recognized union in respect of non-executives. After detailed discussions, it was mutually agreed that pending settlement in the IDA pay scales, the Group C & D optees will continue in the Central Government (CDA) pay scales. In addition to this, they will also be paid an adhoc amount of Rs.100/- per month i.e. 1.10.2000 which will be deducted from their IDA emoluments, perks and benefit on fixation of the same in revised IDA scales. The revised negotiated IDA pay scales will be applicable from the date of absorption i.e. 1.10.2000.

### 8. TIME FRAME FOR VARIOUS POST ABSORPTION ACTIVITIES

It was agreed that the options will be called in January, 2001, providing about one month time to the employees to give their options and the entire activity is expected to be completed by the end of 28<sup>th</sup> Feb. 2001. A list of optees of BSNL will be exhibited to rectify inaccuracies, if any.

The existing system of informal meetings with applicant Unions, is on 30.9.2000 and formal meetings with the three Federations shall continue.

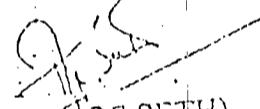
9. The employees who opt for permanent absorption in BSNL would be governed by the provisions of Rule 37-A of CCS Pension Rules, notification 54, which was issued by the Department of Pension & Pensions Welfare on 30.9.2000. For the purpose of reckoning emoluments for calculation of pension and pensionary benefits, the emoluments as defined in CCS(Pension)Rules, in PSU in the IDA pay scales shall be treated as emoluments.

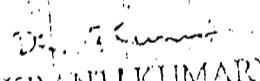
10. DoT has already clarified that the word "formula" mentioned in clause 8 of Rule 37-A means payment of pension as per Government Rules in force at that time. It has also been clarified by the DoT that BSNL will not dismiss / remove an absorbed employee without prior review by the Administrative Ministry / Department.

11. The Group C & D employees who appear for any promotional examination whether direct or departmental and qualify in such examinations / outsiders coming through direct recruitment process, would rank junior to all the other employees in the promotional cadre who had already been qualified in earlier examinations even though they get absorbed in BSNL subsequently.

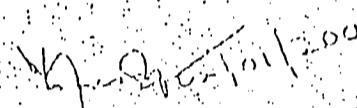
The above modalities have been worked out in consultation with the following three Federations for termination of the deemed deputation status in BSNL and the parties have put their signatures in token of their consent and agreement on this date 02.01.2001.

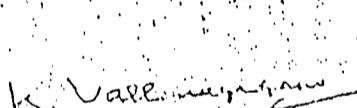
The Proforma for exercising the option is enclosed.

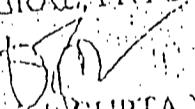
  
(DR. D. P. S. SETH)  
CMD, BSNL

  
(KRANTI KUMAR)  
DIRECTOR(HRD) BSNL

  
(S. P. PULWAR)  
DIRECTOR(FIN.) BSNL

  
(MALLIKARJUN)  
SECRETARY GENERAL, BTEF

  
(K. VALLINAYAGAM)  
SECRETARY GENERAL, INTO

  
(S. P. GUPTA)  
SECRETARY GENERAL, NTE

Rule 20 Cess Rule

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WS

## 5. OPTIONS OF STAFF FACING DISCIPLINARY CASES

It was agreed that the employees with on-going disciplinary cases can also opt for absorption in BSNL but their absorption will be subject to the outcome of the vigilance case. Their pending cases will be expedited on a fast track mode by DTO. The appeal / petition cases for these employees will also be decided by DTO authorities.

## 6. PROMOTIONAL AVENUES

After absorption there will be negotiations with the newly formed recognized union regarding promotional avenues. Pending adoption of standing Orders on promotional policy the present OTBP/ BCR/ACP (whichever is applicable) etc. will continue to be followed by BSNL.

## 7. CHANGE OVER TO IDA PAY SCALES

The pay scale and fitmen formula will also be adopted through Standing Orders after negotiations with the recognized union in respect of non-executives. After detailed discussions, it was mutually agreed that pending fitmen in the IDA pay scales, be Group C & D optees will continue in the Central Government (CDA) pay scales. In addition to this they will also be paid an adhoc amount of Rs.1000/- per month. e.f. 1.10.2000 which will be adjusted from their IDA emoluments perks and benefits on fixation of the same in revised IDA scales. The revised negotiated IDA pay scales will be applicable from the date of absorption i. e. 1.10.2000.

## 8. TIME FRAME FOR VARIOUS POST ABSORPTION ACTIVITIES

It was agreed that the options will be called in January, 2001 providing about one month time to the employees to give their options and the entire activity is expected to be completed by the end of 28th Feb., 2001. A list of optees of BSNL will be exhibited to rectify inaccuracies if any.

The existing system of informal meeting with applicant unions as on 30.09.2000 and formal meeting with the three Federations shall continue.

9. The employees who opt for permanent absorption in BSNL would be governed by the provisions of rule 37-A of CCS Pension Rules, notification for which was issued by the Department of pension & pensioners Welfare on 30.9.2000. For the purpose of reckoning emoluments for calculation of pension and pensionary benefits the emoluments as defined in CCS (pension) Rules, in PSU in the IDA pay scale be treated as emoluments.

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✓ 10. Dot has already clarified that the word "formula" mentioned in clause 8 of Rule 37-A payments of pension as per Government Rules in force at that time. It has also been clarified by the DOT that BSNL will not dismiss / remove an absorbed employee without prior review by the Administrative Ministry / Department.

11. The Group C & D employees who appear for any promotional examination whether direct or departmental and qualify in such examination/ outsiders coming through direct recruitmental process, would rank junior to all the other employees in the promotional cadre who had already been qualified in earlier examinations even though they get absorbed in BSNL subsequently.

The above modalities have been worked out in consultation with the following three federations for termination of the deemed deputation status in BSNL and the parties have put their signature in token of their consent and agreement on this date 02.01.2001.

The parfoma for exercising the option is enclosed

(DR.D.P.S SETH)  
GMD, BSNL

(MALLIKARJUN)  
SECRETARY GENERAL, BTEF

(KRANTI KUMAR)  
DIRECTOR(HRD) BSNL

( K. VALLINAYAGAM )  
SECRETARY GENERAL ENTO

(S.P.PULWAR)  
DIRECTOR (FIN) BSNL

(O.P.GUPTA)  
SECRETARY GENERAL NFTE

2

**Bharat Sanchar Niam Limited**  
(A Govt. of India Enterprise)  
**Chief General Manager Telecom**  
**Assam Telecom Circle**  
**Panbazar, Administrative Building**  
**3rd Floor, Guwahati - 781001.**

No. STES-21/547/27

Dated at Guwahati the 20.02.2007

To

Shri B. C. Pathak  
Advocate  
Guwahati High Court  
Guwahati - 5.

Sub:- OA No. 50/2005 filed by Shri P. Bardaloi Vs BSNL & ors.

Ref:- Your legal opinion furnished on 05.11.2006.

Sir,

With reference to your legal opinion furnished on 05.11.2006, competent authority has decided to obtain a covering approval from DOT on the penalty of compulsory retirement awarded to Shri P. Bardaloi, TOG (G) under GMTD / Jorhat. Accordingly Director (Staff), DOT, New Delhi has been requested vide letter dated 01.02.2007 and copy forwarded to ADG (Pers.-III), BSNL HQs, New Delhi (copy enclosed herewith for ready reference).

It is therefore requested to do the needful on the case if it comes up for hearing in the light of this office letter dated 07.09.2006 addressed to you.

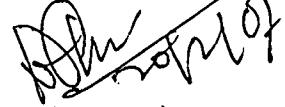
For any specific information, the undersigned may kindly be communicated.

With regards,

Enclo:-

(1). Copy of the letter dated 01.02.2007.

Sincerely yours

  
(S. N. Chakravarty)  
Asstt. Director Telecom (Legal)

2  
BHARAT SANCHAR NIGAM LIMITED  
(A GOVT OF INDIA ENTERPRISE)  
O/O THE CHIEF GENERAL MANAGER  
ASSAM TELECOM CIRCLE::ULUBARI::GUWAHATI-7

No. STES-21/547/26

Dated at Guwahati the 01.02.2007.

To

Shri R. K. Goel  
Director (Staff)  
DOT, 505, Sanchar Bhawan  
20, Ashoka Road  
New-Delhi - 110001.

COURT-CASE  
SPEED-POST

Sub: OA No. 50/2005 filed by Shri Prafulla Bordoloi Vs UOI & Ors.

Kindly find enclosed herewith one copy of OA No.50/2005 filed by Shri Prafulla Bordoloi, Sr. TOA (G) before the Hon'ble CAT, Guwahati Bench praying for setting aside and quashing the impugned order of Compulsory Retirement vide order dated 06/10/2004 issued by Appellate Authority and applicant be allowed to resume duties as because the applicant was working on deputation in BSNL and as such BSNL authority is not competent to issue the penalty of compulsory retirement without approval from DOT, Govt. of India.

On examination of records it is found that the case had not been forwarded to you earlier for approval. Legal opinion obtained on the issue also opined to have the prior approval of DOT to impose the penalty.

It is therefore the undersigned is directed to request you to examine the case and to accord covering approval now to submit before the Hon'ble Tribunal and to pray for dismissal of the OA on merit.

This is very urgent.

Enclo:

1. Brief of the case.
2. OA No. 50/2005 filed by Shri P. Bordoloi.
3. W/S filed by Respondents.
4. Opinion of CGSC dated 31/08/2006 with order dated 10/08/2006.
5. Legal opinion on the order by BSNL Panel Advocate.

6/1/2007  
(S. C. Ojha)

Dy. General Manager (Admn.)

Ref No 9435000055  
Fax 0361-2224524484

Copy to:

1. Shri Rajendra Prasad  
ADG (Pers. III)  
BSNL Corporate Office  
Statesman House, Barkhamba Road  
New-Delhi - 110001.  
For information please.

For CGMT, BSNL  
Assam Telecom Circle, Guwahati,  
Pan-bazar, Guwahati -1.

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July 20  
Acme Corp.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

ORIGINAL APPLICATION NO.....

50/05

1. (a) Name of the applicant: P. Bordali
- b) Respondents: Union of India & Ors.
- c) No. of Applicant:
2. Is the Applicant in the proper form: YES/NO
3. Whether name & designation and Address of all the papers been furnished in cause title: YES/NO
4. Has the application been duly signed and verified : YES/NO
5. Have the copies duly signed : YES /NO
6. Have sufficient number of copies of the application been filed: YES/NO.
7. Whether all the annexures parties are impleaded: YES/NO.
8. Whether English translation of documents in the language: YES/NO
9. Is the application is in time : YES/NO.
10. Has the Vakalatnama/Memo of Appearance/Authorisation filed: YES/NO.
11. Is the application by IPO/BD/For Rs.50/- 204116240
12. Has the application is maintainable : YES/NO
13. Has the impugned order original duly attested been filed: YES/NO
14. Has the legible copies of the annexures duly attested filed: YES /NO.
15. Has the Index of documents been filed all available : YES/NO
16. Has the required number of enveloped bearing full address of the Respondents been filed: YES/NO
17. Has the declaration as required by item 17 of the form: YES/NO
18. Whether the relief sought for arises out of the Single: YES/NO
19. Whether the interim relief is prayed for: YES/NO.
20. In case of condonation of delay is filed is it support: YES/NO.
21. Whether this case can be heard by SINGLE BENCH/DIVISION BENCH.
22. Any other points:
23. Result of the scrutiny with initial of the scrutiny clerk :  
The applicant is in order  
Bordali 2.65

SECTION OFFICER

DEPUTY REGISTRAR

24 FEB 2005

In the Central Administrative Tribunal  
Guwahati Bench  
Guwahati Bench :: Guwahati.

O.A. No. 50 /2005

Shri P. Bordoloi

VS

Union of India & Ors

**SYNOPSIS OF THE APPLICATION**

This application is made against the impugned order No. GM/CON/PB/JRT/03-04/4 dated 06.10.2004 whereby the applicant was compulsorily retired from service i.e. 06.10.2004, and for quashing and setting aside the said impugned order.

That the applicant was charge-sheeted with 3 Articles of Charges by Memorandum dated 17.09.1999. The allegations in the charge-sheet were that the applicant kept 24 numbers of dishonoured cheques unauthorisedly without reporting the matter to the immediate superior authorities and made unauthorised entries in the Subscribers Record Card by encircling with red ink. The allegations also was for violation of Rules 145 and 147 of FHB Volume-V and Rule 57 of Volume-III of CCS(CCA) Rules, 1965 which are non-est.

That the Inquiry Authority whimsically and unilaterally fixed the date of proceeding on 08.10.2001 instead of its schedule date i.e. 10.10.2001 and 11.10.2001 and thereby violated the process of law in the quasi judicial proceedings. The Inquiry Authority submitted his report on 20.05.2003. The findings of the Inquiry Authority are perverse. He failed to assess the exhibited documents

5  
Filed by Mr. Della, Advocate.  
24-02-05.

✓ OA/CP/RA/ME No. 50 /2005

Order dated 25.3.2008

Call the matter for hearing  
on S-57-08

  
( M.R. MOHANTY )  
Vice-Chairman

and oral statement of witnesses in the manner prescribed under the CCS(CCA) Rules, 1965.

That the applicant has been dismissed by order dated 25.04.2003 which was subsequently superseded by order of dismissal dated 11.06.2003. The applicant submitted appeal which was disposed of by converting the penalty of dismissal to compulsory retirement.

That the applicant was working on deputation in BSNL. He was a civil servant and employee of the Department of Telecommunications, Government of India. The BSNL authorities arbitrarily took the action against the applicant without referring or informing the case to the Department of Telecommunications, Government of India. The BSNL authorities acted with a closed mind and with a view to give eye wash punished the applicant as a scape-goat.

That the impugned order of termination is perverse and illegal and liable to be set aside and quashed.

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5

केन्द्रीय प्रशासनिक अधिकारी  
 Central Administrative Tribunal  
 In The Central Administrative Tribunal  
 Guwahati Bench, 24/02/2005  
 Guwahati Bench

O.A. No. 50 /2005

Shri P. Bordoloi

Applicant

----- Versus -----

Union of India & Ors

Respondents

I N D E X

Sl.No.	Annexure	Particulars	Page No.
1.		Application	1-22
2.		Verification	23
3.	A	Copy of "Sanchar Shree Award"	
4.	B	Letter dated 26.08.1999	
5.	C	Order dated 18.6.1999 & information dt. 25.8.1999	
6.	D	Reply dated 27.08.1999	
7.	E	Memorandum dated 17.9.1999	
8.	F	Written statement of defence dated 27.09.1999	
9.	G	Letter dated 28.08.2001	
10.	H	Letter dated 05.10.2001	
11.	I	Daily Order Sheet dated 08.10.2001	
12.	J	Letter dated 09.10.2001	
13.	K	Inquiry Report dated 20.5.02 forwarded with letter dated 03.07.2002	
14.	L	Letter dated 17.07.2002	
15.	M	Order dated 25.4.03	
16.	N	Order dated 11.6.03	
17.	O	Appeal dated 27.5.03	
18.	P	Appeal dated 8.7.03	
19.	Q	Letter dated 1.3.04	
20.	R	Impugned Order dt. 6.10.04	

Filled by:

(Anupam Chakraborty)  
 ADVOCATE

Filed by K. Datta, Advocate  
 24-02-05.

In The Central Administrative Tribunal

Guwahati Bench :: Guwahati.

O.A. No. 50 /2005

Shri Prafulla Bordoloi

C/O Runali Bordoloi,

DGM Office, BSNL, Jorhat-1.

55  
Filed by the applicant  
through A. Datta, Advocate.  
24-02-2005.

.....Applicant

.....Vs.....

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

2. General Manager,

Pharat Sanchar Nigam Limited,

Silchar Telecom District, Silchar.

3. Deputy General Manager,

Office of the General Manager  
Telecom District, BSNL, Jorhat.

.....Respondents

**Details of the Application :**

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

The application is made against the impugned order No. GM/CON/PB/JRT/03-04/4 dated 06.10.2004 whereby the applicant was compulsorily retired from service w.e.f. 06.10.2004, and for quashing and setting aside the said impugned order.

**2. Jurisdiction:**

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

**3. Limitations:**

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 joined service w.e.f. 15.02.1972 as Time Scale Clerk in the Department of Telecommunication and continued with his service without any blemish. During his service he worked with outstanding performance in various branches of the Sub-Divisional and Telecom District Managers' Offices. In recognition of his outstanding services he has also been awarded with "SANCHAR SHREE" for the year 1998-1999 by the Government of India, Department of Telecommunications.

Copy of the "SANCHAR SHREE" award citation is enclosed as Annexure "A".

4.3 That the applicant begs to state that in the course of his employment as Senior Telecom Office Assistant

(General), Office of the General Manager, Telecom District, Jorhat, he was served with letter dated 26.08.1999 directing him to submit his explanation against the contemplated disciplinary action. The allegations in the said letter were about holding of 24 numbers of dishonoured cheques by the applicant for more than a year and failure to maintain register properly and to submit dishonoured cheques to the Accounts Officer (Cash) [for short AO (Cash)] daily.

Copy of the letter dated 26.08.1999  
is enclosed as Annexure "B".

4.4 That the applicant begs to state that he had been working in the TRA Cash Counter (Counter No.1) during the relevant period i.e. from 01.01.1998 to 30.08.1999. The procedure followed in the respondent's department, more specifically by the Counter Clerk, as regards the dishonoured cheque was to take action of giving telephonic reminder to the subscribers and preparation of register with available records etc. There was no procedure/guidelines for putting up of dishonoured cheques to the AO (Cash) daily. The case of accountant of dishonour cheques are monitored by AO (Cash) and AO (TR) by periodical reconciliation and cross checking of the Cash Book with Bank Statement and also between total amount of bills prepared by AO(TR) and total amount of revenues received by AO(Cash), and as such there would be differences between the bank particulars and Cash Book particulars in case of dishonour of cheques and these were under the control of AO (Cash) and AO (TR) for further action. It is pertinent to mention that the respondents by

Office Order dated 18.06.1999 first time laid down some procedures as regards acceptance of cheque payments from the STD PCO franchisees and dishonour of cheque. This Office Order was followed by instruction dated 25.08.1999 whereby TRA Counter Clerks were instructed to follow some procedures with immediate effect as regards acceptance of cheque payment. By this instruction dated 25.08.1999 the respondents set up procedures for dishonoured cheques and for the first time duty was cast upon the Counter Clerk to hand over the dishonoured cheque to the AAO (Cash)/Cashier on the same day.

Copy of the Office Order dated 18.06.1999 and instruction dated 25.08.1999 are enclosed as Annexure "C".

4.5 That the applicant by letter dated 27.08.1999 replied to the allegations in letter dated 26.08.1999. He, in his aforesaid reply, stated that the prevailing procedures of follow up action as regards dishonoured cheques were also adopted by him as regards the 24 numbers of dishonoured cheques in question though only 6(six) cheques amongst these 24 number of cheques were received by him in his counter No.1. He also mentioned that he had not received any special guideline regarding putting up of dishonoured cheques to the AO (Cash) daily. It was also indicated by him that due to his follow up action of reminding subscribers for early cash payment against dishonoured cheques some subscribers made payment against such dishonoured cheques.

Copy of the reply dated 27.08.1999

is enclosed as Annexure "D".

4.6 That the respondents without scrutinising the pertinent points, thereafter, proposed to hold an inquiry against the applicant under Rule 14 of the CCS (CCA) Rule, 1965 and charge-sheeted the applicant by Memorandum No.X-1/PB/JRT/99-2000/1 dated 17.09.1999. In the said charge-sheet three articles of charges were levelled against the applicant.

The Article-I of charge was that the applicant while serving during the period from 01.01.1998 to 30.08.1999 committed serious irregularities without the knowledge of the higher authorities. It is mentioned that this Article of charge is vague and abstract. The applicant begs to state that he had not committed any such irregularities as alleged in the Article-I of the charge.

The Article-II of the charge was that the applicant during the aforesaid period kept unauthorisedly large numbers of dishonoured cheques without taking any action and reporting the matter to the authorities immediately. It was also alleged that the applicant made entries in the SRC unauthorisedly pertaining to dishonoured cheques. It is stated that the dishonoured cheques in question were returned by the respective banks by post addressed to AO (Cash). Thereafter only the said cheques were sent to the counters of the applicant through Peon Book with a view to give telephonic intimation to the subscribers for early cash payment. The applicant states that he took necessary follow up action for realisation against the

dishonoured cheques by giving telephonic reminders to the subscribers and subsequently many of them had paid their dues. It is not true that the applicant made entries in the SRC unauthorisedly. He encircled some entries with red ink for enabling disconnection of telephones on account of non payment against dishonoured cheques. The information whatever was noted in the SRC by the applicant was made on the request of the concerned Dealing Assistant and all those information were true information and hence question of manipulation does not arise at all.

The Article-III of the charge was that the applicant failed to observe the procedures, rules and regulations and willfully kept all the dishonoured cheques under his custody for several months. It is not true that the applicant had failed to observe the procedures and rules etc. He followed up the prevailing procedures of giving telephonic reminder to the subscribers against dishonoured cheques. Infact, the respondents set up the procedures that to be followed in case of dishonoured cheques only by Office Order dated 18.06.1999 and instruction dated 25.08.1999.

Copy of the Memorandum dated 17.09.1999 is enclosed as Annexure "E".

4.7 That the applicant in response to the said Memorandum dated 17.09.1999 submitted his written statement of defence by letter dated 27.09.1999 denying all the charges levelled against him. Reply to each one of the Article of charges and imputations were properly explained

by the applicant in the said letter.

Copy of the written statement of defence dated 27.09.1999 is enclosed as Annexure "F".

4.8 That, thereafter, Shree A.B. Sharan was appointed as Inquiry Authority by Memo No.X-1/PB/99-2000/7 dated 15.10.1999 to inquire into the charges levelled against the applicant. The Inquiry Authority proceeded with the preliminary hearing on 05.05.2000. It is stated that in the regular hearing the Inquiry Authority ordered the Appearance of Witnesses before him on the date and time mentioned in the Office Letter No. OSD(PT)/32/99 dated 28.08.2001. The date fixed in the said letter for appearance was on 10.10.2001 and 11.10.2001. It was requested in the said letter to all the controlling authorities to relieve their officials in time to attend the inquiry. A copy of the said letter was also forwarded to Sri Sankar Kr. Das, CTM (Instructor), CTTC, Guwahati who was the Defence Assistant in the said inquiry.

Copy of the Office Letter dated 28.08.2001 is enclosed as Annexure "G".

4.9 That in pursuance of inquiry officer's aforesaid letter dated 28.08.2001 Sri Sankar Kr. Das, Defence Assistant of the applicant, was ordered to be relieved from duty on the afternoon of 08.10.2001 by letter dated 05.10.2001 issued by the Principal, Circle Telecom Training Centre, Guwahati for attending in the said departmental

inquiry at Jorhat.

Copy of the relieving letter dated 05.10.2001 is enclosed as Annexure "H".

4.10 That from the above it is evident that the schedule date for inquiry mandated by CCS (CCA) Rules, 1965, was on 10.10.2001 and 11.10.2001. The said dates were published and notified to all concerned authorities including the Defence Assistant. But the Inquiry Authority suddenly became whimsical and departed from the decisions of his own regular proceedings circulated by letter dated 28.08.2001. This caused violation and prejudice to the process of law established and inherent in the quasi judicial proceedings. By such arbitrary action the Inquiry Authority of his own, and unilaterally fixed the date of proceedings on 08.10.2001. He called the applicant and informed his decisions to hold the inquiry on 08.10.2001. The applicant expressed his difficulties and also that his appointed Defence Assistant of his choice could not be present on 08.10.2001. The Inquiry Authority asked the applicant to nominate another Defence Assistant who was present at Jorhat itself in connection with some other case in place of Sri Sankar Kr. Das and told that the proceedings would be held on 08.10.2001 itself and the applicant shall have to participate in the same and that the controlling officer of Sri S.K. Das, Defence Assistant was intimated on phone by the Inquiry Office himself for not relieving Sri Das for defending the case at Jorhat on its scheduled. In the circumstances the applicant had to nominate Sri G.C.

Sarmah as his Defence Assistant. By letter dated 09.10.2001 issued by the Principal, CTTC, Guwahati cancelled the relieving of Sri S.K. Das. The proceedings were held on 08.10.2001 and 09.10.2001.

Copy of the Daily Order Sheet dated 08.10.2001 is enclosed as Annexure "I".

Copy of the Letter dated 09.10.2001 is enclosed as Annexure "J".

4.11. That in the regular hearing on 08.10.2001 the Inquiry Authority dropped the witness, Mr. M.U. Guruswamy, the then AO(TR), Jorhat due to his non appearance. It is stated that the said witness was an important witness who could unearth the actual responsibilities of persons for disconnection of telephone numbers on account of dishonoured cheques. The AO (TR) had a duty to link the particulars (credit/dishonour) of cheques with reference to the Bank Scroll and thereafter take necessary steps for disconnection of the concerned telephones. The AO (TR) was fully conversant with the practice prevalent in the office in the matter of allegations against the applicant. In the circumstances of the case, it was known to the respondents that the AO (TR) could not make statements supporting the allegations against the applicant and as such he was decided by the presenting officer to drop as witness and was not informed about the change of date of hearing, and the applicant did not get the scope to cross examine him. The Inquiry Authority also in a hurried manner closed the

proceedings on 09.10.2001. This caused prejudice to the process of departmental proceedings under Rule 14 of the CCS (CCA) Rules, 1965.

4.12 That in the aforesaid departmental proceedings against the applicant, six different documents/records were exhibited and exhibit 1 was the Register of Dishonour Cheque maintained by the Counter Clerk and exhibit 3 was the Register of ACG 28 which was recorded and maintained by the applicant. These Registers of Dishonoured Cheques were recorded and duly maintained by the applicant. The entries in these registers are periodically verified by the AO (Cash) and hence the fact of 24 dishonoured cheques in question had came to the notice of the AO (Cash) in due time, who is the appropriate authority to take actions against the subscribers of dishonoured cheques. It is, therefore, crystal clear that there is no fault of the applicant in the matter of loss of Government revenue as alleged. It is further stated that there is one outstanding pursuit cell in the respondents' department headed by responsible officers to look into it in every month.

4.13 That the applicant begs to state that except 6(six) of the said 24 numbers of dishonoured cheques in question were received by the counter clerks other than the applicant. It is stated that the above cheques, except the said six cheques by the applicant, were received by different other counters by accepting the single cheque against several telephone bills. This faulty and unwarranted procedure of accepting single cheque against several

different bills is also responsible for the dishonour of cheques in question.

4.14 That the applicant begs to state that the allegations in the Articles II and III of Charges was, inter-alia, violation of Rule 57 of Volume-III of CCS(CCA) Rules, 1965. It is stated that there is no such Rule in CCS(CCA) Rules, 1965.

4.15 That the practice adopted by the respondent office in the matter of acceptance of cheque payments against bills was by making entries in the Cash Book as well as in the Subscriber's Record Card (for short SRC) as receipt against bills. In the case of aforesaid 24 numbers of cheques the respondent office made similar entries in the Cash Book as well as in the SRC irrespective of the fact of clearing of cheque payments. This procedure was adopted by the respondent office in violation of the Rule 110(a) of P & T FHB Volume-I which inter-alia, reads, ".....until, however the cheque has been cleared the Government cannot admit that payment has been received and consequently the final receipt shall not be granted when a cheque is tendered...." The applicant, therefore, cannot be held liable in any manner for disconnection of the concerned telephone numbers in time.

4.16 That the applicant further begs to state that he has acted with full sincerity by giving telephonic reminders to the subscribers for immediate payment of the dues in cash. It is stated that Rule 303 (VIII) of P & T manual

Volume-XIV states, "when a cheque is dishonoured, the fact should at once be intimated to the subscriber with a request for immediate payment of the dues in cash. The dealing clerk in Telephone Revenue Account Section (for short TRA) should also be informed immediately for taking necessary actions regarding disconnection of the connection. In such cases the original entry in the cash book should be reversed...." It is reiterated that the information regarding dishonoured of 24 numbers of cheques in question were duly recorded by the applicant in the Register of Dishonoured Cheques which was periodically verified by the AO (Cash) and hence responsibilities for not reversing of entries in the Cash Book as well as in the SRC cannot be attributed to the applicant since it was not the duty of the applicant.

4.17 That during the pendency of the disciplinary proceedings the service of the applicant was placed at the disposal of the Bharat Sanchar Nigam Limited (for short BSNL). His absorption in the BSNL was subject to the outcome of the disciplinary proceedings and as such he was not absorbed in the BSNL. He continued to be a civil servant under the Department of Telecommunications, Government of India, and was in deemed deputation in BSNL. It is further stated that the BSNL by Letter No. STES-BSNL/Assam/2-58/2 dated 08.01.2001 decided that the employees with on-going disciplinary cases can also opt for absorption in BSNL but their absorption will be subject to the outcome of the vigilance case.

4.18 That the Inquiry Authority submitted his report on 20.05.2002. It is stated that the Inquiry Report has not been bonafide. The very fact that the proceedings were fixed on 10.10.2001 and 11.10.2001 have been suppressed. This is violative of the process of law in the quasi judicial proceeding. The proceedings of inquiry and also the Inquiry Report are as such perverse. The Inquiry Authority has come to the opinion that the applicant has failed to observe the procedure, rules and regulations and thus violated departmental rules. The Inquiry Authority could not come to any finding that the applicant was responsible for any negligence or causing loss to the Government revenue. Because, simply dishonouring of the cheques of the subscribers and failing to disconnect the telephone connections of those subscribers does not make the subscribers exempted from payments of telephone dues. It is reiterated that there is an outstanding persuit cell existed in TRA section who are responsible for realisation of outstanding dues.

Copy of the Inquiry Report dated 20.05.2002 forwarded with Letter dated 03.07.2002 is enclosed as Annexure "K".

4.19 That the Inquiry Authority has failed to assess the exhibited documents/records and oral statements of the witnesses and also failed to discuss the reasons of his findings on the basis of exhibited documents/records and oral statements of the witnesses. The Inquiry Authority also failed to take note of the aforesaid Rules i.e. 303(VIII) of

P & T manual Volume-XIV, Rule 110(a) of the P & T FHB Volume-I and the Register of Dishonoured Cheques (ACG-28) which was maintained by the applicant while arriving to his conclusion. As such there was no fair assessment of the witnesses/records/documents/rules by the Inquiry Authority.

4.20 That the applicant states that Rule 159 of the P & T manual Volume-XIV states that after consolidated telephone bills of the subscribers are released from TRA Accounting Branch from the desk of SRC clerk, the Rent Accounting Clerk of the same section should watch for 15 days from the date of issue of the bill. If the bills were not paid within 15 days from the issue of the bills then he should prepare the disconnection list in triplicate in Form ACE-107 and indicate the date of disconnection on the top of the list and send it to the telephone exchange and simultaneously should issue the reminders to the subscribers through letters and over telephones. This list should be signed by Accounting Clerk, Head Clerk and Accounts Officer of the TRA Branch. It is mentioned that the non payment of the bills on account of dishonoured cheques was available in the Register of Dishonoured Cheques maintained by the applicant which the AO (Cash) verifies periodically. It is evident from the above that the applicant as a Counter Clerk had no role in the matter of timely disconnection of concerned telephone numbers. He had the duty of only reminding subscribers for early cash payments and maintenance of the Register of Dishonoured Cheques which he did properly. The Inquiry Authority has failed to appreciate this aspect and came to a perverse conclusion, "Accordingly I hold rather strongly

that all the charges levelled against the SPS are fully proved." The applicant submitted his reply against the Inquiry Report on 17.07.2002.

Copy of the letter dated 17.07.2002

is enclosed as Annexure "L".

4.21. That the applicant was working on deputation in BSNL. It is stated that BSNL is distinct from Department of Telecommunications, Government of India. The authority of the BSNL considered the aforesaid disciplinary matter of the applicant. It is also stated that the General Manager, Deputy General Manager etc. functioning in the BSNL are officers of the BSNL and discharge their duties for BSNL only. They considered the case of the applicant and passed orders of penalty upon the applicant. By an Order dated 25.04.2003 issued by the Deputy General Manager, Office of the GMD, BSNL, Jorhat the applicant was dismissed from services w.e.f. 25.04.2003. Subsequently another Order was passed by the same authority on 11.06.2003 superseding the Order dated 25.04.2003. The applicant begs to state that with such superseding the Order dated 25.04.2003 became non-existent and non-existent. But the Order dated 11.06.2003 purported to give effect to the penalty of dismissal retrospectively w.e.f. 25.04.2003. Such retrospective penalty is illegal.

Copy of the Order dated 25.04.2003  
is enclosed as Annexure "M".

Copy of the Order dated 11.06.2003  
is enclosed as Annexure "N".

X

4.22 That the applicant submitted appeal dated 27.05.2003 against the Order dated 25.04.2003 and appeal dated 08.07.2003 against the Order of Penalty dated 11.06.2003. The applicant in his aforesaid appeals brought all the above facts and prayed for setting aside the Orders of dismissal.

Copy of the Appeal dated 27.05.2003  
is enclosed as Annexure "O".

Copy of the Appeal dated 08.07.2003  
is enclosed as Annexure "P".

4.23 That thereafter the applicant by letter dated 01.03.2004 requested the General Manager, Jorhat Telecom District, Jorhat for revoking the dismissal order on the ground of faulty procedure followed by the Inquiry Authority as well as the non assessment of the exhibited documents/records and witnesses properly by the Inquiry Authority, and order of dismissal by the officer lower than the appointing authority.

Copy of the letter dated 01.03.2004  
is enclosed as Annexure "Q".

4.24 That the aforesaid appeal dated 08.07.2003 of the applicant was disposed of by Order dated 06.10.2004 and the penalty of dismissal converted to compulsory retirement. This penalty was to take effect from 06.10.2004. The period from 25.04.2003 to 06.10.2004 was ordered to be treated as leave not due. It is stated that when the termination was

..... 06.10.2004 the period upto that date shall be as on duty. However, the case of the applicant is that the termination aforesaid is illegal.

Copy of the order dated 06.10.2004  
is enclosed as Annexure "R".

4.25 That in the facts of the case applicant has worked bonafide, maintained the Register of Dishonoured Cheques and also gave indications by encircling with red ink in the SRC and caused such encircling which enabled disconnection of the concerned telephones. These he had done in addition to sending telephonic reminders to the subscribers. There was no lechases or ill-will on the part of the applicant. In the total process in office there is guards and check guards against loss of Government revenue on account of such dishonoured cheques.

4.26 That in the above circumstances the applicant was not responsible for any loss of revenue. The matter relates to observing procedures. It is stated that the respondent BSNL authorities never informed the Department of Telecommunications regarding the development of disciplinary proceedings of the applicant and the inquiry and inquiry proceedings etc. The service of the applicant was not replaced nor he was re-posted to the Department of Telecommunications. The BSNL took the alleged violation/non observance of procedures as a severe offence and without examining the totality of the circumstances and violation of the procedures by other responsible officers attributed the

cause only to the applicant and illegally punished him. The applicant has been highly prejudice by such actions of the BSNL authorities and states that if the case of the applicant was dealt with by the Department of Telecommunications the true picture would be unearthed and applicant would not have been punished as a scapegoat.

4.27 That the applicant begs to reiterate that he served the Department of Telecommunications with outstanding performances which has also been recognised by the Department by awarding him with Sanchar Shree Award for the year 1998-99. He further begs to submit that his total period of service left was six years and the aforesaid service was the only income of his family. In the above facts and circumstances if the applicant is not reinstated he and his family members shall suffer irreparable loss and injury.

4.28 That the applicant demanded justice which has been denied to him and there is no other efficacious remedy under any rule and this application is made bonafide and for the cause of justice.

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

5.1 For that the impugned order of termination has been passed without application of mind.

5.2 For that the Inquiry Authority failed to make fair assessment of the exhibited documents/records and oral statements of the witnesses.

5.3 For that the Inquiry Authority failed to take note of the correct Rules as regards duties of the officials in connection with dishonoured cheques and also failed to appreciate the fact that the applicant had no role in the matter of disconnection of concerned telephones on account of dishonour of cheques.

5.4 For that the Inquiry Authority had failed to take note of the fact that the information of dishonoured cheques were available to the AO (Cash) in the exhibited Register of Dishonoured Cheques maintained by the applicant.

5.5 For that the Inquiry Authority unilaterally fixed the date of regular hearing two days before the scheduled date and compelled the applicant to nominate another Defence Assistant in place of his existing Defence Assistant and thereby violated the process of law established and inherent in the quasi judicial proceedings.

5.6 For that the Inquiry Authority has dropped the important witness Mr. M.U. Guruswamy, the then AO (TR), and closed the departmental proceedings in a hurried manner and thereby denied the applicant with the opportunity of cross examining the aforesaid witness.

5.7 For that the Inquiry Authority could not come to any finding based upon the assessment of exhibited documents/records and oral statement of witnesses. Nothing has been discussed by him in support of his findings and hence such findings are perverse.

5.8 For that the Inquiry Authority suppressed the fact of schedule date of hearing and circumstances under which he

refixed the date of hearing two days before the schedule date of hearing which is violative of process of law in the quasi judicial proceedings.

5.9 For that the applicant is not responsible in any manner for violation of procedures by other responsible officers.

5.10 For that the applicant has been punished as a scape goat with a view to give eye wash and save the actual responsible persons.

5.11 For that the Article of Charges are vague and abstract and contains allegations of violation of Rules 145 and 147 of FHB Volume-V and Rule 57 of Volume-III of CCS(CCA) Rules, 1965 which are non-est.

5.12 For that the applicant has been highly prejudiced by the actions of the BSNL authorities by not referring case of the applicant to be dealt with by the Department of Telecommunications.

5.13 For that the action of the respondents is the result of whimsical and arbitrariness which offends Article 14, 16, 21 and 311 of the Constitution of India.

5.14 For that the Inquiry Authority also failed to take note of the aforesaid Rules i.e. 303(VIII) of P & T manual Volume-XIV, Rule 110(a) of the P & T FHB Volume-I, Rule 159 of P & T manual Volume-XIV and the Register of Dishonoured Cheques (ACG-28) which was maintained by the applicant while arriving to his conclusion.

5.15 For that malice in law as well as in fact is explicit and the applicant is entitled to the reliefs prayed for.

6. **Details of the remedies exhausted**

The applicant declares that 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 previously filed or 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.

8. **Reliefs sought for**

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

8.1 The impugned order dated 06.10.2004 (Annexure-R) be set aside and quashed.

8.2 The applicant be re-instated into services with all consequential service benefits.

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.

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 impugned order of compulsory retirement dated 6.10.2004 be suspended and the applicant be allowed to resume duties.

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

The above relief is prayed for on the ground stated in para 5 above.

10. This application is filed through the Advocate.

**11. Particulars of Postal Orders:**

i) IFO No : 206-116240  
ii) Date of Issue : 24-2-05  
iii) Issued from : G.P.O.  
iv) Payable at : Gurukul

**12. List of Enclosures**

As per Index.

..... Verification

höflicher und weniger bewegter und sicherer Sprache ist.

Wiederholung der ersten Befragung

Wiederholung

mit vollständiger und so vorbereitet und vorbereitet

zweiter Befragung präzisiert und vorbereitet

zweite Befragung zweiter Befragung und so vorbereitet und vorbereitet

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Wiederholung der ersten Befragung

zweite Befragung zweiter Befragung und so vorbereitet und vorbereitet

Verification

I, Prafulla Bordoloi, son of Late Hemodhar Bordoloi, aged about 54 years, a resident of Jorhat, 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 25<sup>th</sup> day of February, 2005.

  
(Prafulla Bordoloi)

DEPARTMENT OF TELECOMMUNICATIONS  
ANNEXURE-A

Assam Telecom Circle  
Guwahati

**SANCHAR SHREE AWARD**

*This Certificate of*

**SANCHAR SHREE**

315/79  
awarded to

Gouri Pratul Bordoloi, T.O.A(G)

in recognition of his outstanding  
performance during the year

315/79  
1998-99



Guwahati-781 007

Dated : 17.05.99

*Attested  
P.P. Deka*

CHIEF GENERAL MANAGER  
ASSAM TELECOMMUNICATIONS CIRCLE



GOVT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE TELECOM DISTRICT MANAGER  
JORHAT-785001

CONFIDENTIAL

To,

Sri Prafulla Bordoloi  
Counter Clerk  
Counter No. 1.

No. A-Counter/P/B/-I

Date:- 26-08-1999

It is surprising to note that 24 (Twenty four) numbers of dishonored cheques involving an amount of Rs. 10,53,307/- were kept by you unauthorisedly for more than a year without bringing to the notice of the higher authority. On receiving information from a subscribers and on investigation the matter has received the attention of the undersigned only on 17-08-99.

On personal enquiry, you have sent the cheques alongwith Register on 17-08-99. The register is also not maintained properly and several figures are not agree with the cheque figure. This establishes clear negligence of duty on your part with a fraudulent motive behind it.

Please state under what circumstances you have willfully,

- Kept all dishonoured cheques under your custody for a year or so, when cheque Register with cheques are to be submitted to the undersigned daily as per Rule.
- You have failed to maintained the register property and with all intentional irregularities.
- You have also failed to submit the dishonoured cheques to the undersigned, daily, instead, unauthorisedly kept with a clear motive of fraudulent behind it.

You are therefore directed to explain why disciplinary action under CCS(CCA) will not be taken against you for gross negligence of duty and unauthorised keeping of the aforesaid cheques for a year without any information to the concerned authority. Your explanation should reach to the undersigned within 3(Three) days on receipt of this letter failing which exparte decesssion will be taken against you.

*Received*  
*Par. Dm.*  
*26/8/99*  
L. *Naresh*  
ACCOUNTS OFFICER(Cash)  
OFFICE OF THE T.D.M. JORHAT  
JORHAT

DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE T.D.M., JORHAT-785001

A-100/10A (000000)  
No. JRT/TRA/Cash Counter/99-2000/

Dated 18-06-99

OFFICE ORDER

In view of acceptance of cheque payment from the STD PCO franchisees, the following procedure is to be adopted :

- a) A separate cheque Register exclusively for STD PCO is to be maintained by the AAO.
- b) Clearance of these cheques is to be observed by the AAO personally once a week with reference to Bank Scroll. If found necessary the AAO will contact the Bank authority personally on the 4<sup>th</sup> day of the remittance and obtain particulars of credit/dishonour. The same should be passed to the AO (Cash) and the AO(TR) on the same day.
- c) In case of dishonour of such a cheque the AO(TR) is to be informed immediately by the AAO. The AO(TR) will disconnect the STD PCO and action should be taken to terminate the Licence immediately. FIR is to be lodged to the Police authority on the same date.
- d) The Commercial Officer of this office and the SDE of concerned exchange will fully co-operate by supplying relevant information/documents like Original Application/Agreement signed at the time of allotting the STD PCO etc. immediately to the AO(TR).
- e) The E-10-B Exchange In-charge will disconnect the STD PCO immediately on receipt of information from the AO(TR) and remove the Jumper on the same day both from the MDF /Pillar.

Sd/-

Chief Accounts Officer  
O/O T.D.M., Jorhat

Copy to : 1. The Accounts Officer (Cash) / (TR)  
2. The D.E., D-TAX, E-10-B Exchange, Jorhat  
3. The Commercial Officer, O/O T.D.M., Jorhat  
4. The S.D.E. (External) Jorhat, Main  
5. / The S.D.E. (External), Pulbhor / Kenduguri  
6. The A.A.O. (Cash) / (SBP)  
7. Sri Prafulla Bordoloi, Counter Clerk No. 1.

For information and necessary action.

*Naresh*  
Chief Accounts Officer  
O/O T.D.M., Jorhat

*Abhijit*  
*BBP*

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATION  
OFFICE OF THE TELECOM DISTRICT MANAGER  
JORHAT-785001

Instruction noted below may invariably be followed by all the TRA counter clerk with immediate effect.

- (a) When the subscriber tenders combine cheque for payment of telephone dues against more than one telephone, all the telephone numbers should be recorded on the reverse of the cheque immediately. Same procedure may be adopted for single number cheque also.
- (b) All columns of ACC-28 (Register of cheques received and cleared) should be filled up by the counter clerk in respect of all cheques accepted for the day including the telephone numbers in col 5 and A/C No of the cheque tenderer in col 7 of the Register along with other particulars as available in the receipt.
- © If any dishonoured cheque is received it must be handed over to the AAO (C)/ Cashier on the same date.

The receipt of this letter may be acknowledged.

No JRT/CAO/99- 2000/11 Dated 25-8-99

SD/-

Chief Accounts Officer  
O/O TDM-Jorhat

Copy to:-

1. Sri P. Bordoloi, SS, TRA Counter no 1
2. Md M. Ahmed, SS (O) TRA Counter no 2
3. Sri S.N. Dutta, SS, TRA Counter no 3

*for record*  
Chief Accounts Officer  
O/O TDM-Jorhat.

*Alastor*  
*BBR*

To

The Accounts Officer (Cash)  
O/O the TDM, Jorhat.

Dated at Jorhat, the 27.8.99

Sub :- Reply to your letter No. A-Counter/PB/I dt. 26.8.99.

Sir,

With reference to your letter No. quoted above, I beg to submit the following for your kind information. Sir, the dishonoured cheques mentioned in the letter related to counter I, II, & III. 3 (three) or 4 (four) cheques were dishonoured in my counter. After dishonour of three or four cheques, I stopped taking third party cheque.

Generally, when I receive the dishonoured cheques, I inform the subscriber number in the back side of the cheque, over phone and they make cash payment. When there is minor irregularities, these are rectified by the subscriber and sent to the bank again. since my working in the counter this procedure was followed. No further guide lines, I have received so far regarding the disposal of dishonoured cheques except one, I have received very recently from CAO.

On the back side of these cheques only one or two telephone numbers were written. On the basis of these telephone numbers, telephonic reminder was given to the subscribers first requesting early payment. When the subscriber said, the cheque amount is higher than their bills, I had to go through the vouchers. Then only I have come to know that this was a third party cheque and each cheque related to several telephone Nos. So I began entering all dishonoured cheques in a central register for all counters and searched the vouchers. Entry of the telephone Nos. and amount was made against each cheque in the register from the voucher made me available by the TRA peons and got these noted in the SRC by the concerned D.A. But some vouchers in the monthwise bundle were not available. Where there was no voucher, the amount was taken from the cards against the telephone No. in the cheque and from sorting list on daily list where available. So the voucher figures against some cheques were not upto-date. The vouchers at that time remained scattered, as a result of which it took abit more time in preparing the register upto-date.

*Attested*  
As all cheques were sent to me only through peon book, the whole work was done by me centrally. I had that confidence also that I can do the work. Due to this ego, I tried to complete the register for the dishonoured cheque for all three counters myself and completed with available records.

The required informations are furnished below :-

(1) That procedure adopted by me in taking follow up action against the dishonoured cheque received by me since my posting in the counter is followed now also in the case of these dishonoured cheques as narrated above. Though the cheques were with me for one year, I did not keep these pending without taking any action. Action of giving telephonic reminder, preparation of the register with available records and getting the amount noted in SRC by the DA for further necessary action, reminder and disconnection. Some telephone numbers could not be contacted, as the same remained already disconnected. This was done immediately on receiving the vouchers. I was not aware of or received any further guidelines for dishonoured cheques that these should be put up to A.O. daily. But any motto was only that the dues should somehow be realised. So the above mentioned works were done.

(2) Sir, the register was maintained from the available vouchers supplied to me from TRA section. Where there was no voucher available, I took the help of cards of the telephone numbers written on the back side of the cheques, sorting list and daily list where available. Sir, it is not intentional. The irregularity was due to not receipt of vouchers.

(3) Sir, the procedure of follow up action taken previously on the previous dishonoured cheques, were adopted in case of these cheques also. No any special guideline was received by me that there should be put up to A.O daily. I was verbally intimated by the previous A.Os also that the subscribers of dishonoured cheques should be informed for early cash payment to avoid disconnection. This procedure was followed in case of these cheques also. So, some subscribers of 320, 321, 322, 323, 324, 326, 327 and 87 groups had paid against the dishonoured cheques. Had I been any fraudulent motive, I would not have prepared the register after searching and going through all scattered available vouchers. Sir, as I have no any such motive, I have kept all cheques properly without any loss and submitted to you only one or two cheques have been taken by the party after payment. My motive was only to realise the outstanding dues somehow.

Sir, as the follow up action was taken as before, without having any fraudulent motive, I requested you kindly to exempt me from taking any disciplinary action.

Yours faithfully,

(PROFULLA BORDOLOI)

Counter-1

Government of India  
Department of Telecommunications  
Office of the Telecom.District Manager,Jorhat

No. X-1/PB/JRT/99-2000/1

Govt of India

Ministry of Communication

Dated at Jorhat the 17<sup>th</sup> Sept 1999

**MEMORANDUM**

The President/undersigned proposes to hold an inquiry against Shri Prafulla Bordoloi, Sr.TOA(G) under Rule 14 of the Central Civil Services(Classification, Control and Appeal) Rule,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 and IV).

2. Shri Prafulla Bordoloi, Sr.TOA(G) is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each articles of charge.
4. Shri Prafulla Bordoloi, Sr.TOA(G) 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 inquiry 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 Prafulla Bordoloi, Sr.TOA(G) is invited to Rule 20 of the Central Civil Services(Conduct) Rule, 1964,under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceeding it will be presumed that Shri Prafulla Bordoloi, Sr.TOA(G) is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS(Conduct) Rules,1964.
6. The receipt of the Memorandum may be acknowledged.

(By order and in the name of the President)

To,

Shri Prafulla Bordoloi, Sr.TOA(G)

Office of T.D.M. Jorhat

(D. Baying)

Divisional Engineer (P & A)

Office of the Telecom Dist. Manager

JORHAT

— 31 —

ANNEXURE - I

Annexure - E

Statement of articles framed against Shri Prafulla Bordoloi, Sr.TOA(G),O/O TDM, Jorhat

Article - I

That the said Shri Prafulla Bordoloi, while functioning as Sr.TOA(G) during the period from 01-01-98 to 30-08-99 & working in the TRA counter No. I it reveals that serious irregularities were committed without the knowledge of the higher authorities to whom the said Shri Prafulla Bordoloi, was working and failed to maintain absolute integrity and acted in a unbecoming of Government servant and thus violated the rules of 3(I)(i) (ii) (iii) of the CCS (conduct) Rules of 1964.

Article - II

That during the aforesaid period and while functioning in the aforesaid office and on thorough investigation it was found that large number of dishonoured cheques returned from the bank were kept unauthorisely by said Shri Prafulla Bordoloi, without taking any action with a clear fraudulent intention, and non-reporting the matter to the authorities immediately as required under rules and thereby causing loss of lacs of rupees to the Govt ex-chequer due to his gross negligence of duty and the entries made by his own hand writing in the SRC pertaining to dishonoured cheques at his own accord wilfully when it was not authorised to do so with a view to manipulate the office record and the matter was also not reported to the authority thus violated the rule 110(b) FHB VOL -1(Genl) and rules 147 of FHB Volume -V and Rule 3(I)(i)(ii)(iii) of the CCS(Conduct) Rules of 1964.

Article - III

That during the aforesaid period and while functioning in the aforesaid office the said Shri Prafulla Bordoloi, has failed to observe the procedures, rules and regulations and willfully kept all the dishonoured cheques under his custody for the several months and thus violated the rule-57 of Volume III of CCS(CCA) Rules 1965 and rules 145 and 147 of FHB Volume -V and rules 110(b) of FHB Vol-1.

*[Signature]*  
Divisional Engineer ( P & A )  
Office of the Telecom Dist. Manager  
JORHAT

*Annexure E*  
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## ANEXURE-II

**Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Shri Prafulla Bordoloi, Sr.TOA(G), o/o the TDM, Jorhat.**

### Article-I

That the said Shri Prafulla Bordoloi, while functioning as Sr.TOA(G) and working in the TRA counter No. 1, the said Bordoloi has received Twenty four (24) numbers of dishonoured cheques amounting to rupees 10,53,307.00 (Rupees ten lakh's fifty three thousand three hundred seven only) and kept under his custody without proper authority for more than a year which was received time to time from the bank and without reporting the matter to the higher authorities and no action was initiated as required, under rules and thus it reveals that with a clear fraudulent motive behind it resulting a loss of Rupees 10,53,307.00 from the Govt ex-chequer.

### Article-II

That the said Shri Prafulla Bordoloi, Sr.TOA(G), has also failed to submit day to day accounts pertaining to the cheque clearance Registers, relevant daily challans, and dishonoured cheques after receipt from the Bank and kept under his custody without any authority and failed to maintain devotion to duty and absolute integrity.

### Article-III

That the said Shri Prafulla Bordoloi, Sr.TOA(G), while working in the TRA counter No. 1 acted in an unbecoming of a Govt servant by keeping all dishonoured cheques for more than a year with an intention for the personal benefit in collaboration with the subscribers and non-submission of relevant records from time to time to the higher authorities and after a lapse of more than year, the dishonoured cheques and its register was made over to the AO(Cash) only on 17-08-99.

The said Shri Prafulla Bordoloi, Sr.TOA(G) has willfully made several entries by his own hand writing in the SRC for dishonoured cheques with a view to manipulate the office records and instead the matter was not reported to the concerned authority which attracts the proviso of rule-57 of Vol-III of CCS (CCA) 1965 and it proves total negligence of duty violating all departmental rules and regulations and failed to maintain absolute integrity.

*[Signature]*  
Divisional Engineer (P & A)  
Office of the Telecom Dist. Manager  
JORHAT

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Annexure F

### ANNEXURE III

List of documents by which the articles of charges framed against Shri Prafulla Bordoloi, Sr.TOA(G), are proposed to be sustained:

1. Register of dishonoured cheques.
2. Particulars of dishonoured cheques.

Sl No.	Dishonoured Cheque No.	Date	Amount in Rupee	Chalan No. & Date	Banks return particulars from SBI with date.
1	204599	07-04-98	59,564.00		18-04-98
2	858408	27-04-98	55,777.00		30-04-98
3	219558	22-05-98	28,322.00	22-05-98	27-05-98
4	2210362	29-07-98	41,103.00	29-07-98	01-08-98
5	359450	23-07-98	32,628.00	23-07-98	27-07-98
6	2210361	03-08-98	32,971.00		06-08-98
7	2210365	21-08-98	66,363.00		27-8-98
8	2909177	26-10-98	21,242.00		31-10-98
9	2909179	13-11-98	21,058.00		18-11-98
10	569602	17-11-98	59,196.00		25-11-98
11	2909182	24-11-98	82,784.00		27-11-98
12	219574	09-12-98	56,222.00	09-12-98	14-12-98
13	2909183	18-12-98	68,078.00		26-12-98
14	915477	28-12-98	71,578.00	28-12-98	06-01-99
15	2909185	07-01-99	18,180.00	07-01-99	11-1-99
16	2909187	13-01-99	51,325.00		13-01-99
17	2909188	20-01-99	54,814.00	20-01-99	27-01-99
18	AZD 964450	25-01-99	10,893.00		01-02-99
19	2909189	29-01-99	65,035.00		29-01-99
20	2909191	05-02-99	40,518.00		11-02-99
21	69604	02-06-99	53,085.00		05-06-99
22	915481	14-05-99	55,512.00		03-06-99
23	940402	11-05-99	2,332.00		14-05-99
24	953780	18-06-99	4,727.00		23-06-99
<b>TOTAL</b>			<b>10,53,307.00</b>		

3. Register of ACG-28.
4. Vouchers (Numbering 172) (173)
5. SRC of Tel No.
  - a) GT-21357
  - b) GT-20027
  - c) JRT-322051
  - d) JRT-320108
  - e) Written statement dated 08-09-99 from Mrs. Antipoma Baruah Sr.TOA(G) for writing of SRC by Shri Prafulla Bordoloi Sr.TOA(G) to whom the charge sheet was framed.
6. Twenty four (24) nos of dishonoured cheques (Cheque no mentioned above)

  
 Divisional Engineer (P & A)  
 Office of the Telecom Dist. Manager  
 JORHAT

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Annexure E

#### ANNEXURE-IV

List of witness by whom the articles of charge framed against Shri Prafulla Bordoloi, Sr.TOA(G) are proposed to be sustained:

1. Shri D.Burrah A.O(Cash) o/o the TDM, Jorhat
2. Shri M.U.Guruswamy A.O(TR) o/o the TDM, Jorhat
3. Shri J.Hazarika JAO(Cash) o/o the TDM, Jorhat
4. Md. Islam (Cashier) o/o the TDM, Jorhat
5. Mrs. Anupoma Burrah, Sr.TOA(G) o/o the TDM, Jorhat.

Divisional Engineer (P & A) 7/9/99  
Office of the Telecom Dist. Manager  
JORHAT

Authentic  
R. D.

ANNEXURE - F**To**

**The D.E. (P&A)**  
**O/O the TDM, Jorhat.**

Dated at Jorhat, the 27.9.99

**Sub :-** Reply to your Memo No. X-I/PB/JRT 99-2000/I dt. 17.9.99.

**Sir,**

In response to your memo No. quoted above, the reply against Annexure-I & II is furnished below. At present, I want to be heard in person.

ANNEXURE - I

**Article I :** Sir, during the said period, I was rendering my services to the best of my sincerity except the alleged erroneous handling of the dishonoured cheques.

**Article II :** The dishonoured cheques relating to three counters were sent to me in the peon book after notation in the Dak. So I thought that these have already gone to the notice of the authority. So these were not put up to A.O. again and I began to take action on it. The procedure of giving reminder and necessary noting in SRC for cancellation of payment noting, was done as before, so that further reminder can be given from the section and necessary action can be taken for disconnection of the telephone. The register of dishonoured cheque will reveal the action taken on these cheques. Unless full payment against the dishonoured cheque is made. These are kept in my custody as documentary evidence of the defaulting subscriber. This may kindly be not taken as unauthorised keeping. I have no any fraudulent motive on it, as because, I took necessary follow-up action for realisation of the outstanding amount through telephonic reminder and necessary notice in SRC. Conventionally before any drastic action like disconnection is initiated. Had I been any such motive, I would not have done the above works of realisation of the amount. As the realisation work was going on and 25% of the amount (approx) has already been realised and action for further realisation was going on, there should not be any loss to the department. When cheque is bounced, the subscriber has become defaulter.

*Pls. check*  
 In one or two SRCs, necessary information of cheque dishonoured was noted by me with due permission as well as at the request of the D.A. I only showed the procedure of writing the information and cancellation of payment noting in their front. Only the true information was written there. Hence this may kindly be not taken as any intention of manipulation.

**Article III :** As action of realisation of the amount from the subscriber was going on and about 25% of the amount was realised in my initiative, the dishonoured cheques were kept in my custody till the amount is realised fully. Hence, this may kindly be not taken as violation of any rules.

#### ANNEXURE - II

**Article I :** The dishonoured cheques of the three counters came to me after routing the same through Dak. As such, I thought that these have gone to the notice of the authority. Moreover, the procedure of keeping the cheques in my custody for realisation of the amount from the subscriber was followed since my posting in the counter. No any instruction or guide line was given to me regarding other procedure of disposal of the dishonoured cheques. Only these cheques, not taken back by the subscriber after payment was given to the Cashier. My view was to realise the defaulting amount from the subscriber. So action for realisation was going on my giving telephonic reminder, preparing the register of dishonoured cheques from the scattered vouchers and other available records in the SRCs, sorting list, daily list and getting these noted in the SRCs for further necessary action. Thus some subscribers of 320, 321, 322, 323, 324, 326, 327 and 87 groups have paid the same against the dishonoured cheques. Had I been any fraudulent motive, I would not have prepared the register after searching and going through the scattered vouchers. Since, about more than 25% of the amount against the defaulting subscribers have been realised and further realisation has been going on from the defaulting subscribers, there should not be any loss to the department.

**Article II :** No such guide line was received by me regarding maintenance of cheque clearance register and day to day submission of the register of dishonoured cheques to the superior. Only two instructions have been received from the CAO regarding this recently, only after the allegation of erroneous mishandling of the dishonoured cheques have come up.

**Article III :** The dishonoured cheques were kept with me as follow-up action was going on against these. At the time of receipt, reminder was given first, to the subscriber as mentioned on the back side of the cheque where only one or two telephone Nos. were written. When it was known from the subscriber that the cheque figure and their bill amount does not tally, I had to go through the vouchers. As the vouchers were in a scattered condition, I could not be made the same available to me early and so, it took abit more time in taking necessary action on these cheques. However immediately on receipt of the vouchers, I prepared the register to make it up-to-date. Where, there was no voucher available in the monthwise bundle, I had to go through the sorting list, daily list and SRCs also. Thereafter, these were got noted in the SRCs in the section wherfrom reminder was given again several times and finally telephone.

*at*  
Appendix F

was disconnected. However some subscribers have made payment either partly or fully on my follow-up action. Had I been any intention of personal benefit, I would not have done the above works for realisation of the dues from the subscribers. As the follow-up action was going on, on these cheques and no further guide time was given, these were not put up to higher authority. I have given much emphasis on realisation only.

The information regarding the dishonour of cheques were entered in one or two SRCs on the presence of the DAs who did not know the procedure of noting of that information and requested me to show the same. This was done in their presence and with their due permission. No wrong information was written there. Hence I had no any intention of manipulation of Govt. records.

Yours faithfully,

(PROFULLA BORDOLOI)  
Sr. TOA (G)

*Attested  
P. J. D.*

CCD(PT), 32/99.

Dated: 28-08-2001.

Disciplinary proceedings under Rule-14 of CCS(CCA), Rules  
against Sri. Prafulla Bordoloi, Sr. T.O(A), G.M.T.D.,  
Jorhat.

REGULAR HEARING

Call to state witnesses.

S/Sri.

1. D. Baruah, Sr. Ao(Camp/TA), G.M.T.D., Jorhat
2. M. U. Guruburamy, A.O.(TRA) G.M.T.D. Jorhat.
3. J. Hazarika, M.A.O.(TRA), G.M.T.D., Jorhat
4. Md. Islam (Cashier), G.M.T.D., Jorhat
5. Mrs. Anupoma Baruah, Sr. T.O(A), G.M.T.D., Jorhat.

WHEREAS your attendance is required to give evidence on behalf of Department of Telecom, Bharat Sanchar Nigam Limited,

You are hereby required (Personally) to appear before this INQUIRING AUTHORITY on the date and time mentioned below at the CONFERENCE HALL, G.M.T.D., Jorhat.

Sl. No. 01 & 03 on 10.10.2001 at 11.00 Hrs.

Sl. No. 02, 04, & 05 & examination of SPS on 11.10.2001 at 11.00 Hrs.

All the controlling authorities are requested to relieve their officials in time to attend the inquiry.

*(A.B. SHARAN)*  
(A.B. SHARAN)

INQUIRING AUTHORITY

29/08/01

Call for information & necessary action by registered post to:-

1. The GM Telecom Disptt. Jorhat. He is requested to make sitting arrangement in the Conference Hall on 10-10 & 11-10-2001.
2. The C.A.O. G.M.T.D. Jorhat — Controlling officer of Senv, SW2, Senv, Senv, & SW5.
3. Sri Manabendra Saha, Sr. Ao(SBP), G.M.T.D., Guwahati — P.O.
4. The C.A.O(SBP), G.M.T.D., Guwahati — C.O of the P.O.
5. Sri. Shankar Kr. Das, CTM (instructor), CTTC, Guwahati — (D. Ass't)
6. The Principal CTTC, Bharatnagar, Guwahati — C.O of Defense Ass't.
7. Sri Prafulla Bordoloi, — SPS

*(A.B. SHARAN)*  
INQUIRING AUTHORITY

29/08/01

Enclosed: One of your controlling officer in case please

ANNEXURE - H

BHARAT SANCHAR NIGAM LIMITED  
OFFICE OF THE PRINCIPAL: CIRCLE TELECOM TRAINING CENTRE  
BHARALUMUKH: GUWAHATI-9.

No.Q-68/2001-2002/07 Dated at GH the 5th October 2001.

In pursuance of Inquiry Officer O/O the CGMT, Bihar Telecom Circle, Patna letter No. OSD(PT)/32/99 date 28.08.2001 Sri Sankar Kumar Das, CTM (Instructor), CTTC, Guwahati is hereby relieved from duty on the A/N of 8th October 2001 for attending a Departmental Inquiry as a Defence Assistant at Conference Hall O/O the GMT, Jorhat.

*Sd/-*  
Principal  
Circle Telecom Training Centre  
Bharalumukh, Guwahati.

Copy for information to:-

1. The Chief General Manager Telecom, Assam, Guwahati.
2. The General Manager Telecom, Jorhat Telecom Dist. Jorhat.
3. Sri A.B. Saran, Inquiry Officer O/O the O/O the CGMT, Bihar Telecom Circle, Patna.
4. The Sr.A.O. (A&P) O/O the CGMT, Assam, Guwahati.
5. Sri Sankar Kumar Das, CTM (Instructor), CTTC, Guwahati.
6. Sri Prafulla Bordoloi, Sr.TOA (G) O/O GMT, Jorhat.
7. The Office copy.

*(Q)*  
Principal *5/10/01*  
Circle Telecom Training Centre  
Bharalumukh, Guwahati.

*Officer in charge  
P.S.  
P.W.*

NO. OSD(PT)132/99

VENUE:- 1/1 THE G.M.T.D,

Dated : - 08.10.2001.

JORHAT, ASSAM.

DAILY ORDER SHEET

Disciplinary proceedings under Rule-14 of the CCS(CCA), Rules-1965 against Sri. Prabulla Baradoloi, Sr. TOA(G), 1/1 G.M.T.D, Jorhat.

Today was the date fixed for REGULAR HEARING in the above case. The Sitting started as per scheduled. The following were present.

1. Sri. A. B. Sharma, DC(DT), Padna	— INQUIRING AUTHORITY
2. Sri. Manikendra Saha, CAO, DOT cell, GY	— PRESENTING OFFICER
3. Sri. Prabulla Baradoloi, Sr. TOA(G),	— SUSPECTED PUBLIC
4. Sri. G. C. Sharma, SSS of G.M.T.D, G.H.Y	— SERVANT (SPS). DEFENCE ASSISTANT

The SPS furnished his nomination letter for engaging Sri. ~~Govinda~~ Golab Chand Sarmah as his defence assistant in place of his earlier nominated Sri. Shankar Kr. Das, CTM (instr), CTTC. Certificate for working as defence assistant to this case which was allowed by F.O. The controlling officer of Sri. S. R. Das was intimated on phone as well as a FAX message was sent to him for not releasing Sri. Das for defending this case at Jorhat on 08.10.2001 as per scheduled.

The P.O. adduced all the listed documents in original in support of the charges which were as undisputed marked as S. Ext. as under following on record.

1. S. Ref. 01. Register of dishonoured Cheque maintained by Counter Clerk

02. S. Ext. 02. Particulars of dishonoured Cheque & in no. of different dates

03. S. Ext. 03. Register of AcG. 28, two books

04. S. Ext. 04. Vouchers Numbering 173 with containing one list of Ref. Nos. bill date, amount, Cheque no. with date prepared by the then AO (T.A.O), J.R.T.

*Referred  
by  
P.W.*

S. S. Ext. OS. SRE H Tel. no. GT 21357  
 (a, b, c, & d) 26027, 10 JRT 322031, JP  
 820108. 95

6. S. Ext. OS E. Written Statement dated 08.9.99  
 from Mr. Mrs. Anupma Baruah  
 Sri. TOA (G), for writing of SRE  
 by Sri P. Barodoloi, Sr. TOA (G),

The P.O. produced the following State  
 witness in respect of charges.

1. SW. 01. Sri M. D. Baruah, the then AO (Cash)  
 of RDM Jorhat.

2. SW. 02. Sri J. Hazarika, the then JAO (Cash)  
 of RDM Jorhat.

Both the witnesses were examined concur-  
 sively. Sri M. D. Guruswamy, the then AO (TR)  
 of RDM, Jorhat was not produced by the P.O. for  
 recording as his evidence. Reportedly he could  
 not come due to non-availability of Railway  
 reservation. The P.O. consented to drop him.  
 The other two witnesses will be examined  
 tomorrow.

The sitting adjourned till 11.00 hrs of  
 09.10.2001.

P. Barodoloi (P. Barodoloi) (G.C. Sarmah) (G.C. Sarmah) M. Saha  
 (G.P. S. Barodoloi) 8/10/01 Defence Assistant Presenting Officer

A. B. STARAN  
 INQUIRING AUTHORITY

8/10/2001

BHARAT SANCHAR NIGAM LIMITED  
OFFICE OF THE PRINCIPAL: CIRCLE TELECOM TRAINING CENTRE  
BHARALUMUKH: GUWAHATI.

No.Q-68/2001-2002/09

Dated at GH the 9th October 2001.

The release order issued vide this Office memo No.Q-68/2001-2002  
07 date 05.10.2001 in respect of Sri S.K.Das, CTM (Instructor),  
CTTC, Guwahati is hereby cancelled owing to the receipt of infor-  
mation from Inquiry Authority regarding subsequent change of  
nomination of Defence Assistant by the delinquent Officer in  
the relevant disciplinary case.

*Self*  
Principal  
Circle Telecom Training Centre  
Bharalumukh, Guwahati.

Copy for information to:-

1. Sri A.B.Sharan, Inquiry Officer O/O the CGMT, Bihar Telecom  
Circle, Patna.
2. ~~Sri S.K.Das, CTM (Instructor), CTTC, Guwahati.~~

*Q*  
Principal  
Circle Telecom Training Centre  
Bharalumukh, Guwahati.

*After feed  
R.P. Deka*

**BHARAT SANCHAR NIGAM LTD.**

(A GOVERNMENT OF INDIA ENTERPRISE)  
OFFICE OF THE GENERAL MANAGER  
JORHAT TELECOM DISTRICT  
JORHAT - 785001

No. X-1/PB/2002-2003/04

Dated at Jorhat, the 03-07-2002

To:

Sri Prafulla Bordoloi,  
Sr. TOA (G),  
O/o the GMTD, BSNL, Jorhat

Sub : Forwarding of Inquiry Report.

Please find herewith an Inquiry Report received from Sri A. B. Sharan, Officer on Special Duty (DI), CTO Bldg. 3<sup>rd</sup> Floor, Patna who was the Inquiry Authority for the disciplinary proceeding under Rule - 14 of CCS (CCA). Rules - 1965 against you. You are to submit written representation or submission to the disciplinary authority within 15 days for taking further action.

Enclosed :- 9 sheets.

  
Deputy General Manager  
O/o the GMTD, BSNL, Jorhat

*Pls check  
P.B.  
Doh.*

Bharat Sanchar Nigam Limited  
(A Government of India Enterprise)  
Office of the Chief General Manager Telecom  
Bihar Circle, Patna-800 001.

CONFIDENTIAL

No. OSD(PT)/32/99

Dated: 20.05.2002

INQUIRY REPORT

PRESENT:

SRI A.B. SHARAN  
OFFICER ON SPECIAL DUTY(DD)  
CTO Bldg, 3<sup>rd</sup> FLOOR, PATNA.

PRESENTING OFFICER:

SRI MANABENDRA SAHA  
SR. AO(SBP) UNDER GM KTD,  
GUWAHATI

DEFENCE ASSISTANT:

SRI G.C. SARMA, SSS  
UNDER GM KTD, GUWAHATI.

Disciplinary proceedings under Rule-14 of CCS(CCA), Rules-1965  
against SRI PRAFULLA BORDOLOI Sr. TOA O/o GMTD, Jorhat.

The aforesaid Suspected Public Servant Sri Prafulla Bardoloi, Sr. TOA(G),  
O/o the then TDM, Jorhat (hereinafter referred to as SPS) was charge sheeted  
vide Memo No. X-1/PB/JRT/99-2000/1 dated-17.09.1999 issued by the  
Divisional Engineer(P&A), O/o the TDM, Jorhat (hereinafter referred to as  
Disciplinary Authority). The undersigned was appointed as Inquiring  
Authority by the Disciplinary Authority vide Memo No.X-1/PB/99-2000/7  
dated-15.10.99 to inquire into the charges framed against the SPS.  
Simultaneously Sri Manbendra Saha Sr. AO(SBP), O/o GM KTD, Guwahati  
vide Memo No. X-1/PB/JRT/99-2000/8 dated-15.10.99 was appointed as  
Presenting Officer (hereinafter referred to as P.O) by the Disciplinary  
Authority to present the case in support of the charges before the Inquiring  
Authority on behalf of Disciplinary Authority. The SPS first took assistance  
of Sri Shankar Kr. Das CTM Instructor CTTC, Guwahati and subsequently of  
Sri G.C. Sarma SSS under GM KTD, Guwahati as his defence assistant which  
was allowed by the I.O.

*Pls. check*  
*for P.O.*

The sitting started with its preliminary hearing on 05.05.2000 when the SPS categorically denied the charges levelled against him and preferred personal hearing in the case. The SPS as directed inspected the listed documents on the date of the preliminary hearing and then directed to file his requisition for additional documents and defence witnesses if any.

On completion of the pre-hearing formalities the regular hearing started and held on 08.10.2001, 09.10.2001, when the P.O adduced all the documents as enlisted in Annexure-III to the charge sheet. All such document were taken on record and marked as S.Exts. as under:-

- 1.S.Ext. 01. Register of dishonored cheques maintained by counter clerk.
- 2.S.Ext.02. Particulars of dishonored cheques 24 in No.of the different dates.
- 3.S.Ext.03. Register of ACG-28, ( two books)
4. S.Ext.04. Vouchers numbering 173 containing list of Telephone Nos, bill date, amount, cheque No. with date prepared by the then AO(TRA), Jorhat.
5. S.Ext. 05. SRC of Telephone number GT 21357, GT 20027, JRT 322051  
(a b c & d) JRT 320108.
6. S.Ext. 05(e). Written statement dated-08.09.99 from Mrs. Anupma Baruah Sr. TOA(G), for writing of SRC by Sri P. Bordoloi Sr. TOA(G).

Also in course of regular hearing, the P.O produced four state witnesses out of five in support of charges who were examined-in-chief by P.O and cross examined on behalf of SPS conclusively they are as under:-

1. SW. 01. Sri D. Baruah, the then AO(cash), O/o TDM, Jorhat.
2. SW.02. Sri J. Hazarika, the then JAO(cash), O/o TDM, Jorhat
3. SW.03. Sri Md. M. Ishlam, the then Divisional Cashier O/o TDM, Jorhat
4. SW.04. Mrs. Anupoma Brauah, the then Sr. TOA(G), as TRA Clerk under TDM Jorhat.

Sri M.U. Guruswamy the then AO(TR), O/o TDM Jorhat was consented to be dropped by P.O for his non appearance before the inquiry on consecutive two days of hearing.

On closure of the prosecution case the defence filed his statement of defence under CCS(CCA), Rule-14(16) with a copy endorsed to P.O

The SPS did not prefer to produce and examine any defence witness on its behalf.

The SPS was then questioned by I.O under Rule-14(18) which was recorded. In his reply to I.O's question, he admitted to have kept the dishonoured cheques with him for making re-payment in full. He was going on pursuing the TRA people as well as the subscribers also. He pleaded the delay in handing over the same to AO(cash) due to non-receipt of the vouchers in time. He further confessed that he made entries in the SRCs. Then both the parties were requested to submit their respective briefs induplicate within stipulated time. The prosecution brief of P.O dated- 13.02.2002 was received on 18.02.2002 and the defence brief dated- 04.03.2002 was also received after wards.

Thus all the documentary evidences adduced and submission made were thoroughly examined. At the same time both the parties (prosecution and defence) were afforded full and reasonable opportunities which they availed to the best of their satisfaction.

The following articles of charge was framed against the SPS as contained in Annexure-I of the charge sheet.

ARTICLE-I

ANNEXRUE-I

That the said Sri Prafulla Bordoloi, while functioning as Sr. TOA(G), during the period from 01.01.98 to 30.08.99 and working in TRA counter No. 1 it reveals that serious irregularities were committed without the knowledge of the higher authorities to whom the said Sri Prafulla Bordoloi, was working and failed to maintain absolute integrity and acted in a manner of unbecoming of Government Servant and thus violated the rules of 3(1) (i) (ii) (iii) of the CCS (conduct) Rules of 1964.

ARTICLE-II

That during the aforesaid period and while functioning in the aforesaid office and on thorough investigation it was found that large number of dishonoured cheques returned from the Bank were kept unauthorisely by said Sri Prafulla Bordoloi, without taking any action with a clear fraudulent intention, and non-reporting the matter to the authorities immediately as required under rules and thereby causing loss of lacs of rupees to the Government ex-chequer due to his gross negligence of duty and the entries made by his own hand writing in the SRC pertaining to dishonoured cheques at his own accord wilfully when he was not authorised to do so with a view to manipulate the office record and the matter was also not reported to the authority thus violated the rule 110 (b) FHB Vol-I (Genl) and rules 147 of FHB Volume-V and Rule-3 (I) (i) (ii) (iii) of the CCS(conduct) Rules of 1964.

ARTICLE-III

That during the aforesaid period and while functioning in the aforesaid office the said Sri Prafulla Bordoloi, has failed to observe the procedures, rules and regulations and wilfully kept all the dishonoured cheques under his custody for several months and thus violated the Rule-57 of Volume-III of CCS(CCA) Rules 1965 and rules 145 and 147 of FHB Volume-V and rules 110 (b) of FHB Vol-I.

DISCUSSION.

The crux of the charge under the statement of imputation of misconduct and misbehavior framed against Sri Prafulla Bordoloi Sr. TOA(G), working in TRA counter-I at the relevant period under TDM, Jorhat is that he has received 24 (Twenty four) Nos. of dishonoured cheques amounting to a sum of Rs. 10,53,307.00/- (Rs. Ten Lac fifty three thousand three hundred seven) only and kept them under his custody for more than one year after it was received time to time from the Bank without reporting the matter to his higher authority and no action for processing the dishonoured cheque was initiated by him as required. In Article-II of the charge it was alleged that he failed to submit day-today account pertaining to the cheque clearance registers, relevant daily challan and dishonoured cheques after receipt from the Bank and kept under his custody without any authority. In Article-III of the charges it was alleged that after a lapse of more than a year, the dishonoured cheques and its register was made over to the AO(cash) only on 17.08.99 intentionally

for the personal benefit in collaboration of the subscribers. In reply to the charge sheet the SPS admitted to have kept the dishonoured cheques in his custody as a documentary evidence of defaulting subscribers and for taking up necessary follow-up action for realisation of outstanding amount through Phonic reminders. He further claimed about 25% of the amount was realised out of this initiative. In his reply he further admitted that the entries on some of the SRCs of the subscribers of dishonoured cheques were made by him by encircling with the red ink of the payment particulars.

The P.O in course of the regular hearing adduced all the documentary evidences in support of the charges which remained undisputed. Also he produced and examined four state witnesses out of 05(five) as enrolled in Annexure-IV to the charge sheet. The witness appearing at Sl. No. 02 working as AO(TR) at the relevant period was consented to be dropped by the P.O due to his non-appearance.

SW. 01. Sri D. Baruah working as the then Accounts Officer(cash), at the relevant period under TDM Jorhat in his examination-in-chief apprised the inquiry of the procedure adopted for disposal of a dishonoured cheque. He stated that the dishonoured cheques are returned by the Bank to his office by Post addressed to A.O(cash). On receipt of the dishonoured cheques, the General section marked it to the counter clerk with the intention to give phonic intimation to the relevant subscriber. Then the cheques are sent to the Divisional Cashier though AO(cash) who maintains the register of dishonoured cheques. The Divisional Cashier makes write back entries in the cash book and sent it to AO(TR), giving the particulars of dishonoured cheques and Telephone Nos. through AO(cash) for disconnection if the payments are not made by the dishonoured cheques subscriber within a day or two. In reply to examination-in-chief question No. 06 he confirmed that as per the records the cheques in question were in the custody of the counter clerk Sri P. Bordoloi (SPS) till 17.08.1999. During cross examination in reply to question No. 02 he clarified that the basic purpose for sending the dishonoured cheques to the counter clerk(SPS) was to give phonic information to the relevant subscriber intimating that their cheques had been dishonoured and they were required to pay in cash within a day or two failing which their telephones will be disconnected. In reply to a specific question during re-examination by P.O he stated that till sending of the dishonoured cheques to the Divisional Cashier, all works relating to cheque collection are entrusted to the counter clerk only. During cross examination defence could not refute the facts that the SPS has unauthorisedly kept the dishonoured cheques in this

custody for more than one year when he is duty bound to hand them over to the Divisional Cashier for their processing for disconnection.

Sri J. Hazarika, the then JAO(cash) was examined as SW. 02. In his deposition he stated that the dishonoured cheques were directly received in general section and through AO(cash) they were handed over to the Cashier who made the reverse entries in the cash book and then sent to counter clerk. The counter clerk disposed off the cheques by giving reminder to the concerned parties insisting cash payment in lieu of the dishonoured cheques at once and to inform TRA section for making entries in SRCs. In reply to I.Os question on intimating TRA for the dishonoured cheques and follow up actions, he on perusal of S.Ext. 05 a b c & d stated that in respect to Jorhat Telephone No. 320180 the dishonoured cheques were not noted properly and disconnection was made only one 11.08.99 for the cheque dishonoured during August 98 i.e after one year of the cheque being dishonoured.

Sri Md. M. Ishlam the then Cashier during the relevant period was examined as SW. 03. In his deposition he stated that on receipts of the dishonoured cheques he made the reverse entries in the cash book and then sent to a counter clerk for realisation. Giving reminder to the dishonoured cheque telephone subscriber was an instantaneous work generally on the same day or sometimes it takes two to three days. In an specific question of P.O he deposed that non of the dishonoured cheques in question were received by him. He further added that it gets confirmation on finding no reverse entry in the cash book in respect to all the 24 (twenty four) dishonoured cheques as well as no entry shown reflected on the reverse of the Bank memo. At the same time the remittance challan should have been cancelled which in the instant case could not be cancelled as these were not received by him. In reply to cross question on behalf of SPS he apprised to the inquiry the duties and responsibility of the counter clerk and the Divisional Cashier in respect to the receipts of cheques from the subscribers and their processing. For dishonoured cheques received from the Bank, one file and one register was maintained by Divisional Cashier for keeping full record regarding action taken in respect to the dishonoured cheques. The dishonoured cheques in question as were not received by him, they were thus not processed.

Mrs. Anopma Baruah, the then Sr. TOA(G), was examined as SW. 04. She confirmed the contents of her statement dated-08.08.99 marked as S.Ext. 05c. In her deposition she has stated that she was noting the Telephone bills and vouchers (payment noting) in SRC. She confirmed that the dishonoured

*Annexure R*

cheques in question did not come to her for making entries in the SRC. On perusal of SRCs under S.Ext. 05 (a b c & d) and regarding encircling in red ink in the SRCs in respect to Telephone No. Jorhat 320108 she deposed that in her presence one day Sri Prafulla Bordoloi (SPS) came and took the SRC of telephone No. Jorhat 320108 from her and encircled by red ink. She reported this matter to the section supervisor and then to AO(TRA) who retained the SRC with him and after some days, the Telephone was disconnected.

The SPS in his reply to the charge sheet admitted that the entries in some of the SRCs of dishonoured cheques subscribers were made by him. He claimed to have made the entries in the instigation of the dealing clerk SW-04 with her due permission and to educate her the procedure adopted in making entries at SRCs while dealing with the dishonoured cheques. The IO finds this statement as to the contrary of the statement of SW-4 on this issue. As such this claim of the SPS has no leg to stand and also making entries in the SRC whose custodian is AO(TR), is not coming under the working jurisdiction of the SPS. It reflects the vested interest of the SPS.

S.Ext. 02. is the particulars of 24 nos. of dishonoured cheques of different dates duly returned by the respective Banks due to insufficient funds in the credit of the cheque tenderer. On careful scrutiny of the dishonoured cheque particulars, it reveals that all the 24 cheques were issued by 5 to 6 local telephone subscribers only. For example cheques appearing under Annexure-III of the charge sheet at Sl. No. 04, 05, 06, & 07 of dated-29.07.98, 23.07.98, 03.08.98 and 21.08.98 (all consecutive dates) are of VIJYA BANK and issued under the signature of same person against the Telephone bills of Telephone No. Jorhat 234819, 322759, 320108 and 321793. Similarly Sl. No. 08, 09, 11, 13, 15, 16, 17, 19 & 20 of dated-26.10, 13.11, 24.11, 18.12.98, 07.01, 13.01, 20.01, 29.01, 05.02.99 (all consecutive dates) cheque of VIJAYA BANK Jorhat only are issued under the same signature of Sri Kailash Kumar Agrawal against Telephone bills of different Telephone Nos. Hear it could not be established whether the signature available on different cheques were the authorised signatory of the telephone Nos. against which the cheques had been issued for making payment of that Telephone bills. It safely precipitates that a no. of cheques issued consecutively by the same particular signatory which were dishonoured due to insufficient fund in the credit and were not processed as per the prevailing practice or as per the codified Rule and not forwarded to TRA section for disconnection in time, instead it was dumped for more than a year by the counter clerk (SPS) in his own custody without any authority in the name of giving reminder for making payment. This action of the SPS puts

- : 08 : -

Answer <sup>Ans</sup>

the Department a huge loss of the telephone revenue. The SPS definitely did it for his personal gain in collaboration with the dishonoured cheques subscribers. As per the Rule-110B of FHB Vol.I (General) it says "In the event of cheque being dishonoured by the Bank on presentation, the fact shall be reported at once to the tenderer with demand for payment in cash and dishonoured cheques should be returned to be tenderer on surrendering the preliminary acknowledgement of the receipts of the cheque or any token previously granted." In the instant case the SPS instead of returning the dishonoured cheques to the tenderers at once & demanding for payment in cash, he remained keeping them in his own custody for more than one year in the name of follow up action for realising of the outstanding amount and did not allow the Telephone Nos. in question to be processed for disconnection from TRA section. It establishes the clear violation of Rule 110B of FHB Vol. I (General) and the overall violation of Rules 3 (I) (i) (ii) (iii) of CCS(conduct) Rules 1964. I agree to the contention of the P.O in his presenting brief that the SPS neither handed over the 24 Nos. of dishonoured cheques to the cashier nor informed to the AO(cash) rather kept them under his custody which is against the procedure. This resulted long delay (for more than one year) in processing the disconnection of telephones whose cheque had been dishonoured due to insufficient fund in credit of tenderers. It involved a sum of Rs. 10,53,307/- resulting loss of this huge amount from the Government ex-chequerer.

The SPS during the relevant period admittedly handled the SRCs up to going to the TRA section and encircled the payment columns in red ink in respect to the dishonoured cheques which is not under his jurisdiction of working. He has done it without any valid authority.

The defence in his very short defence brief advanced his plea that the SPS on receipt of the dishonoured cheques remained trying to contact the relevant subscribers and insisting them for making the payments. He further claimed that due to his such attempt, some outstanding dishonoured cheque amount have been realised. As per the defence the practice of handing over the dishonoured cheques to the SPS is nothing but the violation of rules. His above noted two claims seemed not true. First the dishonoured cheques as per the prevailing procedure were to be made over to the counter clerk only for giving phonic intimation to the subscribers for dishonouring his cheques by the respective Banks and insisting for making payment in cash at once or latest within a day or two after that the dishonoured cheques are to be made over to the Divisional Cashier for onward processing and disconnection from TRA section. In the instant case the SPS kept the cheques in his custody for a

- : 09 : -

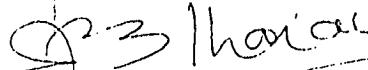
Annexeure K/6

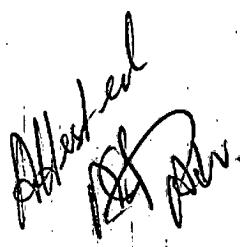
pretty long period till 17.08.99 without any authority and valid reason it clearly establishes wilful violation of the coded Rule by the SPS along with his intention for ill gain by extending undue privilege to the subscribers for more than one year in stead they became defaulters.

On the overall assessment of the both oral and documentary and after thoroughly scrutinising the whole things, I am of the opinion that Sri Prafulla Bordoloi (SPS) has failed to observe the procedure, rules and regulation and wilfully kept all the dishonoured cheques under his custody for more than one year and thus violated Departmental Rule under 110B of FHB Vol.I (General) and while doing so he violated the general conduct rule of maintaining integrity, maintaining devotion to duty and to do nothing which is unbecoming to the Government servant. The defence while cross examining all the four state witnesses could not gain anything material to nullify the respective charges.

It is important and vital fact that the SPS has fully admitted the fact that he kept the 24 Nos. of dishonoured cheques in his custody for long period as well as he has made entry in SRCs but he miserably failed to justify his such act during the entire course of inquiry. Now there is hardly a need for any more argument to bring home the charges.

Accordingly I hold rather strongly that all the charges levelled against the SPS are fully PROVED.

  
(A.B. SHARAN)  
INQUIRING AUTHORITY

  
A.B. SHARAN

ANNEXURE-L

To

The D.G.M.  
BSNL, Jorhat.

Dated at Jorhat, the 17.07.02

Sub :- Appeal against charges framed under Rule 14.

Sir,

With due respect and humble submission, I beg to state the following few lines for favour of your kind consideration.

Sir, since my working in the TRA cash counter, I had been dealing with various dishonoured cheques. Since then, I performed my best to recover the same by giving phonic reminder to the subscribers as well as preparing duplicate bill for the concerned amount for payment. If not paid, in spite of several phonic reminders, the TRA dealing assistants were asked to cancel the amount paid in SRCs. The same procedure was adopted in case of these cheques also. But, these cheques were completely different from others. Because, a cheque contained payment of several telephone numbers which were not noted on the back side of the cheques, resulting enough time taken in giving phonic reminder as well as realisation. I have to go through the vouchers which were not readily available in the vouchers bundles, some cheque vouchers in cash bundle and same in other month's bundle. Sir, I like to mention that since my working in the cash counter till the erroneous handling of the cheques, I was not educated with proper way of handling the dishonoured cheques, by the AOs. The cheques given to AO (TRA) by the Divl. Cashier were also given to me for giving phonic reminder and recovery.

Sir, most of the cheques, out of those 24 nos. were from the other two counters. I was just recovering only. When it went beyond my control, I had to hand over the same to AO (Cash). Sir, I am a lay man in case of deptl. rules. If I have violated the same due to my ignorance, I may kindly be excused.

*Referred  
P.W.D.*  
Sir, as alleged this was not for my personal gain. I gave much emphasis on speedy recovery only. That's why, my intimation to the subscribers as well as to TRA clerks were going on.

Sir, regarding loss of deptl. money, I like to mention that I personally realised more than 25% of the amount and so far I know, rest of amount have also been recovered from the subscriber so far.

Ansrexre L 108

Regarding noting in the SRC, this was done in the presence of the DA who did not know to deal with the dishonoured cheques, because she was appointed under normal relaxation rules. This was done to educate her only so far these can be speedy recovery. I never thought that my goodwill will violate any deptl. rules and procedure.

Sir, I like to apprise you that timely disconnection of telephone is interrelated with speedy recovery, which was not done in TRA at that time inspite of apprising them about the dishonoured amounts in time.

Sir, at last I request you kindly to go thorough my CR file. Once I have a self appraisal and A.O. Cash gave a special report where, I think, A.O. Cash appreciated me for realising the amount against dishonoured cheques due to my personal efforts.

Sir, I fervently request you kindly to exonerate me from the charges and take a lenient view, so that, I can serve the deptl. with my utmost sincerity under you.

Yours faithfully,

(PROFULLA BORDOLOI)  
Sr.TOA (G)  
TRA Computer Section  
BSNL, Jorhat.

ANNEXURE - M

**BHARAT SANCHAR NIGAM LTD.**

(A GOVERNMENT OF INDIA ENTERPRISE)  
OFFICE OF THE GENERAL MANAGER  
JORHAT TELECOM DISTRICT  
JORHAT - 785001

No. X-1/PB/2003-2004/06  
Bharat Sanchar Nigam Limited.  
Dated 25-04-2003.

**ORDER**

WHEREAS Shri Prafulla Bordoloi, Sr. TOA(G), o/o the General Manager Telecom District, Jorhat has been convicted on charge under section Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules, 1965.

AND WHEREAS it is considered that the conduct of the said Shri Prafulla Bordoloi, Sr. TOA(G), which had led to his conviction is such as to render his further retention in the public service undesirable/the gravity of the charge is such as to warrant the imposition of a major penalty ;

AND WHEREAS Shri Prafulla Bordoloi, Sr. TOA(G), was given an opportunity of personal hearing and offer his written explanation;

AND WHEREAS the said Shri Prafulla Bordoloi, Sr. TOA(G), has given a written explanation which has been duly considered by the undersigned;

NOW, THEREFORE, in exercise of the powers conferred by Rule 19 (i) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the undersigned hereby dismisses Shri Prafulla Bordoloi, Sr. TOA(G), office of the GMTD, BSNL, Jorhat from service with effect from 25-04-2003 impose the penalty of dismissal.

Station : Jorhat

Sd/-

(Rajesh Kumar)

Date : 25-04-2003

Deputy General Manager  
o/o the GMTD, BSNL, Jorhat

Copy to :-

1. Shri Prafulla Bordoloi, Sr. TOA(G), o/o the GMTD, BSNL, Jorhat.
2. The Chief General Manager Telecom, Assam Circle, Guwahati.
3. The Vigilance Officer, o/o the CGMT, Assam Circle, Guwahati.
4. The Deputy General Manager (F), o/o the GMTD, BSNL, Jorhat.
5. The Accounts Officer (Cash), o/o the GMTD, BSNL, Jorhat.

Deputy General Manager  
o/o the GMTD, BSNL, Jorhat

ANNEKURE-N  
110

## BHARAT SANCHAR NIGAM LTD.

(A GOVERNMENT OF INDIA ENTERPRISE)  
OFFICE OF THE GENERAL MANAGER  
JORHAT TELECOM DISTRICT  
JORHAT - 785001

No. X-I/PB/2003-2004/07  
Dated at Jorhat the 11th June, 2003

### ORDER

Shri Prafulla Bordoloi, Sr. TOA (G), o/o the GMTD, BSNL, Jorhat was issued the memorandum of charges for major penalties under Rule 14 of CCS (CCA) Rules, 1965 vide letter No. X-I/PB/JRT/99-2000/01 dated 17-09-1999 for the lapses committed by him while working as Sr. TOA (G) in the TRA counter No. 1. His reply has since been received.

The following articles of charges were framed against Shri Prafulla Bordoloi.

#### *Article - I*

That the said Shri Prafulla Bordoloi, while functioning as Sr. TOA (G) during the period from 01-01-98 to 30-08-99 and working in the TRA Counter No.1, it reveals that serious irregularities were committed without the knowledge of the higher authorities to whom the said Shri Prafulla Bordoloi was working and failed to maintain absolute integrity and acted in a unbecoming of Government Servant and thus violated the rules of 3 (1) (i) (ii) (iii) of the CCS (Conduct) Rules of 1964.

#### *Article - II*

That during the aforesaid period and while functioning in the aforesaid office and on thorough investigation it was found that large number of dishonoured cheques returned from the Bank were kept unauthorisely by said Shri Prafulla Bordoloi, without taking any action with a clear fraudulent intention and non-reporting the matter to the authorities immediately as required under rules and thereby causing loss of lacs of rupees to the Govt. ex-chequer due to his gross negligence of duty and the entries made by his own hand writing in the SRC pertaining to dishonoured cheques at his own accord wilfully when it was not authorised to do so with a view to manipulate the office record and the matter was also not reported to the authority thus violated the Rule 110 (b) FHB Vol.-I (General) and Rules 147 of FHB Vol.-V and Rule 3 (1) (i) (ii) (iii) of the CCS (Conduct) Rules, 1964.

*Contd. to Page No. 2*

*After read  
B. P. D. B.*

Appendix N

**Article - III**

That during the aforesaid period and while functioning in the aforesaid office the said Shri Prafulla Bordoloi, has failed to observe the procedures, rules and regulations and wilfully kept all the dishonoured cheques under his custody for the several months and thus violated the rule 57 of Volume III of CCS (CCA) Rules 1965 and rules 145 and 147 of FHB Vol. - V and Rule 110 (b) of FHB Vol. - I.

Shri Prafulla Bordoloi, while functioning as Sr. TOA (G) and working in TRA counter No. 1 has received twenty four (24) numbers of dishonoured cheques amounting to Rs. 10,53,307.00 (Rupees ten lacs fifty three thousand three hundred seven) only and kept under his custody without proper authority for more than a year which cause a loss of revenue from the Govt. exchequer.

In reply to charge sheet, Shri Prafulla Bordoloi admitted to have kept the dishonoured cheques in his custody as documentary evidence of defaulting subscribers and for taking up necessary follow-up action for realization of outstanding amount through Phonic reminders and to have made entries on some of the SRCs of the subscribers of dishonoured cheques.

Both of these acts of the officials were in continuation of the existing rules, convention and procedures, as revealed by the Inquiry Report. As per Rule 110 B of FHB Vol. - I, the existing procedure he was supposed to intimate the fact of cheques being dishonoured, to the respective subscribers, telephonically and insist on cash payment immediately after which the dishonoured cheques were to be made over to the Divisional Cashier for further processing of the disconnection of telephone. Instead, he chose to keep 24 such dishonoured cheques himself for as long as about one year. His plea about keeping the dishonoured cheques for follow up action is not acceptable because the follow up action as per the rules involved making over the same to the Divisional Cashier after intimating the subscribers. This instance of violation of Rule 110 B of FHB Vol. - I, has caused a loss of revenue to the extent of about Rs. 10 lacks to the exchequer. Besides though the entry about the dishonoured cheques is supposed to be made in SRC by the TRA section, alongwith the necessary follow up action like disconnection etc. the said official himself overstepped his brief and made the entry in SRC as admitted by him. Also the fact brought out in the inquiry report, that most of the dishonoured cheques kept under custody related to a few selected telephones indicates the malafide intention of Sri P. Bordoloi.

The inherent infirmity of the defence is apparent in the contradictions contained in the officials representation. On the other hand he cites ignorance of rules as a point of defense, on the offer he intentions about taking at upon himself to educate the TRA clarities.

Shri Prafulla Bordoloi, in his reply of the memorandum denied the charges and wanted to be heard in person.

*Contd. to Page No. 3*

✓  
Annexure N

Inquiry mandatory if charge is not accepted and hence Shri A. B. Sharan, OSD (DI), Patna and Shri Manabendra Saha, Sr. A. O. (SBP), o/o the GM, KTD, Guwahati were appointed as Inquiry Authority and Presenting Officer respectively to hold the inquiry.

Thus after considering the inquiry report as well as the representation, it is proved that the conduct of the official was unbecoming of a Govt. Servant and he failed to maintain his integrity and devotion to duty thus violating Rules 3(1)(i)(ii) & (iii) of CCS (Conduct) Rule - 1964.

In view of the charges having been proved and the heavy losses sustained by the exchequer on account of violation of rules by the official, the undersigned in exercise of the powers conferred by Rule-11 (ix) of the CCS (CCA) Rules, 1965 imposes the penalty of dismissal on Sri P. Bordoloi, Sr. TOA (G) which shall ordinarily be a disqualification for future employment under the Government. Thus order is issued in supersession of the order No. X-1/PB/2003-2004/06 dated 25-04-2003 and it shall be effectious from 25-04-2003.

SD/-  
Deputy General Manager  
O/o the GMTD, BSNL, Jorhat

Copy to :-

✓ Shri Prafulla Bordoloi, Sr. TOA(G), o/o the GMTD, BSNL, Jorhat.  
2. The Chief General Manager/Telecom, Assam Circle, Guwahati.  
3. The Vigilance Officer, o/o the CGMT, Assam Circle, Guwahati.  
4. The Deputy General Manager (F), o/o the GMTD, BSNL, Jorhat.  
5. The Accounts Officer (Cash), o/o the GMTD, BSNL, Jorhat.

PBD  
Deputy General Manager  
O/o the GMTD, BSNL, Jorhat

Officed  
PBD

BEFORE THE GENERAL MANAGER, BSNL JORHAT TELECOM DISTRICT  
JORHAT - 785 001, ASSAM

L2714

Dated, Jorhat, the May, 2003

IN THE MATTER OF :

Sri Prafulla Bordoloi,

Sr. TOA (G)

Office of the General Manager,

BSNL, Jorhat

..... APPELLANT

AND

IN THE MATTER OF :

Order No. X-1/PB/2003-2004/06.

Dated 25-04-2003

AND

IN THE MATTER OF :

An Appeal within the meaning

of Rule 22 of Central Civil

Service (Classification, Central and Appeal)

Rules, 1965

HUMBLE APPEAL OF THE APPELLANT.

BEING HIGHLY AGGRIEVED WITH THE  
ORDER OF DISMISSAL PASSED BY THE  
DEPUTY GENERAL MANAGER, BSNL  
JORHAT VIDE NO. X-1/PB/2003-2004/06  
DATED 5.04.2003, THE APPELLANT  
ABOVENAMED MOST RESPECTFULLY BEGS  
TO PREFER THIS INSTANT APPEAL ON THE  
FOLLOWING AMONGST OTHER GROUNDS.

*Pls. accept my regards*

Most Respectfully Sheweth :

1. That the Appellant abovenamed was appointed by the Department of P.&T. in the year 1972 and was posted at Nowgaon and in course of such employment was transferred and posted at Jorhat. The initial appointment of the Appellant was as TS-CLERK under the then Divisional Engineer, TELECOM at Jorhat. The Appellant thereafter continued with his service without any blemish and was

2. That the Appellant in course of his such employment was served with letter dated 26.8.99 containing allegations issued by the Accounts Officer (Cash) of the office of the telecom District Manager, Jorhat, of the Department of Telecommunication, Government of India.
3. That the Appellant on 27.08.99 had replied to the allegation as stated above elaborating the attending circumstances, in defiance of the allegations.
4. That the Divisional Manager (P&A) of the office of telecom District Manager, Jorhat, served the Memorandum being No. X-1/PB/JRT/99-2000/1 dated 17.9.1999 accompanied by the statement of the imputations of misconduct or misbehaviour, in support of each article of charge. It is pertinent to submit that under the Memorandum mention above the Appellant was directed to submit his written statement in his defence.
5. That the Annexure-I contained as many as 3 (three) sets of charges of violation of Rule-3 (I) (i), (II) (iii) of the CCS (Conduct) Rules, 1964 and Rule 110 (b) FHB Vol. 1 (Genl) and Rules 147 of FHB Vol.V and Rule 3(1) (i) (II) (iii) of the CCS (Conduct) Rules and for violation of rules 57 of Vol. iii of CCS ( C C A ) rules 1965 and Rules 145 and 147 of FHB Vol..V and Rule 110 (b) of FHB Vol. I
6. That the Annexure-II of the statement of imputation of misconduct or misbehaviour contained 3 (three) sets of allegations codified as Article-I, Article-II and Article-III beside, the Annexure- III contained the list of documents on which the charges were proposed to be sustained. The Annexure - IV contained the list of witnesses proposed to be sustained, on reliance thereon by the Authority.
7. That the Appellant on 27.9.99 tendered his written-explanation to the charges, whereby the Appellant, denied the charges, specifying the reply to each one of Articles of imputations.
8. That thereafter, Sri A.B. Sharan, Officer on Special Duty (DI), CTO Building, 3rd Floor, Patna was appointed as Inquiring Authority by the Disciplinary Authority vide Memo No. X-1/PB/99-2000/7 dated 15.10.99 to enquire into the charges levelled against the Appellant.
9. That the Inquiring Authority proceeded with the preliminary hearing on 05.05.2000 of the disciplinary proceeding and following completion whereof, the regularly hearing proceeded on 08.10.2001 and on 09.10.2001. In course of the said proceeding, as many as 6 (Six) Nos. of Documents were relied on by the

Authority/ Management and produced as many as 4 (Four) witnesses to substantiate the articles of imputations/ misbehaviours. One Sri M.U. Guruswamy, the then AO (TR), O/O TDM, Jorhat, was not examined by the presenting officer, for reason not known to the Appellant. The Appellant did not produce any witness on his behalf during enquiry.

10. That on 20.05.2002, the Inquiring Authority vide No. OSD (PT)/ 32/99 filed the Inquiry Report before the appropriate authority, by holding that all the charges levelled against the Appellant are fully "PROVED".

11. That thereafter, the Dy. G.M., office of the GMTD, BSNL, Jorhat, by Letter No. X-1/PB/2002-2003/04, forwarded the Inquiry report to the Appellant by calling upon the appellant to submit written representation before the Disciplinary Authority within 15 days. The aforesaid letter was dated 03.07.2002. The Appellant thereafter on 17.07.2002 submitted the written representation before the appropriate authority for judicious consideration.

12. That consequent upon the filling the written representation, the Authority of Deputy General Manager, office of the GMTD, BSNL, Jorhat, issued the impugned Letter of Dismissal, being No. X-1/PB/2003-2004/06 dated 25.04.2003 to the Appellant, purported to be in exercise of the power conferred by rule 19(i) of the Central Civil Services, (Classification, Control and Appeal) rules 1965. The disputed order of dismissal was made effective from 25.04.03.

The Appellant is highly aggrieved with the order of dismissal being No. X-1/PB/2003-2004/06 dated 25.04.03, issued under the signature of Deputy General Manager, Office of the GMTD, BSNL, Jorhat, begs to prefer this instant APPEAL on the following amongst other GROUNDS :

### GROUND

1. For the Inquiry Officer had failed to appreciate the explanation tendered by the Appellant in reply to the Articles of imputations and misbehaviour as contained in the Memorandum of Charge-Sheet in its true and proper prospective, while arriving at the finding.

2. For that Inquiry Officer shall have taken into consideration the rationale of the issue of the cheque, which were dishonoured and for that matter the author of the dishonoured cheques and the official drill followed in course of presentation of the cheques and the process of encashment in the Bank through different counters other than the counter held by the Appellant.
3. For the Inquiry Officer had not taken note of the fact that the knowledge of dishonour of the cheques are primarily the matters related to the office of the Accounts Officer and any such delay in communicating the fate of the abortive cheques cannot be attributed as a fault or inaction of the Appellant.
4. For that in all probability the matter pertaining to the dishonouring of cheques cannot be concealed in view of its accountability and for that matter the Appellant is not even remotely associated to effect such communications, when the Appellant was not so assigned officially.
5. For that the bonafide act of the Appellant by his exclusive adherence to the prescribed procedure reminding with notings in SRC to cancel the payment Note had been ignored by the Inquiry officer while arriving at the finding and thereby had prejudicially effected the interest of the Appellant.
6. For that the Inquiry officer had failed to take the note of the import of the entries contained in the Register of dishonoured cheques, which will unfold the steps required to be taken on such eventuality had been complied with or not.
7. For that it will be apparent from the face of the Inquiry proceeding that as many as 6(six) documents were produced by the presenting officer, which includes amongst other end in that regard one Md. M. Islam, who was serving as cashier at the relevant point of time in the office of T.D.M., Jorhat and the said witness was subject to examination by the Inquiry officer inspite of the presence of the presenting officer, which is in violation of the procedure laid for conducting the disciplinary proceeding and rendered the same as violative of the principle of natural justice and aptly suggests the business of the Enquiry officer, while conducting the Inquiry.
8. For that the Inquiry officer had failed to elicit the appropriate reply from the witness Md. M. Islam when he was confronted with the question in relation to the Register of dishonoured cheques and in said witness in reply had stated that in absence of the Register of the dishonoured cheques, he is incapable of making any statement. The said witness had not stated anything implicating the Appellant but

yet the Inquiry officer had arrived at a finding not borne out by the records.

9. For that the Enquiry officer did not verify in course of enquiry the corresponding cheques Numbers of the disputed dishonoured cheques with the entries of the dishonoured cheque Register which amply suggests that the finding of the enquiry was not evaluated on the basis of the evidence on record thereby nullifies the findings.

10. For that the Inquiry officer had failed to judicially appreciate the import of the reply of S.W. 03-Md. M. Islam in cross-examination, when the said witness had specifically stated that the job of the Appellant comes to an end soon on handing over of all the cheques along with the related documents to the AO (Cash), which reveals the absence of any nexus as to be the custodian of the cheques in dispute. The cheques were sent to the bank for collection by the Divisional Cashier, as such , the Appellant was ceased off the procedural follow up.

11. For that there is no direct evidence as to the fate of the cheques with whom the dishonoured cheques were lying at the relevant point of time, but yet the Inquiry Authority had ignored to take into consideration for evaluation of the evidence on record.

12. For that the Inquiry Authority, had erroneously arrived at a decision when the State had failed to bring into book the guilt of the Appellant.

13. For that the evidence of S.W. 04 was not properly appreciated by the Inquiry Authority ,and the finding of the Inquiry Authority is devoid of the rationale and consistency borne but by the evidence on record.

14. For that the Inquiry Authority, ought to have taken note of the inadmissibility of S. Ex. 05, when the witness S.W. 04 stated that the said S. Ex. 05 was not voluntary but was dictated by CAO and two others, which vitiates the finding of the Inquiry.

15. For that the S.W. 02- Sri J. Hazarika had stated nothing incriminating against the Appellant in course of his statement before inquiry but much reliance was placed on the said statement by the Inquiry Authority, which does not justify the finding so arrived at.

16. For that the Inquiry Report is void of any reasoning based on the testimony of the witnesses and is prejudicial to the interest of the Appellant.

17. That Sir, the Appellant had served the organisation with the extreme integrity and the service so rendered by the Appellant was recognised by the Authority. The Appellant had not committed any wrong in defiance of procedural drill and the fall out of the alleged fault may please be not attributed to the appellant.

18. That Sir, the Appellant was dealing with the follow up actions arising out of dishonoured cheques, since the year 1990 and in recognition of the satisfactory service rendered, the Appellant was awarded with the coveted **SANCHARSREE** Award, on the special report of the AO cash, which may kindly be looked into.

19. That Sir, the Appellant is not accountable for the defaulting subscribers arising out of these dishonoured cheques.

On the above premises, it is humbly submitted that your esteemed end shall be graciously pleased to set aside the impugned order of dismissal from service so passed vide no. X-1/PR/ 2003-2004/06 dated 25.04.2003 by the Deputy General Manager of the office of the GMTD, BSNL, Jorhat, for ends of justice and fair play.

AND

For this act etc.etc.

*Syallu Bordoloi*

(PROFLILLA BORDOLOI)

*Alfred  
M. Bordoloi*

Dated, Jorhat 8/7/2003

**The General Manager, BSNL,  
Jorhat Telecom District,  
P.O. Jorhat - 1.**

**(Through proper channel)**

**Sub : Appeal against punishment order of dismissal issued by DGM o/o the GMTD BSNL Jorhat against Shri Prafulla Bordoloi (Petitioner) Sr. T.O.A. (G) o/o the GMTD Jorhat.**

**Ref. : No. X-1/PB/2003-2004/07 dated at Jorhat the 11th June 2003, signed by DGM o/o the GMTD BSNL (Annexure-I) without his name and office seal, & letter No. X-1/PB/JRT /99-2000/01 dated 17-09-1999 signed by D.E. (P&A) Mr. D. Payeng, o/o the TDM Jorhat. (Annexure-II).**

**Sir,**

With reference to the above mentioned letter No. issued by DGM o/o the GMTD Jorhat by which I have been affected by an illogical punishment order of dismissal preceeded by a wrong assessment of the Inquiring Authority Mr. A.B. Sharan, I beg to prefer my appeal to you under the provision of Rule 23 of CCS(CCA) Rules 1965, against the said punishment order (Annexure-I) for your kind consideration and appropriate action so that unjustified punishment which has been inflicted upon me is removed for the sake of fair play and justice.

2. That Sir, to begin with my appeal, I beg to lay this humble submission before you that I had entered in the department in the year 1972 as TS clerk in the office of the S.D.O.T. Nowgong and during the entire period of 30 years of service, I have had not only maintained an unblemished service records but I was all along praised by my superior officers and

supervisors for my honest and sincere service which was far above than the average performance of the general workers, and in the year 2000, I was selected for 'Sancharse Award' by the CGMT Assam circle obviously on the basis of the reports of my immediate supervisory officers which was recommended by your kind authority after thorough assessments of my past five years services (Annexure-III citation certificate of Sancharse award - 1998-1999). And on this back ground, I shall request you to reassess the entire episode on the basis of which I have been suddenly considered as most unfaithful in the department and thrown out of job w.e.f. 25-04-03, through a preconceived and prejudgial inquiry report and subsequent departmental order by DGM BSNL Jorhat.

3. Some technical flaws of the instant case :—

That Sir, in the year 1999, I was given a charge sheet under Rule 14 of CCS (CCA) Rules 1965 by D.E. (P&A) o/o the GMTD Jorhat (vide Annexure-II), on 17-09-1999, and an inquiry was ordered by him as my disciplinary authority, but after conclusion of the inquiry, I find that Deputy General Manager o/o the GMTD, BSNL Jorhat who is higher authority than D.E. (P&A) Jorhat started to act as disciplinary authority and asked me to represent my case before him on 03-07-2002 vide his office No. X-1/PB/2002-2003/04 dated Jorhat 03-07-2003 (Annexure-IV). The same DGM BSNL Jorhat who is higher authority than D.E. (P&A) and supposed to act as appellate authority in my case, on receipt of my reply decided the case instantly to dismiss me from service vide his first letter No. X-1/PB/2003-2004/06 dated 25-04-03 (Annexure-V) through a non-speaking order without application of his mind. Then again he issued another order on 11th June 2003, (Annexure-I) on receipt of my appeal to the higher authority i.e. to General Manager, BSNL, Jorhat dated 27th May 2003 (Annexure-VI), and

retained the date of dismissal with retrospective effect, without waiting to get any reply from higher authority.

b) Thus, now it exists that two order of dismissals have been issued to me on the same allegation and one was issued on 25-04-2003 and another on 11-06-2003, by the same authority, while appeal against first one is still pending, and appeal against 2nd one is being tendered now.

c) That Sir, the first order of dismissal is liable to be cancelled since it was a non-speaking order, issued under impression that I was convicted into the court of law, whereas no such civil suit was filed against me.

d) The 2nd one is liable to be cancelled, since any order of dismissal from service with retrospective effect is not permissible (vide - D.G.P&T's Memo No. ESB.111-7/32, dated 10th June 1933 and P.M.G. Madras letter No. IC/N-168/50 dated the 31st December, 1957 (Annexure-VII)).

e) Moreover, sudden change of disciplinary authority without any reason or order of the appropriate authority, and taking up the case by the higher authority instead of allowing the charge sheeting authority to decide on the case, appears to be an hasty action and improper into the eyes of laws and Justice.

f) And for above mentioned reasons the order of dismissal is liable to be cancelled or set aside.

#### 4. Dismissal by BSNL without taking prior approval from D.O.T.

That Sir, it is known to all concerned that when DTS/DTO was corporatised and BSNL was formed, at that time, the Government of India assured the staff-side members and their representatives that their service

security would not be jeopardised, and in case it is required that an official is to be dismissed from the service in pursuance to a disciplinary action the BSNL or corporation will have to take prior approval from the Govt. of India, (i.e. D.O.T.) for those staff who was recruited by P&T Department or D.O.T. and now working in BSNL. But in my case no approval has been taken from D.O.T. which amounts to be breach of agreements between staff side and the administration, and on this count the order of dismissal is liable to be cancelled.

5. Faulty procedures followed by Inquiry officer :—

That Sir, I was made victim of the faulty procedures adopted by my Inquiry Officer Mr. A.B. Sharan, who all on a sudden advanced the date of inquiry for two days through an oral order while he was at Jorhat and thus he deprived me of to get the valuable service of my appointed Defence Assistant Mr. Sankar Kumar Das, and persuaded me to accept the service of Shri Golap Ch. Sarmah of Guwahati as D/A who was present at Jorhat for other cases and was quite dark about my case, and thus I was made victim of weak representation of my case by D/A, being persuaded by faulty procedure of the I.O.

b) That he had initially announced the date of inquiry as on 10-10-2001 and 11-10-2001, and advised my D/A Shankar Kr. Das to attend the conference hall at o/o the GMTD Jorhat for inquiry (vide Annexure-VIII) on the same date, but subsequently he changed the date of inquiry as on 08-10-2001 and 09-10-2001 i.e. two days advance (vide 2nd page of Inquiry Report & daily order sheet-Annexure-XI & Annexure-X) without any notice to my defence assistant Shri Sankar Kr Das but only informing the same to his controlling officer as not to relieve him, is an evidence that I.O. was unwilling to accept Shri Sankar Kr. Das as my D/A in the regular inquiry and therefore he persuaded me to

change my defence assistant with ill intention by advancing the inquiry dates by two days without notice. And thus he vitiated the inquiry proceedings by exhibiting his biasness against the particular Defence Assistant Shri Sankar Kr. Das, who could assist and represent my case in a strongest way as I believe. The inquiry report as such is liable to be cancelled or set aside from that count alone owing to biased attitude of the Inquiry Officer.

#### 6. Weakness in the material witnesses :-

That Sir, an huge amount weaknesses were found in material witness. While the main thrust of the allegation was that due to holding up of 24 Nos of dishonoured cheques by me the department had to suffer a loss to the tune of Rs. 10,53,307.00, the Inquiry officer having failed to understand the actual proceedurs of works of TRA counters, cashier points, A.O. cash's duty, process of preparing disconnection list, works of SRC's Clerks & Rent control register clerks, Duty of clerks and head clerks and Accounts Officer of TRA Sections, out standing pursuit cells, etc. has come to the same conclusion without applying his mind that the said subscribers, whose cheques were dishonoured might have paid their dues in cash, due to which the TRA Branch's clerk of SRC section have not processed their cases for disconnection. He failed to understand that the loss of revenue of the department due to nonpayment of telephone call charges and rentals may not be so heavy for those dishonoured cheques. Even my honest efforts to teach the S.R.C's clerk as to how to make entry into SRC in case the cheques have been dishonoured and to put the same to A.O. TRA to process disconnection of telephones of the defaulting subscribers, have been termed as my bad intention. Had the I.O. would have understood the duties of SRC's Clerk, he would not have termed my good gestures as bad ones.

Actual procedure of works in TRA counters and follow up actions in subsequent points in respect of cheque payments :-

a) That Sir, as mentioned into Rule 303 of P&T mannual Vol-XIV which deals with TRA rulings, all the cheques and cash after receipt should go to the hands of cashier who is to receive them on behalf of A.O. cash, and the cashier himself should send those cash and cheques through challan to the treasury or to departmental accounts of the bank. And simultaneously he should send the report of payments of the same to SRC - Section of TRA branch where entries of payment should be recorded. Again if some cheques are dishonoured, by the bank, these will invariably come back to cashier or A.O. Cash who at once should send the report to SRC Section where the concerned clerk should make reverse entry against each subscriber whose cheque has been dishonoured, and the process of disconnection should be started.

b) That Sir, while I admit that cheques are given to me to remind the subscribers for payment of the dues by cash for which I was praised by my supervisors for many years, but it was beyond my imagination that all these dishonoured cheques from last one year which came to me through A.O. or cashier were not entered as reversed into subscribers Record's Card before putting those to me. However, by pursuing the subscribers I had personally collected more than 25% of the revenues of the dishonoured cheques by cash, and may be that other subscribers had also paid those amount by cash or cheques through other counters of different positions which had not come to my notice. But the mute point of the incidence stands that possessing a few dishonoured cheques by me in TRA counter No-1 (after it came here through A.O. Cash or Cashier) does not necessarily mean that all these money of the department have been lost. Cases are there that after payment of the dues by cash, the subscriber did not care to take back the dishonoured cheques except in two or three cases.

(c) That Sir, to confirm about the procedures and ruling position the petitioner begs to refer rule 303 (VIII) of P&T manual Vol-XIV, wherein it is stated that, "when a cheque is dishonoured, the fact should at once be intimated to the subscriber with a request for immediate payment of the dues in cash. The dealing clerk in Telephone Revenue Account Section should also be informed immediately for taking necessary action regarding disconnection of the connection. In such cases the original entry in the cash book should be reversed .....". Here also rule never says that simultaneous works of reversing the entry should be held up to see the outcome of the reminders to be issued to subscribers by any TRA clerk. If in the instant cases, reversing the entry in the cash book and SRC - was not done, (if assumed) it was not known to me, and which was not my duty also, and as such I can not be held responsible for such lapses, if any.

(d) That Sir, while I had agreed for all the time that those 24 Nos dishonoured cheques were received by me officially through peon book and all these were happening with full knowledge of the A.O. Cash or cashier but I do not know why both the official denied the same, while the in ACG 28; i.e. in Register of dishonoured cheques, all these were recorded and was duly maintained by me which is supposed to be under constant watch and automatic supervision of A.O. Cash. It is not known under what circumstances A.O. Cash could deny the fact, and say boldly that he had no knowledge about any of the dishonoured cheques for complete one year and thus expressed his own laxity in supervision, which Inquiry Officer agreed upon strangely without taking any critical views on such statements.

(e) That Sir, so far the procedures of disconnection of defaulting subscribers are concerned the Rule 159 of P&T Manual Vol XIV says that, "After consolidated Telephone bills of the subscribers are released from TRA

Accounting branch from the desk of SRC's clerk, the Rent Accounting Clerk of the same section should watch for 15 days from the date of issue of the bill. If the bills were not paid within 15 days from the issue of the bills then he should prepare the disconnection list in triplicate in form ACE-107 and indicate the date of disconnection on the top of the list and send it to the telephone exchange and simultaneously should issue the reminders to the subscribers through letters and over telephones. This list should be signed by accounting clerk, Head Clerk and Accounts Officer of the TRA-Branch. It is evident from the ruling position that I as a TRA counter clerk of counter No - 1, had got no role to play herein except to accept the payment from the subscribers either on cash or by cheque and to hand over the cash and cheques to the cashier, who is to take appropriate action thereafter. Receiving back the bounced cheques cannot come to me by over ridding the Cashier or Account Officer-(cash), who always deals with to and from correspondence with Banks including all bounced cheques.

f) That Sir, the disciplinary authority had accused me for my failure to comply with Rule 110 (b) of FHB Vol-I (General), whereas the said rule says, "In the Event of cheque being dishonoured by the bank on presentation, the fact shall be reported at once to the tenderer with a demand for payment in cash and the dishonoured cheques should be returned to the tenderer on surrendering the preliminary acknowledgement of receipt of cheque or any token previously granted ..... As such I had informed the subscribers over telephone, many of whom had paid the amount in cash, but many of them could not take back the dishonoured cheque as the token of receipt of cheque which was granted to them could not be surrendered by them to us. Hence I had not failed to comply with the rule when the A.O. Cash and cashier handed over the cheques to me through peon book/file movement register.

g) Herein Sir, I beg to point out the relevant Rule 110(a) of P & T FHB Vol-I, which says, "..... until, however the cheque has been cleared the Government cannot admit that the payment has been received and consequently the final receipt shall not be granted when a cheque is tendered .....". But Sir, we were never instructed to do as such, and even now formal receipts are given to subscribers, when they tender the payment of Government dues through cheque. Only if the cheques are bounced back, then only correction are made by the cashier into the cash books and in the subscribers Record cards by SRC Clerk. And in the process of corrections of cash books or SRC, I as a charged official was not at all involved, nor was assigned for those duties. However, so far one entry made by me in SRC after the cheque was bounced back, as reported by SRC's Clerk, I did it only to teach her as to how to enter the same in SRC and then to bring the same to A.O. TRA for processing the case of disconnection. The statement of SW-4 (Mrs. Anupama Baruah) has also supported my statement.

h) That Sir, the disciplinary authority has also accused me for violation of rules 145 and 147 of FHB Vol-V, but the book FHB Vol-V which I somehow have collected does not show any such rules existing therein. The last Rule available in FHB Vol-V is serialised as No. 120 in its chapter VII, and no rule exists in serial No or Para No 145 and 147 of FHB Vol-V, as showed into the charge sheet. Hence the charges for violation of Rule 145 and 147 of FHB Vol-V may please be dropped.

i) That Sir, the disciplinary authority has also charged me for violation of Rule 57 of Vol-III of CCS(CCA). But as I see, Rule 57 of P&T Manual Vol-III has discussed only the "Disciplinary proceedings for criminal offences," which is to be observed or complied with correctly by the disciplinary authority.

only and not the charged official. Hence this clause may also be dropped from the charges.

j) So far Rule 57 of Vol-III of CCS(CCA) 1965 is concerned the petitioner begs to state that he has found CCS (CCA) Rules 1965, has also been ended in part IX Miscellaneous with Rule 35 being its last rule, which speaks for 'Removal of doubts'. Hence charges brought under this clause may also be dropped.

k) And so far violations of Rules 3(1) (i) (ii) (iii) of CCS (conduct) Rules of 1964 are concerned the petitioner begs to state that :

(i) I have maintained absolute integrity in performance of duty and have had never done anything intentionally which might have caused loss or tarnishing the image of the department.

(ii) I have maintained absolute devotion to duty and never tried to avoid my responsibility. Rather I had sometimes taken extra initiative to perform some of the duties only on oral instructions of my supervisors or on request of my colleague with a very good and clear intention having kept departmental interest as supreme.

(iii) And I have done nothing which is unbecoming of a Government servant.

l) Regarding only one lapse, which I appear to be have committed was that even though my dealings with the dishonoured cheques was under full knowledge of the A.O. Cash but I did not take his signatures into the appropriate columns of the cheque dishonoured Register on everyday, on good faith and owing to my too much engagements in various types of duties such as

- (i) Acceptance of cheque and cash in TRA counter, upto tiffin hours,
- (ii) TRA computerisation jobs, after tiffin hours,
- (iii) Pursuance of clearance dishonoured cheques, in less busy periods,
- (iv) And other works to help my colleagues in departmental duties and any other duty as ordered by my Controlling Officer, when become necessary.

Mentionable that while doing all these above mentioned duties, I felt myself over burdened and no time to act in ill intention, and I carried all these works by staying in office upto 2000 or 2100 hours in computer section. However, there may be some lapses on my part unintentionally, for which I assure that I shall be very much cautious in future.

#### 7. On loss of revenue by department :

That Sir, while it is evident from the circumstances mentioned above that if the loss of revenue on the part of the department has occurred due to delay in disconnection of Telephones of defaulting subscribers, it is only due to improper maintenance of SRC's and non-preparations of defaulters lists in time, but non-reporting of the bounced cheques to A.O. (cash) can not be a reason for the loss of revenue, since all the bounced cheques at first instance come into the hands of cashier or A.O. (Cash) from the bank it self, who is supposed to inform it to TRA Section's SRC Clerk who is to start the process of disconnection. But even after disconnection, the works of TRA Branch does not end there. Its "Out standing pursuit cell", as envisaged in Rule 187 of P&T Manual Vol-XIV, should continue to pursue the subscribers to pay the out standing arrears, and in case the subscriber refuses to pay the said Govt. revenue - the civil suit should be filed by D.E. as per Rule 190 of P&T Manual Vol-XIV against the defaulting subscribers for recovery of the dues. But so far I know no legal action has been taken against the subscribers mentioned in my charge sheet whose cheques have been bounced back and

alleged to be have cheated the department. Hence how the department can claim that Rs. 10,53,307.00 has been lost due to bounced cheques which were admittedly under my possession against which recovery were already been made in large number of cases, which will be evident if the cheque register & the vouchers maintained by cashier are consulted and tallied.

#### 8. Prayer :—

Under the circumstances described as above when it is evident that :—

1. There are at least 5 types of serious technical lapses, for which the charge sheet and punishment cannot survive in the legal test.
2. Dismissal of D.O.T. recruits cannot be done by BSNL without approval of Govt. of India.
3. Faulty procedure executed by Inquiry Officer has disqualified the findings of the inquiry report.
4. Material weakness of the witness could not prove the charged official as guilty of any offence.
5. The circumstances of the cases does not prove that holding up of bounced cheques by Charged Official for pursuing the subscribers to clear the dues, was the reason of loss of Rs 10,53,307.00 of the department.
6. Nor the case could prove that such heavy amount has been really lost by the department as per subscriber's record cards, and rent control Register (as per rule 109 of P&T man Vol-XIV).
7. Rules cited by the disciplinary authority as violation of departmental procedures or conducts by the charged official, speak quit different things, which does not confirm that the rules and procedures have been really violated by the charged official.

the petitioner begs to appeal before your honour to consider the appeal under provisions of rule 27 of CCS (CCA) and pass order under the said provision to set aside the penalty and meet the requirements of fair play and justice.

And for this act of your kindness, the humble petitioner will remain ever grateful to you.

With profound regards,

Yours faithfully,

(Prafulla Bordoloi)

Sr. T.O.A. (G)  
o/o the GMTD Jorhat.

Enclosures :

1. No. X-1/PB/2003-2004/07 dated Jorhat the 11th June 2003.
2. Letter No. X-1/PB/Jorhat/99-2000/01 dated 17-09-1999.
3. Copy of Citation of Sancharshree Award - 1998-1999.
4. No. X-1/PB/2002-2003/04 dated Jorhat 03-07-2002.
5. No. X-1/PB/2002-2003/06 dated 25-04-2003.
6. My representation dated 27th May 2003 appealed to GM BSNL Jorhat.
7. Copy of DG P&T Memo No. ESB. III-7/32 dated the 10th June 1933 (Page-81 of Swamis compilations on CCS (CCA) Rules 1965).
8. Copy of invitation letter issued to Shri Sankar Kr. Das to attend inquiry on 10.10.2001 and 11.10.2001.
9. Copy of Inquiry Officers report.
10. Copy of Daily order sheet, which shows that inquiry was held on 08-10-2001 and 09-10-2001, i.e. two days advance than the scheduled.

Copy to :

1. DGM BSNL Jorhat against whose order this appeal being made.
2. Advance copy to General Manager BSNL Jorhat with a request for early action.
3. Self copy.
4. Spare copy.

*Pls. forward  
Prafulla  
Bordoloi*

(Prafulla Bordoloi)

Sr. T.O.A. (G)  
o/o the GMTD Jorhat.

To

Dated Guwahati 1.3.2004

The General Manager,  
Jorhat Telecom District, BSNL,  
Jorhat - 1.

Sub : Request for disposal of appeal preferred by the petitioner Shri Prafulla Bordoloi, Sr. TOA(G) O/O the GMTD BSNL, Jorhat (Reminder cum representation).

Ref : Appeal dated Jorhat 8/7/2003 addressed to GM BSNL Jorhat by Shri Prafulla Bordoloi (Submitted through proper channel, i.e., through DGM(A) O/O the GMTD Jorhat-1)

Sir,

With due respect, I beg to lay my representation cum reminder as follows :-

That Sir, I submitted an appeal to you dated 8/7/2003 under provision of Rule 23 (ii) of CCS(CCA) Rules 1965 against an order of punishment passed by two separate DGMs consecutively on a single case by superseding one order by another (which itself illegal in the eye of law as the same ranked officer cannot modify one order passed by his predecessor), but owing to my bad luck your honour has not replied to my appeal even though it was submitted within scheduled date of 45 days of passing of order by disciplinary authority. As a result, I am suffering extremely with loss of pay and livelihood.

2. Punishment order - given effect without confirmation :-

:- That Sir, though I had submitted my appeal in compliance to all the relevant rules of CCS (CCA) on this subject, the appellate authority was required either to confirm or reject or reduce or enhance the punishments as per Rule 27 of CCS(CCA) Rules 1965, before it is implemented by the disciplinary authority as per Rule 28 of CCS(CCA) Rules, and all these exercise including Revision or Review of the punishment as per Rule 29 of CCS(CCA) should have been completed within 6 months of passing the order by Disciplinary Authority. But Sir, even then, when the appellate authority has not yet confirmed the punishment order as per Rule 27, the disciplinary authority has given effect to his own unconfirmed order by violating the Rule 28 of CCS(CCA) Rules 1965, while it clearly speaks that disciplinary authority should give effect to that very order which has been passed by the appellate

Answer - 8

authority only. This rule, on the other words means that in absence of any specific order of the appellate authority in response to the appeal no punishment order can be implemented. But unfortunately this normal course of law has been violated in my case.

3. Dismissal order when passed by the officer lower than appointing authority

That Sir, my humble submission stands hereby that though I was appointed by Director of Telegraph/Telephone on my initial appointment as Telecom Office Assistant, I was later on promoted to the rank of LSG Clerk on OTBP and then to the rank of HSG through BGR promotions, which is equivalent to the rank of J.E. in which case only the officer ranking to the position of GM can be the appointing authority. And the Law prescribes that though the Officer ranking below the appointing authority may punish the HSG Official occasionally, but cannot dismiss any such official under him, Vide the spirit of the verdict of the case between Parasu Ram Singh vs State of Uttar Pradesh, 1997 Lab.I.C.1501 (All) 1978 S.L.J.68. In the light of the same Rule I shall request your kind honour as to examine whether issuance of dismissal order to me, that too, with retrospective effect, by DGM without his name beneath his signature was proper or not.

4. Other material insufficiency to declare the charges as proved :-

That Sir, all the unjustified verdict possesses inheritant weak points and the instant case is of no expectation. The Disciplinary Authority and the Inquiry authority, have held me guilty of keeping a good number of dishonoured Cheques in my possession unauthorisedly and without knowledge to the concerned A.O. They also said in unison, that I had unauthorisedly entered the non-payment statements into Subscriber's Record Cards while my duty was in other point. But Sir, the procedures of TRA Branches work, which has been specifically laid down in P and T Manual Vol XIV, states that all the statements and Cheques received at TRA and various counters should come to the Coordination Section of TRA Branch and Cash received with Statements should go directly to the Cashier (or to A.O. Cash) at first instant. From Coordination section all the statements should go to the SRC section and the Cheques along with statements should go to the Cashier or A.O. Cash through Peon Book. Then the Cashier in his own turn should send those Cheques to the Post Office or Bank, and if any Cheque is bounced back, the Cashier will forward it with notes to the SRC Section. In SRC section, the concerned Clerk after entering the statements as Cheque dishonoured treat those Bills as unpaid and

BY  
Janakirao

send the dishonoured Cheques of the concerned Telephones Subscribers to A.O. who in his own turn will process for disconnection of the Defaulters' Telephones.

But Sir, without following this procedure of disconnection of subscribers Telephones, all the Account payee dishonoured Cheques were given to me as per local arrangements and I used to pursue the defaulting subscribers to pay the bills and clear Cheques. In fact, by that way, I had collected very large amount of outstanding bills from the defaulting subscribers and also from dishonoured Cheques and as a result I was given Sancharshree award by the CGMT due to my outstanding performance in the year 1998-99. But it appears that the same A.O. having been afraid of huge non-payment of dues by subscribers wrongly held me responsible for the same and alleged that I kept those dishonoured cheques without his knowledge. My misfortune has been furthered, when having seen that the newly appointed Clerk of the SRC section was not entering the statements of non-payments revenues tendered through Account payee dishonoured cheques and was passing those to me without through A.O. So, I tried to teach her as to how to enter the same against the concerned subscribers and how to send their names for processing disconnection order by A.O. And as a few sample of cases, I entered the statement of dishonouring cheques against the appropriate subscribers, which were forwarded by the concerned SRC Clerk to the A.O. But the A.O. without understanding the facts behind my such action, interpreted my action as unauthorized one and did not check whether I wrote those correctly or not, and assumed those as ill motivated. Regarding not informing about the Account payee dishonoured cheques to A.O. I beg to state that all the dishonoured Cheques comes to me after crossing the tables of A.Os. Hence it was never true that he was not knowing about the dishonoured cheques which were under strong persuasion by me to the subscribers and the department was appreciating those efforts of mine, which was evident from offering Sancharshree award to me for the year 1998-99.

5. Apart from that, during the pendency of inquiry, I was never put to suspension for any single day, which itself exhibits that the charges were not so serious. But abruptly on receipt of inquiry report the higher than normal disciplinary authority i.e. DGM instead of DE decided to dismiss me from the service from a back dates, itself, not only surprising but illegal too.

#### 6. Faulty procedure followed by I.O.

That Sir, I was made victim of the faulty procedure adopted by my Inquiry Officer Mr. A.B. Sharan who all on a sudden advanced the date of inquiry by two

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days through an oral order while he was at Jorhat and thus he deprived me of getting the valuable service of my appointed Defence Assistant Mr. Sankar Kr. Das who could assist and represent my case in a strongest way as I believe and persuaded me to accept the service of Sri Golap Ch. Sarmah of Gauhati as DA who was present at Jorhat for some other cases and was quite dark about my case and thus I was made victim of weak representation of my case by DA, being persuaded by faulty procedure of the I.O.

Under the circumstances stated as above I would request you kindly to revoke the dismissal order since it does not fit in my case.

And for this act of your kindness, I shall remain ever grateful to you.

With profound regards,

Yours faithfully,

*Prafulla Bordoloi*  
(Prafulla Bordoloi)  
Senior T.O.A(G),  
O/O the GMTD Jorhat, BSNL  
P.O. Jorhat - 1.

Enclo :

1. Appeal of P. Bordoloi dated 8/7/03.

Copy to :

1. DGM(A) O/O the G.M.T.D., Jorhat.
2. CGMT, Assam Circle, BSNL, Guwahati.

*Prafulla Bordoloi*

BHARAT SANCHAR  NIGAM LTD. (BSNL)

(A Govt. of India Enterprise)

OFFICE OF THE GENERAL MANAGER

SILCHAR SSA :: SILCHAR

4427  
15 OCT 2004  
Pb

NO: GM/ CON/ PB/ JRT/ 03-04 / 4

Dated at Silchar, the 06-10-2004

Disposal of the Appeal petition in respect of Shri Prafulla Bordoloi, Sr. TOA (G), O/O the GMTD, Jorhat against the punishment order of dismissal issued by the DGM, O/O the GMTD, BSNL/ Jorhat vide order No. X-1 / PB / 2003-2004 / 07 dtd. at Jorhat, the 11<sup>th</sup> June 2003.

### ORDER

Whereas, Shri Prafulla Bordoloi, Sr. TOA (G), O/O the GMTD, BSNL/ Jorhat was issued a chargesheet by DE (P&A), O/O the TDM/ Jorhat under Rule-14 of the CCS ( CCA ) Rules 1965 vide No. X-1/PB/JRT/99-2000/1 dtd. 17-09-1999 and the articles of charges framed against Shri Prafulla Bordoloi were:-

#### Article - I

That the said Shri Prafulla Bordoloi, while functioning as Sr. TOA (G) during the period from 01-01-98 to 30-08-99 & working in the TRA Counter No. 1 it reveals that serious irregularities were committed without the knowledge of the higher authorities to whom the said Shri Prafulla Bordoloi, was working and failed to maintain absolute integrity and acted in a manner of unbecoming of Government Servant and thus violated the rules of 3 (1) (i) (ii) (iii) of the CCS ( Conduct ) Rules of 1964.

#### Article - II

That during the aforesaid period and while functioning in the aforesaid office and on thorough investigation it was found that large number of dishonoured cheques returned from the Bank were kept unauthorisedly by said Shri Prafulla Bordoloi, without taking any action with a clear fraudulent intention, and non-reporting the matter to the authorities immediately as required under rules and thereby causing loss of lacs of rupees to the Government ex-chequer due to his gross negligence of duty and the entries made by his own hand writing in the SRC pertaining to dishonoured cheques at his own accord willfully when he was not authorised to do so with a view to manipulate the office record and the matter was also not reported to the authority thus violated the rule 110 (b) FHB VOL-1 ( Genl ) and rules 147 of FHB Volume-V and Rules 3 (1) (i) (ii) (iii) of the CCS ( Conduct ) Rules of 1964.

#### Article - III

That during the aforesaid period and while functioning in the aforesaid office the said Shri Prafulla Bordoloi, has failed to observe the procedures, rules and regulations and willfully kept all the dishonoured cheques under his custody for the several months and thus violated the rule 57 of Volume-III of CCS ( CCA ) Rules 1965 and rules 145 and 147 of FHB Volume-V and rules 110(b) of FHB Vol-1.

And wherens, Shri Prafulla Bordoloi, Sr TOA ( G ) submitted his written statement of defence dtd. 27-09-99 against the chargesheet dt. 17-09-99 denying the charges and wanted to be heard in person.

And whereas, Shri Prafulla Bordoloi Committee vide No. X-1/PB/JRT/ 99-2000/6 dtd. 27-09-99 was not considered satisfactory was informed the decision of formation of an Inquiry dtd. at Jorhat, the 14-10-99, as his statement of defence

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CIO  
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JorD  
15/10

And whereas, Shri A. B. Sharma, OSD ( DI), Eastern Region, Patna was appointed as Inquiry Authority to inquire into the charges framed against Shri Prafulla Bordoloi vide No. X-1/PB/ JRT/ 99-2000/7 dtd. at Jorhat, the 15-10-99 and Shri Manabendra Saha, Sr AO ( SBP), O/O GM, KTD/ Guwahati was appointed as Presenting Officer vide Memo No. X-1/PB/JRT/99-2000/8 dtd. at Jorhat, the 15-10-1999 of the O/O TDM/ Jorhat.

And whereas, the Inquiry Authority submitted his inquiry report vide No. OSD (PT)/ 32/ 99 dtd. 20-05-2002 and held that all the charges levelled against Shri Prafulla Bordoloi , Sr. TOA (G) (SPS) are fully proved.

And whereas, the disciplinary authority, DGM of GMTD/Jorhat was satisfied that the charges levelled against the SPS, Shri Prafulla Bordoloi, Sr. TOA (G), was proved and imposed the penalty of dismissal on Shri Prafulla Bordoloi w.e.f. 25-04-2003 vide order No. X-1 / PB/ 2003-2004 / 06 dtd. at Jorhat, the 25-04-2003.

And whereas, the said Shri Prafulla Bordoloi had submitted an appeal against the order No. X-1/PB/2003-2004/06 dtd. 25-04-2003 vide his appeal dtd. 27-05-2003.

And whereas, an order was issued by DGM, O/O GMTD, BSNL/ Jorhat vide No. X-1/PB/2003-2004/07 dtd. 11-06-2003 in supersession of the order No. X-1/PB/JRT/2003-04/06 dtd. the 25-04-2003 keeping the effect of penalty of dismissal effectious from 25-04-2003.

And whereas, an appeal was made again by Shri Prafulla Bordoloi on 8-7-2003 against the punishment of dismissal order issued by DGM, O/O the GMTD, BSNL/ Jorhat vide No. X-1/PB/2003-04/07 dtd. 11-06-2003 & letter No. X-1/PB/JRT/99-2000/01 dtd. 17-09-1999.

And whereas, the undersigned has been nominated as the Appellate Authority to examine & review the appeal petition vide CGMT/ Assam Circle/GH letter No. STES-2/8/Corr/8 dtd. at Guwahati, the 24-09-2003

Now, therefore, having gone through the history of the case, all records and documents exhibited & thorough study of the disciplinary proceedings, and having regard to the Inquiry report the undersigned observed that –

1. The procedure laid down in the rules have been complied with.
2. The question raised by the punished official regarding disciplinary authority and appellate authority, it is clarified that as per provisions under Rule 13 (2) of CCS (CCA) Rules 1965, a disciplinary authority competent to issue minor penalties in clauses (i) to (iv) of Rule 11 may institute disciplinary proceedings against any Government servant for imposition of major penalties in clauses (v) to (xii) of Rule 11. In the instant case TDM / DGM can impose all the major and minor penalties, whereas DE as Disciplinary authority of Sr. TOA (G) can impose only minor penalties (i) to (iv). The argument is therefore not tenable.
3. All reasonable and adequate opportunities had been given to the charged official and his defence assistant.

84 — Annexure B

4. Point raised by the appellant that DOT approval is required for his dismissal, it is clarified that -- as per BSNL letter No. 250-80/ 2001-Pers. III dtd. 05-11-2001, staff transferred to BSNL w.e.f. 01-10-2000 is on deemed deputation basis and will be governed by the existing rules till BSNL formulates its rules. Staff against whom disciplinary / vigilance case is pending, their absorption in BSNL is subject to outcome of the disciplinary / vigilance case.
5. From Inquiry report and from the own admission of the charged official during hearing, it reveals that charged official kept the dishonoured cheques in his custody for a long time without the knowledge of his Controlling officer. He encroached in others area to make entries in the SRC. All these acts amount to serious financial irregularities and violation of conduct rules.
6. The findings of the disciplinary authority are supported by the evidence on the record of the case.

In the light of the above observations and findings, the undersigned is satisfied that the charges framed against Shri Prafulla Bordoloi is established.

However, considering the length of service of the official, his outstanding performance & past service records in various branches for which he was selected for "Sanchar Shree Award" for the year 1998 -1999, having taken the appeal of the dismissed official into consideration & to meet the fair end of justice, the undersigned is of the opinion that the penalty of dismissal is too severe for the irregularities committed by the official.

The undersigned, therefore, decided to reduce the penalty of dismissal imposed on the official by awarding punishment of compulsory retirement with immediate effect.

Now, therefore, in exercise of the power conferred & provisions made under Rule 27 of the CCS (CCA) Rules 1965, the undersigned hereby impose the penalty of compulsory retirement on Shri Prafulla Bordoloi, Sr. TOA (G), O/O the GMTD, Jorhat w.e.f. 06-10-2004.

The period from 25-04-2003 upto 06-10-2004 will be treated as Leave Not Due.

Sd/-

( M. John Chrisostom)  
General Manager, BSNL  
Silchar Telecom District, Silchar

Copy to:-

- 1) Shri Prafulla Bordoloi, Sr. TOA (G), O/O the GMTD, BSNL, Jorhat.
- 2) The Chief General Manager, Telecom, BSNL, Assam Circle, Guwahati
- 3) Deputy General Manager, O/O the GMTD, Jorhat.
- 4) DGM(F), O/O the GMTD, BSNL, Jorhat
- 5) Vigilance Officer, O/O the CGMT, Assam Circle, Guwahati.

( M. John Chrisostom)  
General Manager, BSNL  
Silchar Telecom District, Silchar

John  
06/10/04  
Prafulla

2, 8 JUN 2005

गुवाहाटी न्दाय ठ  
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

OA NO. 50/2005

SRI PRAFULLA BORDOLOI

.....APPLICANT

-VERSUS-

UNION OF INDIA & ORS

.....RESPONDENTS

WRITTEN STATEMENT FILED BY THE RESPONDENTS

- 1) That the respondents have received copy of Original Application (herein after referred as OA), have gone through the same and have understood the contents thereof. 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.

Before going through the paragraphs of the OA, the respondents would like to give the brief history of the case.

During the period from 01.01.98 to 30.08.99, twenty four (24) numbers of dishonoured cheques were kept in his custody by the applicant unauthorisely, without taking any action and also non-reportng the matter to the authority with a clear fraudulent intension, and thereby causing lacs of rupees to the Govt ex-chequer due to the gross negligence of the duty.

The entries made by the applicant's own handwriting in the subscribers record card (SRC) pertaining to dishonoured cheques at his own accord willfully, when it was not authorized to do so, with a view to manipulate the office record and thus violated the Departmental Rules.

Inquiry authority in their Inquiry report clearly stated that, the applicant is found guilty,. He failed to maintain register properly and also failed to submit the dishonoured cheques daily. The applicant shows his negligence of duties and

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Swaroop Chandra Das Filed by  
the Respondents through  
the Addl. Cse.  
29/6/05  
Guwahati Bench

responsibilities and with all intentional irregularities and failed to maintain absolute integrity and acted in an unbecoming of a Govt. servant.

In view of the charges having being proved as per inquiry report, the competent authority issued penalty of dismissal from service against the applicant vide No. X-1/PB/2003-2004/06 dated 25.04.2003.

However (considering the length of service of the applicant, his outstanding performance of post service records for which he was selected for 'Sanchar Shree Award' for the year 1998-1999, having taken the appeal of the dismissed official into consideration and to meet the fair end of the justice, the authority competent was pleased to issue 'Penalty of compulsory retirement' against the applicant vide No. X-1/BB/2003-2004/-7 dated 11.06.2003.)

- 2) That with regard to the statement made in paragraph 1 of the OA, the respondents while denying the contentions made thereof beg to state that from the inquiry report, from own admission of the charged official during hearing the findings of the disciplinary authority which are supported by the evidence on the record of the case, are satisfied enough that the charges framed against the official is established. So the order issued against the official on 06/10/2004 is not an impugned order as stated by the applicant.
- 3) That with regard to the statement made in paragraph 2 to 4.3 of the OA, the respondents beg to offer no comment.
- 4) That with regard to the statement made in paragraph 4.4 of the OA, the respondents while denying the contentions made therein beg to state that the applicant while functioning as Sr. TOA (G) and working in the TRA counter No.1, had received 24 (twenty four) number dishonored Cheques amounting to Rs. 10,53,307/- (Rupees ten lakh fifty three thousand three thousand seven) only and kept under his custody without proper authority for more than a year which cause a loss of revenue from the Govt. Exchequer. The applicant without the knowledge of the higher authorities under whom he was working committed the serious irregularities. The large number of dishonored Cheque returned from the Bank were kept unauthorized by the applicant without taking any action with a clear fraudulent intention and non-reporting the matter to the authorities immediately as required under the Rules. The applicant made entries by his own handwriting in the subscribers record Cards (SRC) pertaining to dishonored Cheques at his own accord

willfully, when he was not authorized to do so with a view to manipulate the office record and the matter. It is very common to mention here that an official while works on a or in a counter for particular job, he knows his work very well of that table or counter. In this case, the applicant was a senior assistant, he knew very well the works related to counter and action to be taken on dishonoured Cheques. But the applicant failed to observed the procedures, rules and regulations but willfully kept all the dishonored Cheques under his custody for several months depriving the competent authority to take corrective measure timely to stop loss of Deptt. Revenue, in such a fradulant manner.

Copies of the letter dated 26.08.1999 and the reply filed by the applicant dated 27.08.1999 are annexed herewith and marked as Annexure-R1 & R2 respectively.

- 4) That with regard to the statement made in paragraph 4.5 of the OA, the respondents while denying the contentions made therein beg to state that the applicant kept all the dishonored cheques under his custody but as per rules cheque register with cheques are to be submitter daily to the authority under whom he was working. The applicant failed to maintained the register properly and also failed to submit the dishonored cheques o the authority daily. Thus the applicant shows his negligence of duties and responsibilities and with all intentional irregularities.
- 5) That with regard to the statement made in paragraph 4.6 of the OA, the respondents while denying the contentions made therein beg to state that after proper scrutiny, the charged framed against the applicant under rule 14 of the Central Civil Services (Classification Control and Appeal) Rules, 1965. In Article-1, it is clearly stated that the applicant committed serious irregularities without the knowledge of the higher authorities to whom the applicant was working and failed to maintain absolute integrity and acted in a unbecoming of Govt. servant and thus violated the rules of 3 (1) (i) (ii) (iii) of the CCS Conduct Rules of 1964.

In Article II it is clearly stated that, during the period, it was found through investigation that the applicant kept large number of dishonored Cheques returned from the Bank unauthorizedly without taking any action with a clear fraudulent intention and non-reporting the matter to the authorities immediately as required under rules and thereby causing loss of lacs of rupees to the Govt. exchequer due to the applicants gross negligence of duty and the entries made by his own handwriting in the subscriber record Cards (SRC) pertaining to dishonored cheques at his own record willfully when it was not authorized to do so with a view to manipulate the office record and thus violated the Rule 110 (b) FHB Vol-I (general) and Rule 147 of FHB Vol-V and Rule 3 (I) (I) (ii) (iii) of the CCS Conduct Rules 1964.

In Article III of the charge-sheet, it is clearly stated that, the applicant has failed to observed the procedures, rules willfully and kept all the dishonored cheques under his custody, though he was not authorized to do so and thus violated the Rule 57 of Volume-III of CCS (CCA) Rules 1965 and Rules 145 and 147 of FHB Vol-V and Rule 110 (b) Vol-I.

Copy of the Memorandum of charges dated 17.09.99 is annexed herewith and marked as Annexure-R3.

7) That with regard to the statement made in paragraph 4.7 , 4.8 & 4.9 of the OA, the respondents beg to offer no comment.

Copy of the reply of the applicant dated 27.09.99 is annexed herewith and marked as Annexure-R4.

Copies of regular hearing as stated in Para 4.8 is annexed herewith and marked as Annexure-R5.

8) That with regard to the statement made in paragraph 4.10 of the OA, the respondents while denying the contentions made therein beg to state that the date of hearing on 08/10/2001 was not fixed unilaterally because the applicant was informed accordingly and with his full understanding the date of proceeding was fixed on 08/10/2001 and 09/10/2001 instead of 10/10/2002 and 11/10/2001.

8) That with regard to the statement made in paragraph 4.11 of the OA, the respondents while denying the contentions made therein beg to state that (the preliminary hearing against the applicant was held on 05/05/2000 and regular hearing started and held on 08.10/2001 and 09/10/2001 when the P. O. added all the documents to the case. In case of regular hearing the P. O. produced four state witnesses, out of five in support of charges who were examined by P.O. and cross examined on behalf of suspected public servant (SPS) conclusively, they are as under-

1. Sri D. Baruah, the then A.O. (Cash), O/O the TDM/Jorhat, presently GM/Jorhat.
2. Sri J. Hazarika, the JAO ( Cash), O/O the TDM/JRT, presently GM/JRT.
3. Md. M. Islam, the then Divisional Cashier, O/O the TDM/JRT, presently GM/JRT.
4. Mrs. Anupama Baruah, the then Sr. TOA (G) as TRA clerk under TDM/JRT, presently GM/JRT.

Sri M.U. Guresswamy, (state witness) the then A.O. (TR), O/O the TDM/JRT has been consented to be dropped by P.O. for his non appearance before the inquiry on consecutive two days of hearing. It is the presenting officer (P.O.), who can drop a person during inquiry proceedings if he not present before the inquiry committee. In such cases, it is the presenting officer who is satisfied enough that there is sufficient evidence against the applicant and the presence of person is negligible. Defence side should not have objection to it.)

9) That with regard to the statement made in paragraph 4.12 & 4. 13 of the OA, the respondents while denying the contentions made therein beg to state (that Sri D. Baruah, the then A.O. (Cash) at the relevant period under TDM/JRT, in his examination- in Chief apprised the inquiry of the procedure adopted for disposal of dishonored cheques are returned by the Bank to his office by post address to A.O. (Cash). On receipt of the dishonoured cheques, the 'GENERAL SECTION' marked it to the counter clerk with the intention to give phonic information to the relevant subscriber. Then the cheques are sent to the Divisional Cashier through A.O. (Cash), who maintain the register of dishonored cheques. The Divisional Cashier marks write back entries in the cash book and sent it to A. O. (TRA), giving the particulars of dishonored cheques and telephone numbers through A.O. ( Cash) for disconnection if the payment are not made by the dishonored cheques subscribers within a day or two.

In reply to examination –in Chief question No. 06 he confirmed that, as per the records the cheques in question were in the custody of the counter clerk Sri P. Bordoloi till 17/08/1999. During cross examination, in reply to question No.2 he clarified that the basic purpose for sending the dishonored cheques to the counter clerk (the applicant) was to give phonic information to the relevant subscribers intimating that their cheques had been dishonored and they were required to pay in cash within a day or two failing which their telephone will be disconnected. In reply to a specific question, during re-examination by P.O. he stated that till sending of dishonored cheques to the Divisional Cashier, all works relating to cheques collection are entrusted to the counter clerk (applicant) only. During cross-examination defence could not refute the facts that the applicant has unauthorisedly kept the dishonored cheques in custody for more than one year when he is duty bound to hand them over to the Divisional cashier for processing disconnection.

- 10) That with regard to the statement made in paragraph 4.14 of the OA, the respondents beg to offer no comment.
- 11) That with regard to the statement made in paragraph 4.15 of the OA, the respondents while denying the contention made therein beg to state that there is no any violation of Rules and the procedure followed by the respondents is as per rules.
- 12) That with regard to the statement made in paragraph 4.16 of the OA, the respondents while denying the contentions made therein beg to rely and refer upon the statement made in paragraphs 9 of this WS.
- 13) That with regard to the statement made in paragraph 4.17 of the OA, the respondents beg to offer no comment.
- 14) That with regard to the statement made in paragraph 4.18 of the OA, the respondents while denying the contentions made therein beg to state that in inquiry report dated 20/05/2002 itself speak that all the evidence and STATE WITNESS gone against the applicant. The inquiry authority had clearly stated in their Inquiry report that the applicant is responsible for doing negligence in his duty, acted in an unbecoming of Govt. servant with a clear fraudulent intention, violating the Deptt. Rules, causing loss of rupees to the Govt. exchequer due to his gross negligence.

It is already stated that the date was fixed with full understanding of the applicant.

Copy of the inquiry report dated 20.05.2002 is annexed herewith and marked as Annexure-R6.

15) That with regard to the statement made in paragraph 4.19 of the OA, the respondents while denying the contentions made therein beg to state that the inquiry proceeding was made as per Rules.

Copy of the appeal filed by the applicant is annexed herewith and marked as Annexure-R7.

16) That with regard to the statement made in paragraph 4.20 of the OA, the respondents while denying the contentions made therein beg to state that in the inquiry report and the statement given in the inquiry proceedings, the applicant admitted to have kept the dishonoured cheques with him, he also confessed that he made entries in SRCs. It is clear that the applicant was doing the job and the charges against the applicant are fully proved.

17) That with regard to the statement made in paragraph 4. 21 of the OA, the respondents while denying the contentions made therein beg to state that the authority that has issued the order of punishment to the applicant is competent to issue such order. In initial order dated 25/04/2003, the dismissal from the service was initiated and the competent authority issued the 2nd and final order after reviewing the proceeding at the request of the applicant.

Copies of the orders dated 25.04.2003 and 11.6.2003 are annexed herewith and marked as Annexure-R7 & R8 respectively.

18) That with regard to the statement made in paragraph 4.22 & 4.23 of the OA, the respondents beg to offer no comment.

19) That with regard to the statement made in paragraph 4.24 of the OA, the respondents while denying the contentions made therein beg to state (that dismissal of service was effected against the official w.e.f. 25/04/2003, and final order issued on 11/06/2003 after review the punishment order issued on 25/04/2003. Hence the period from 25/04/2003 to 10/06/2003 cannot be treated as duty as per rules.) (B)

20) That with regard to the statement made in paragraph 4.25 & 4.26 of the OA, the respondents while denying the contentions made therein beg to reiterate and reaffirm the statement made above.

21) That with regard to the statement made in paragraph 4.27 of the OA, the respondents while denying the contentions made therein beg to state that Department always recognize and show honor to the good workers not only the applicant but also other officers and staff who also do hard work and good job for the department.

22) That with regard to the statement made in paragraph 4.28 of the OA, the respondents beg to offer no comment.

23) That with regard to the statement made in paragraph 5.1 of the OA, the respondents while denying the contentions made therein beg to state that as per inquiry report, the order of termination was issued against the applicant.

24) That with regard to the statement made in paragraph 5.2 of the OA, the respondents while denying the contentions made therein beg to state that inquiry report will speak that it is very much fair and therein no doubt about it.

25) That with regard to the statement made in paragraph 5.3 of the OA, the respondents while denying the contentions made therein beg to state that inquiry proceeding were as per rules.

26) That with regard to the statement made in paragraph 5.4 to 10 of the OA, the respondents while denying the contentions made therein beg to reiterate and reaffirm the statement made above.

27) That in view of the facts and circumstances stated above the respondents beg to state that the present OA has no merit and hence pray that this Hon'ble Tribunal may be pleased to dismiss the OA with costs.

## VERIFICATION

I Shri Shankar Chandra Das at present working as Assistant Director Telecom (Legal) at office of Chief General Manager, Assam Circle, BSNL, Guwahati 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

27

are true

to my knowledge and belief, those made in paragraph

1 to 26

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 27th the day of June 2005 at Guwahati

Shankar Chandra Das  
DEPONENT

Assistant Director Telecom (Legal)  
D/o the Chief General Manager BSNL  
Assam Telecom Circle, Guwahati-7

GOVT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE TELECOM DISTRICT MANAGER  
JORHAT-785001

CONFIDENTIAL

To,

Sri Pratul Bordoloi,  
Counter Clerk  
Counter No. 1.

No. A Computer/P/II

Date: 26/08/1999

It is surprising to note that 24 (Twenty four) numbers of dishonored cheques involving an amount of Rs. 10,53,307/- were kept by you unauthorisedly for more than a year without bringing to the notice of the higher authority. On receiving information from a subscriber and on investigation the matter has received the attention of the undersigned only on 17-08-99.

On personal enquiry, you have sent the cheques alongwith Register on 17-08-99. The register is also not maintained properly and several figures are not agree with the cheque figure. This establishes clearly negligence of duty on your part with a fraudulent motive behind it.

Please state under what circumstances you have willfully,

1. Kept all dishonoured cheques under your custody for a year or so, when **cheque Register with cheques are to be submitted to the undersigned daily as per Rule.**
2. You have failed to maintained the Register properly and with all intentional irregularities.
3. You have also failed to submit the dishonoured cheques to the undersigned, <sup>instead</sup> ~~daily~~, instead, unauthorisedly kept with a clear motive of fraudulent behind it.

You are therefore directed to explain why disciplinary action under CC9(CCA) will not be taken against you for gross negligence of duty and unauthorised keeping of the aforesaid cheques for a year without any information to the concerned authority. Your explanation should reach to the undersigned within 3(Three) days on receipt of this letter failing which separate disciplinary will be taken against you.

26/08/99  
ACCOUNTS OFFICER(Cash)  
OFFICE OF THE DISTRICT MANAGER  
JORHAT

The Accounts Officer (Cash)  
O/O the TDM, Jorhat.

Dated at Jorhat, the 27.8.99.

Sub :- Reply to your letter No. A-Counter/PB/I dt. 26.8.99.

Sir,

With reference to your letter No. quoted above, I beg to submit the following for your kind information. Sir, the dishonoured cheques mentioned in the letter related to counter I, II, & III. 3 (three) or 4 (four) cheques were dishonoured in my counter. After dishonour of three or four cheques, I stopped taking third party cheque.

Generally, when I receive the dishonoured cheques, I inform the subscriber number in the back side of the cheque, over phone and they make cash payment. When there is minor irregularities, these are rectified by the subscriber and sent to the bank again, since my working in the counter this procedure was followed. No further guide lines, I have received so far regarding the disposal of dishonoured cheques except one, I have received very recently from CAO.

On the back side of these cheques only one or two telephone numbers were written. On the basis of these telephone numbers, telephonic reminder was given to the subscribers first requesting early payment. When the subscriber said, the cheque amount is higher than their bills, I had to go through the vouchers. Then only I have come to know that this was a third party cheque and each cheque related to several telephone Nos. So I began entering all dishonoured cheques in a central register for all counters and searched the vouchers. Entry of the telephone Nos. and amount was made against each cheque in the register from the voucher made me available by the TRA peons and got these noted in the SRC by the concerned D.A. But some vouchers in the monthwise bundle were not available. Where there was no voucher, the amount was taken from the cards against the telephone No. in the cheque and from sorting list on daily list where available. So the voucher figures against some cheques were not upto-date. The vouchers at that time remained scattered, as a result of which it took abit more time in preparing the register upto-date.

As all cheques were sent to me only through peon book, the whole work was done by me centrally. I had that confidence also that I can do the work. Due to this ego, I tried to complete the register for the dishonoured cheque for all three counters myself and completed with available records.

The required informations are furnished below :-

(1) That procedure adopted by me in taking follow up action against the dishonoured cheques received by me since my posting in the counter is followed now also in the case of these dishonoured cheques as narrated above. Though the cheques were with me for one year, I did not keep these pending without taking any action. Action of giving telephonic reminder, preparation of the register with available records and getting the amount noted in SRC by the DA for further necessary action, reminder and disconnection. Some telephone numbers, could not be contacted, as the same remained already disconnected. This was done immediately on receiving the vouchers. I was not aware of or received any further guidelines for dishonoured cheques that these should be put up to A.O. daily. But any motto was only that the dues should somehow be realised. So the above mentioned works were done.

(2) Sir, the register was maintained from the available vouchers applied to me from TRA section. Where there was no voucher available, I took the help of cards of the telephone numbers written on the back side of the cheques, sorting list and daily list where available. Sir, it is not intentional. The irregularity was due to not receipt of vouchers.

(3) Sir, the procedure of follow up action taken previously on the previous dishonoured cheques, were adopted in case of these cheques also. No any special guideline was received by me that there should be put up to AO daily. I was verbally intimated by the previous AOs also that the subscribers of dishonoured cheques should be informed for early cash payment to avoid disconnection. This procedure was followed in case of these cheques also. So, some subscribers of 320, 321, 322, 323, 324, 326, 327 and 87 groups had paid against the dishonoured cheques. Had I been any fraudulent motive, I would not have prepared the register after searching and going through all scattered available vouchers. Sir, as I have no any such motive, I have kept all cheques properly without any loss and submitted to you only one or two cheques have been taken by the party after payment. My motive was only to realise the outstanding dues somehow.

Sir, as the follow up action was taken as before, without having any fraudulent motive, I requested you kindly to exempt me from taking any disciplinary action.

Yours faithfully,

(PROFULLA BORDOLOI)

Counter-I

Government of India  
Department of Telecommunications  
Office of the Telecom District Manager, Jorhat

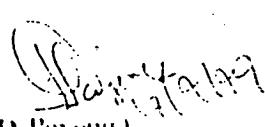
Annex - K 3  
No. X-1/PB/JRT/99-2000/1  
Govt of India  
Ministry of Communication  
Dated at Jorhat the 17<sup>th</sup> Sept 1999

MEMORANDUM

The President/undersigned proposes to hold an inquiry against Shri Prafulla Bordoloi, Sr.TOA(G) under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rule, 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 and IV).

2. Shri Prafulla Bordoloi, Sr.TOA(G) is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.
4. Shri Prafulla Bordoloi, Sr.TOA(G) 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 inquiry authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS(CCA) Rules, 1965, or the ordered directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.
5. Attention of Shri Prafulla Bordoloi, Sr.TOA(G) is invited to Rule 20 of the Central Civil Services (Conduct) Rule, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceeding it will be presumed that Shri Prafulla Bordoloi, Sr.TOA(G) is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS(Conduct) Rules, 1964.
6. The receipt of the Memorandum may be acknowledged.

(By order and in the name of the President)

  
( D. Bayeng )

Divisional Engineer (P & A)

Office of the Telecom Dist. Manager

JORHAT

To:

Shri Prafulla Bordoloi, Sr.TOA(G)

Office of T.D.M. Jorhat

ANNEXURE-I

Statement of articles framed against Shri Prafulla Bordoloi, Sr. TOA(G), CO-TOA, Jorhat

Article-I

That the said Shri Prafulla Bordoloi, while functioning as Sr.TOA(G) during the period from 01-01-98 to 30-08-99 & working in the TRA counter No. 1, it reveals that serious irregularities were committed without the knowledge of the higher authorities to whom the said Shri Prafulla Bordoloi, was working and failed to maintain absolute integrity and acted in a unbecoming of Government servant and thus violated the rules of 3(1) (i) (ii) (iii) of the CCS (conduct) Rules of 1964.

Article-II

That during the aforesaid period and while functioning in the aforesaid office and on thorough investigation it was found that large number of dishonoured cheques returned from the bank were kept unauthorisely by said Shri Prafulla Bordoloi, without taking any action with a clear fraudulent intention, and non-reporting the matter to the authorities immediately as required under rules and thereby causing loss of lac's of rupees to the Govt ex-chequer due to his gross negligence of duty and the entries made by his own hand writing in the SRC pertaining to dishonoured cheques at his own accord willfully when it was not authorised to do so with a view to manipulate the office record and the matter was also not reported to the authority thus violated the rule 110(b) FHB VOL-1(Genl) and rules 147 of FHB Volume-V and Rule 3(1) (i) (ii) (iii) of the CCS(Conduct) Rules of 1964.

Article-III

That during the aforesaid period and while functioning in the aforesaid office the said Shri Prafulla Bordoloi, has failed to observe the procedures, rules and regulations and willfully kept all the dishonoured cheques under his custody for the several months and thus violated the rule 57 of Volume III of CCS(CCA) Rules 1965 and rules 145 and 147 of FHB Volume-V and rules 110(b) of FHB Vol-1.

Divisional Engineer (P & A)  
Office of the Telecom Dist. Manager  
JORHAT

## ANEXURE-II

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Shri Prafulla Bordoloi, Sr.TOA(G), o/o the TDM, Jorhat.

## Article-I

That the said Shri Prafulla Bordoloi, while functioning as Sr.TOA(G) and working in the TRA counter No. 1, the said Bordoloi has received Twenty four (24) numbers of dishonoured cheques amounting to rupees 10,53,307.00 (Rupees ten lakhs fifty three thousand three hundred and seven only) and kept under his custody without proper authority for more than a year which was received time to time from the bank and without reporting the matter to the higher authorities and no action was initiated as required, under rules and thus it reveals that with a clear fraudulent motive behind it resulting a loss of Rupees 10,53,307.00 from the Govt ex-chequer.

## Article-II

That the said Shri Prafulla Bordoloi, Sr.TOA(G), has also failed to submit day to day accounts pertaining to the cheque clearance Registers, relevant daily challans, and dishonoured cheques after receipt from the Bank and kept under his custody without any authority and failed to maintain devotion to duty and absolute integrity.

## Article-III

That the said Shri Prafulla Bordoloi, Sr.TOA(G), while working in the TRA counter No. 1 acted in an unbecoming of a Govt servant by keeping all dishonoured cheques for more than a year with an intention for the personal benefit in collaboration with the subscribers and non-submission of relevant records from time to time to the higher authorities and after a lapse of more than year, the dishonoured cheques and its register was made over to the AO(Cash) only on 17/08/99.

The said Shri Prafulla Bordoloi, Sr.TOA(G) has willfully made several entries by his own hand writing in the SRC for dishonoured cheques with a view to manipulate the office records and instead the matter was not reported to the concerned authority which attracts the proviso of rule-57 of Vol-III of CCS(CCA) 1965 and it proves total negligence of duty violating all departmental rules and regulations and failed to maintain absolute integrity.

Divisional Engineer (P & A)  
Office of the Telecom Dist. Manager  
JORBAT

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ANNEXURE III

List of documents by which the articles of charges framed against Shri Prafulla Bordoloi, Sr. TOA(G), are proposed to be sustained:

1. Register of dishonoured cheques.

2. Particulars of dishonoured cheques.

Sl. No.	Dishonoured Cheque No.	Date	Amount in Rupee	Challan No. & Date	Banks return particulars from SBI with date
1	201599	07-01-98	59,56,000		18-01-98
2	853403	27-01-98	55,777.00		30-01-98
3	219558	22-05-98	28,322.00	22-05-98	27-05-98
4	2210362	29-07-98	41,103.00	29-07-98	01-08-98
5	359150	23-07-98	32,628.00	23-07-98	27-07-98
6	2210361	03-08-98	32,971.00		06-08-98
7	2210365	21-08-98	66,363.00		27-08-98
8	2899177	26-10-98	21,242.00		31-10-98
9	2899179	13-11-98	21,058.00		18-11-98
10	568602	17-11-98	59,196.00		25-11-98
11	2899182	24-11-98	82,781.00		27-12-98
12	219574	09-12-98	56,322.00	09-12-98	14-12-98
13	2899183	18-12-98	69,078.00		26-12-98
14	915477	28-12-98	71,578.00	28-12-98	06-01-99
15	2899185	07-01-99	18,180.00	07-01-99	11-1-99
16	2899187	13-01-99	51,325.00		13-01-99
17	2899188	20-01-99	51,814.00	20-01-99	27-01-99
18	AZD 964450	25-01-99	10,893.00		01-02-99
<b>TOTAL</b>			<b>10,53,307.00</b>		

3. Register of ACC-28

4. Vouchers (Numbering 173) (v/v)

5. SRC of Telc No.

- a) GT-21357
- b) GT-20027
- c) JRC-322051
- d) JRC-320108

e) Written statement dated 08-09-99 from Mr. Anupoma Baruah Sr. TOA(G) for writing of SRC by Shri Prafulla Bordoloi Sr. TOA(G) to whom the charge sheet was framed.

6. Twenty four (24) no. of dishonoured cheques (Cheque no mentioned above)

  
 Divisional Engineer (P & A)  
 Office of the Telecom Dist. Manager  
 JORHAT

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#### ANNEXURE-IV

List of witness by whom the articles of charge framed against Shri Prafulli Boroloi, Sr.TOA(G), are proposed to be sustained:

1. Shri D.Burrah A.O.(Cash) o/o the TDM, Jorhat
2. Shri M.U.Guruswamy A.O(ER) o/o the TDM, Jorhat
3. Shri J.Hazanier, IAO(Cash) o/o the TDM, Jorhat
4. Md. Ibtu (Cashier) o/o the TDM, Jorhat
5. Mrs Anupom Barrah, Sr.TOA(G) o/o the TDM, Jorhat.

Divisional Engineer (P & A)  
Office of the Telecom Dist. Manager  
JORHAT

The D.E. (P&A)  
O/O the TDM, Jorhat.

Dated at Jorhat, the 27.9.99

Sub :- Reply to your Memo No. X-1/PB/JRT 99-2000/L dt. 17.9.99.

Sir,

In response to your memo No. quoted above, the reply against Annexure-I & II is furnished below. At present, I want to be heard in person.

#### ANNEXURE-I

**Article I:** Sir, during the said period, I was rendering my services to the best of my sincerity except the alleged erroneous handling of the dishonoured cheques.

**Article II:** The dishonoured cheques relating to three counters were sent to me in the peon book after notation in the Dak. So I thought that these have already gone to the notice of the authority. So these were not put up to A.O. again and I began to take action on it. The procedure of giving reminder and necessary noting in SRC for cancellation of payment noting, was done as before, so that further reminder can be given from the section and necessary action can be taken for disconnection of the telephone. The register of dishonoured cheque will reveal the action taken on these cheques. Unless full payment against the dishonoured cheque is made, these are kept in my custody as documentary evidence of the defaulting subscriber. This may kindly be not taken as unauthorised keeping. I have no any fraudulent motive on it, as because, I took necessary follow up action for realisation of the outstanding amount through telephonic reminder and necessary notice in SRC. Conventionally before any drastic action like disconnection is initiated, Had I been any such motive, I would not have done the above works of realisation of the amount. As the realisation work was going on and 25% of the amount (approx) has already been realised and action for further realisation was going on, there should not be any loss to the department. When cheque is bounced, the subscriber has become defaulter.

In one or two SRC's, necessary information of cheque dishonoured was noted by me with due permission as well as at the request of the D.A. I only followed the procedure of writing the information and cancellation of payment noting in their front. Only the true information was written there. Hence this may kindly be not taken as any intention of manipulation.

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**Article III:** As action of realisation of the amount from the subscriber was going on and about 25% of the amount was realised in my initiative, the dishonoured cheques were kept in my custody till the amount is realised fully. Hence, this may kindly be not taken as violation of any rules.

#### ANNEXURE - II

**Article I:** The dishonoured cheques of the three counters came to me after routing the same through Dak. As such, I thought that these have gone to the notice of the authority. Moreover, the procedure of keeping the cheques in my custody for realisation of the amount from the subscriber was followed since my posting in the counter. No any instruction or guide line was given to me regarding other procedure of disposal of the dishonoured cheques. Only these cheques, not taken back by the subscriber after payment was given to the Cashier. My view was to realise the defaulting amount from the subscriber. So action for realisation was going on my giving telephonic reminder, preparing the register of dishonoured cheques from the scattered vouchers and other available records in the SRCs, sorting list, daily list and getting these noted in the SRCs for further necessary action. Thus some subscribers of 320, 321, 322, 323, 324, 326, 327 and 87 groups have paid the same against the dishonoured cheques. Had I been any fraudulent motive, I would not have prepared the register after searching and going through the scattered vouchers. Since, about more than 25% of the amount against the defaulting subscribers have been realised and further realisation has been going on from the defaulting subscribers, there should not be any loss to the department.

**Article II:** No such guide line was received by me regarding maintenance of cheque clearance register and day to day submission of the register of dishonoured cheques to the superior. Only two instructions have been received from the CAO regarding this recently, only after the allegation of erroneous mishandling of the dishonoured cheques have come up.

**Article III:** The dishonoured cheques were kept with me as follow-up action was going on against these. At the time of receipt, reminder was given first, to the subscriber as mentioned on the back side of the cheque where only one or two telephone Nos. were written. When it was known from the subscriber that the cheque figure and their bill amount does not tally, I had to go through the vouchers. As the vouchers were in a scattered condition, I could not be made the same available to me early and so, it took abit more time in taking necessary action on these cheques. However immediately on receipt of the vouchers, I prepared the register to make it up-to-date. Where, there was no voucher available in the monthwise bundle, I had to go through the sorting list, daily list and SRCs also. Thereafter, these were got noted in the SRCs in the section wherefrom reminder was given again several times and finally telephone,

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way disconnected. However some subscribers have made payment either partly or fully on my follow-up action. Had I been any intention of personal benefit, I would not have done the above works for realisation of the dues from the subscribers. As the follow-up action was going on, on these cheques and no further guide time was given, these were not put up to higher authority. I have given much emphasis on realisation only.

The information regarding the dishonour of cheques were entered in one or two SRCs on the presence of the DAs who did not know the procedure of noting of that information and requested me to show the same. This was done in their presence and with their due permission. No wrong information was written there. Hence I had no any intention of manipulation of Govt. records.

Yours faithfully,

(PROFULEA BORDOLOI)  
Sr. TOA (G)

DAILY ORDER SHEET

Disciplinary proceedings under Rule-14 of the  
ECS(CCA), Rules-1965 against Sri Prabulla Baradoloi,  
Sr. TOA (A), D/o GHTD, Jorhat.

Today was the date fixed for REGULAR  
HEARING in the above case. The sitting started  
as per scheduled. The following were present.

1. Sri A. B. Sharma, D.G.(D), Doda -- ENQUIRING AUTHORITY
2. Sri Hemendra Saha, CMO; D.O.T. Cell. Ghy -- PRESENTING OFFICER
3. Sri Prabulla Baradoloi, Sr. TOA (A), -- SUSPECTED PUBLIC  
SERVANT (SPS)
4. Sri G.C. Sharma, SSS of GHTD, Ghy -- DEFENCE ASSISTANT

The SPS furnished his nomination letter for  
engaging Sri Shankar Jolab Choudhury Sarmah as his  
defence assistant in place of his colleague named  
Guruhati. Sri Sarmah furnished the requisite  
certificate for working as defence assistant to  
this case which was allowed by I.O. The  
controlling officer of Sri S. R. Das was intimated  
on phone as well as a FAX message was sent  
to him for not releasing Sri Das for defending  
this case at Jorhat on the scheduled date.

The P.O. exhibited all the listed documents  
in original in support of the charges which  
were as undisputed marked as S. EXTS. as  
under f. taken on record.

1. S. Ext. 01. Register of dishonoured Cheque  
maintained by Counter Clerk
2. S. Ext. 02. Particulars of dishonoured Cheque  
as in no. of different dates
3. S. Ext. 03. Register of Accts. 28, two books
4. S. Ext. 04. Vouchers numbering 173 with  
containing one list of rec. Hrs.  
bill date, amount, cheque no. with  
date prepared by the S/o No (T.R.A) J.R.T.

S. Ext. 65. S.R. 16. Date 16. 07. 1999  
(a, b, c, & d) 20027. Q.I.R.T. No. 101. J.D.Y

320103.

i. S. Ext. 65 B. Addendum Statement dated 06.9.99

from Mr. M. Sarmiento (Sarawati  
M. T.O.A.(Q), for witness of S.R.  
by Sri P. Banodikar, Sr. T.O.A.(Q),

The P.O. produced the following state  
witness in support of charges

1. G.O. 01. Sri D. Barwani, the then M.O.(Cash)  
of M.M. Jorhat

2. G.O. 09. Sri J. Narahari, the then M.O.(Cash)  
of M.M. Jorhat

Both the witnesses were examined separately.  
Sri M. U. Gurudayal, the then A.O.(TR)  
Jorhat was not produced by the P.O. for  
recording of his evidence. Reportedly he could  
not come due to non-availability of Railways  
reservation. The P.O. consented to drop him.  
The other two witnesses will be examined  
tomorrow.

The sitting adjourned till 11.00 hrs of

09.10.2001.

*P. Banodikar* (P. Banodikar) (S. Ext. 65/18/7.00)  
(C. C. Sarmiento) (C. C. Sarmiento) (M. Saha)  
G.O. 09/01 Defence Assistant Prosecuting Officer

*A. B. STARAN*  
INQUIRING AUTHORITY

Bharat Sanchar Nigam Limited  
(A Government of India Enterprise)  
Office of the Chief General Manager Telecom  
Bihar Circle, Patna-800 001.

CONFIDENTIAL

No. OSD(PT)/32/99

Dated: 20.05.2002

## INQUIRY REPORT

PRESENT:

SRI A.B. SHARAN  
OFFICER ON SPECIAL DUTY(DI)  
CTO Bldg, 3<sup>rd</sup> FLOOR, PATNA.

PRESENTING OFFICER:

SRI MANABENDRA SAHA  
SR. AO(SBP) UNDER GM KTD,  
GUWAHATI

DEFENCE ASSISTANT:

SRI G.C. SARMA, SSS  
UNDER GM KTD, GUWAHATI

Disciplinary proceedings under Rule-14 of CCS(CCA), Rules-1965  
against SRI PRAFULLA BORDOLOI Sr. TOA O/o GMTD, Jorhat.

The aforesaid Suspected Public Servant Sri Prafulla Bardoloi, Sr. TOA(G), O/o the then TDM, Jorhat (hereinafter referred to as SPS) was charge sheeted vide Memo No. X-1/PB/JRT/99-2000/1 dated-17.09.1999 issued by the Divisional Engineer(P&A), O/o the TDM, Jorhat (hereinafter referred to as Disciplinary Authority). The undersigned was appointed as Inquiring Authority by the Disciplinary Authority vide Memo No.X-1/PB/99-2000/7 dated-15.10.99 to inquire into the charges framed against the SPS. Simultaneously Sri Manbendra Saha Sr. AO(SBP), O/o GM KTD, Guwahati vide Memo No. X-1/PB/JRT/99-2000/8 dated-15.10.99 was appointed as Presenting Officer (hereinafter referred to as P.O) by the Disciplinary Authority to present the case in support of the charges before the Inquiring Authority on behalf of Disciplinary Authority. The SPS first took assistance of Sri Shankar Kr. Das CTM Instructor CTTC, Guwahati and subsequently of Sri G.C. Sarma SSS under GM KTD, Guwahati as his defence assistant which was allowed by the I.O.

The sitting started with its preliminary hearing on 05.05.2000 when the SPS categorically denied the charges levelled against him and preferred personal hearing in the case. The SPS as directed inspected the listed documents on the date of the preliminary hearing and then directed to file his requisition for additional documents and defence witnesses if any.

On completion of the pre-hearing formalities the regular hearing started and held on 08.10.2001, 09.10.2001, when the P.O adduced all the documents as enlisted in Annexure-II to the charge sheet. All such document were taken on record and marked as S.Exts. as under:-

- 1.S.Ext. 01. Register of dishonored cheques maintained by counter clerk.
- 2.S.Ext.02. Particulars of dishonored cheques 24 in No.of the different dates.
- 3.S.Ext.03. Register of ACG-28, ( two books)
4. S.Ext.04. Vouchers numbering 173 containing list of Telephone Nos, bill date, amount, cheque No. with date prepared by the then AO(TRA), Jorhat.
5. S.Ext. 05. SRC of Telephone number GT 21357, GT 20027, JRT 322051 (a b c & d) JRT 320108.
6. S.Ext. 05(e). Written statement dated-08.09.99 from Mrs. Anupma Baruah Sr. TOA(G), for writing of SRC by Sri P. Bordoloi Sr. TOA(G).

Also in course of regular hearing, the P.O produced four state witnesses out of five in support of charges who were examined-in-chief by P.O and cross examined on behalf of SPS conclusively they are as under:-

1. SW. 01. Sri D. Baruah, the then AO(cash), O/o TDM, Jorhat.
2. SW.02. Sri J. Hazarika, the then JAO(cash), O/o TDM, Jorhat
3. SW.03. Sri Md. M. Ishlam, the then Divisional Cashier O/o TDM, Jorhat
4. SW.04. Mrs. Anupoma Brauah, the then Sr. TOA(G), as TRA Clerk under TDM Jorhat.

Sri M.U. Guruswamy the then AO(TR), O/o TDM Jorhat was consented to be dropped by P.O for his non appearance before the inquiry on consecutive two days of hearing.

On closure of the prosecution case the defence filed his statement of defence under CCS(CCA), Rule-14(16) with a copy endorsed to P.O

The SPS did not prefer to produce and examine any defence witness on its behalf.

The SPS was then questioned by I.O under Rule-14(18) which was recorded. In his reply to I.O's question, he admitted to have kept the dishonoured cheques with him for making re-payment in full. He was going on pursuing the TRA people as well as the subscriber's also. He pleaded the delay in handing over the same to AO(cash), due to non-receipt of the vouchers in time. He further confessed that he made entries in the SRCs. Then both the parties were requested to submit their respective briefs induplicate within stipulated time. The prosecution brief of P.O dated-13.02.2002 was received on 18.02.2002 and the defence brief dated-04.03.2002 was also received afterwards.

Thus all the documentary evidences adduced and submission made were thoroughly examined. At the same time both the parties (prosecution and defence) were afforded full and reasonable opportunities which they availed to the best of their satisfaction.

The following articles of charge was framed against the SPS as contained in Annexure-I of the charge sheet.

#### ARTICLE-I

#### ANNEXRUE-I

That the said Sri Prafulla Bordoloi, while functioning as Sr. TOA(G), during the period from 01.01.98 to 30.08.99 and working in TRA counter No. 1 it reveals that serious irregularities were committed without the knowledge of the higher authorities to whom the said Sri Prafulla Bordoloi, was working and failed to maintain absolute integrity and acted in a manner of unbecoming of Government Servant and thus violated the rules of 3(1) (i) (ii) (iii) of the CCS (conduct) Rules of 1964.

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## ARTICLE-II

That during the aforesaid period and while functioning in the aforesaid office and on thorough investigation it was found that large number of dishonoured cheques returned from the Bank were kept unauthorisely by said Sri Prasulla Bordoloi, without taking any action with a clear fraudulent intention, and non-reporting the matter to the authorities immediately as required under rules and thereby causing loss of lacs of rupees to the Government ex-chequer due to his gross negligence of duty and the entries made by his own hand writing in the SRC pertaining to dishonoured cheques at his own accord wilfully when he was not authorised to do so with a view to manipulate the office record and the matter was also not reported to the authority thus violated the rule 110 (b) FHB Vol-I (Genl) and rules 147 of FHB Volume-V and Rule-3 (I) (i) (ii) (iii) of the CCS(conduct) Rules of 1964.

## ARTICLE-III

That during the aforesaid period and while functioning in the aforesaid office the said Sri Prasulla Bordoloi, has failed to observe the procedures, rules and regulations and wilfully kept all the dishonoured cheques under his custody for several months and thus violated the Rule-57 of Volume-III of CCS(CCA) Rules 1965 and rules 145 and 147 of FHB Volume-V and rules 110 (b) of FHB Vol-I.

## DISCUSSION.

The crux of the charge under the statement of imputation of misconduct and misbehavior framed against Sri Prasulla Bordoloi Sr. TOA(G), working in TRA counter-I at the relevant period under TDM, Jorhat is that he has received 24 (Twenty four) Nos. of dishonoured cheques amounting to a sum of Rs. 10,53,307.00/- (Rs. Ten Lac fifty three thousand three hundred seven) only and kept them under his custody for more than one year after it was received time to time from the Bank without reporting the matter to his higher authority and no action for processing the dishonoured cheque was initiated by him as required. In Article-II of the charge it was alleged that he failed to submit day-today account pertaining to the cheque clearance registers, relevant daily challan and dishonoured cheques after receipt from the Bank and kept under his custody without any authority. In Article-III of the charges it was alleged that after a lapse of more than a year, the dishonoured cheques and its register was made over to the AO(cash) only on 17.08.99 intentionally

for the personal benefit in collaboration of the subscribers. In reply to the charge sheet the SPS admitted to have kept the dishonoured cheques in his custody as a documentary evidence of defaulting subscribers and for taking up necessary follow-up action for realisation of outstanding amount through Phonic reminders. He further claimed about 25% of the amount was realised out of this initiative. In his reply he further admitted that the entries on some of the SRCs of the subscribers of dishonoured cheques were made by him by encircling with the red ink of the payment particulars.

The P.O in course of the regular hearing adduced all the documentary evidences in support of the charges which remained undisputed. Also he produced and examined four state witnesses out of 05(five) as enrolled in Annexure-IV to the charge sheet. The witness appearing at SI. No. 02 working as AO(TR) at the relevant period was consented to be dropped by the P.O due to his non-appearance.

SW. 01. Sri D. Baruah working as the then Accounts Officer(cash), at the relevant period under TDM Jorhat in his examination-in-chief apprised the inquiry of the procedure adopted for disposal of a dishonoured cheque. He stated that the dishonoured cheques are returned by the Bank to his office by Post addressed to A.O(cash). On receipt of the dishonoured cheques, the General section marked it to the counter clerk with the intention to give phonic intimation to the relevant subscriber. Then the cheques are sent to the Divisional Cashier though A.O(cash) who maintains the register of dishonoured cheques. The Divisional Cashier makes write back entries in the cash book and sent it to AO(TR), giving the particulars of dishonoured cheques and Telephone Nos. through A.O(cash) for disconnection if the payments are not made by the dishonoured cheques subscriber within a day or two. In reply to examination-in-chief question No. 06 he confirmed that as per the records the cheques in question were in the custody of the counter clerk Sri P. Bordoloi (SPS) till 17.08.1999. During cross examination in reply to question No. 02 he clarified that the basic purpose for sending the dishonoured cheques to the counter clerk(SPS) was to give phonic information to the relevant subscriber intimating that their cheques had been dishonoured and they were required to pay in cash within a day or two failing which their telephones will be disconnected. In reply to a specific question during re-examination by P.O he stated that till sending of the dishonoured cheques to the Divisional Cashier, all works relating to cheque collection are entrusted to the counter clerk only. During cross examination defence could not refute the facts that the SPS has unauthorisedly kept the dishonoured cheques in this

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custody for more than one year when he is duty bound to hand them over to the Divisional Cashier for their processing for disconnection.

Sri J. Hazarika, the then JAO(cash) was examined as SW. 02. In his deposition he stated that the dishonoured cheques were directly received in general section and through AO(cash) they were handed over to the Cashier who made the reverse entries in the cash book and then sent to counter clerk. The counter clerk disposed off the cheques by giving reminder to the concerned parties insisting cash payment in lieu of the dishonoured cheques at once and to inform TRA section for making entries in SRCs. In reply to I.Os question on intimating TRA for the dishonoured cheques and follow up actions, he on perusal of S.Ext. 05 a b c & d stated that in respect to Jorhat Telephone No. 320180 the dishonoured cheques were not noted properly and disconnection was made only one 11.08.99 for the cheque dishonoured during August 98 i.e after one year of the cheque being dishonoured.

Sri Md. M. Ishlam the then Cashier during the relevant period was examined as SW. 03. In his deposition he stated that on receipts of the dishonoured cheques he made the reverse entries in the cash book and then sent to a counter clerk for realisation. Giving reminder to the dishonoured cheque telephone subscriber was an instantaneous work generally on the same day or sometimes it takes two to three days. In an specific question of P.O he deposed that non of the dishonoured cheques in question were received by him. He further added that it gets confirmation on finding no reverse entry in the cash book in respect to all the 24 (twenty four) dishonoured cheques as well as no entry shown reflected on the reverse of the Bank memo. At the same time the remittance challan should have been cancelled which in the instant case could not be cancelled as these were not received by him. In reply to cross question on behalf of SPS he apprised to the inquiry the duties and responsibility of the counter clerk and the Divisional Cashier in respect to the receipts of cheques from the subscribers and their processing. For dishonoured cheques received from the Bank, one file and one register was maintained by Divisional Cashier for keeping full record regarding action taken in respect to the dishonoured cheques. The dishonoured cheques in question as were not received by him, they were thus not processed.

Mrs. Anopma Baruah, the then Sr. TOA(G), was examined as SW. 04. She confirmed the contents of her statement dated-08.08.99 marked as S.Ext. 05e. In her deposition she has stated that she was noting the Telephone bills and vouchers (payment noting) in SRC. She confirmed that the dishonoured

cheques in question did not come to her for making entries in the SRC. On perusal of SRCs under S.Ext. 05 (a b c & d) and regarding encircling in red ink in the SRCs in respect to Telephone No. Jorhat 320108 she deposed that in her presence one day Sri Prasulla Bordoloi (SPS) came and took the SRC of telephone No. Jorhat 320108 from her and encircled by red ink. She reported this matter to the section supervisor and then to AO(TRA) who retained the SRC with him and after some days, the Telephone was disconnected.

The SPS in his reply to the charge sheet admitted that the entries in some of the SRCs of dishonoured cheques subscribers were made by him. He claimed to have made the entries in the instigation of the dealing clerk SW-04 with her due permission and to educate her the procedure adopted in making entries at SRCs while dealing with the dishonoured cheques. The IO finds this statement as to the contrary of the statement of SW-1 on this issue. As such this claim of the SPS has no leg to stand and also making entries in the SRC whose custodian is AO(TR), is not coming under the working jurisdiction of the SPS. It reflects the vested interest of the SPS.

S.Ext. 02. is the particulars of 24 nos. of dishonoured cheques of different dates duly returned by the respective Banks due to insufficient funds in the credit of the cheque tenderer. On careful scrutiny of the dishonoured cheque particulars, it reveals that all the 24 cheques were issued by 5 to 6 local telephone subscribers only. For example cheques appearing under Annexure-III of the charge sheet at Sl. No. 04, 05, 06, & 07 of dated-29.07.98, 23.07.98, 03.08.98 and 21.08.98 (all consecutive dates) are of VIJAYA BANK and issued under the signature of same person against the Telephone bills of Telephone No. Jorhat 234819, 322759, 320108 and 321793. Similarly Sl. No. 08, 09, 11, 13, 15, 16, 17, 19 & 20 of dated-26.10, 13.11, 24.11, 18.12.98, 07.01, 13.01, 20.01, 29.01, 05.02.99 (all consecutive dates) cheque of VIJAYA BANK Jorhat only are issued under the same signature of Sri Kailash Kumar Agrawal against Telephone bills of different Telephone Nos. Hear it could not be established whether the signature available on different cheques were the authorised signatory of the telephone Nos. against which the cheques had been issued for making payment of that Telephone bills. It safely precipitates that a no. of cheques issued consecutively by the same particular signatory which were dishonoured due to insufficient fund in the credit and were not processed as per the prevailing practice or as per the codified Rule and not forwarded to TRA section for disconnection in time, instead it was dumped for more than a year by the counter clerk (SPS) in his own custody without any authority in the name of giving reminder for making payment. This action of the SPS puts

the Department a huge loss of the telephone revenue. The SPS definitely did it for his personal gain in collaboration with the dishonoured cheques subscribers. As per the Rule-110B of FHB Vol.1 (General) it says "In the event of cheque being dishonoured by the Bank on presentation, the fact shall be reported at once to the tenderer with demand for payment in cash and dishonoured cheques should be returned to the tenderer on surrendering the preliminary acknowledgement of the receipts of the cheque or any token previously granted." In the instant case the SPS instead of returning the dishonoured cheques to the tenderers at once & demanding for payment in cash, he remained keeping them in his own custody for more than one year in the name of follow up action for realising of the outstanding amount and did not allow the Telephone Nos. in question to be processed for disconnection from TRA section. It establishes the clear violation of Rule 110B of FHB Vol. 1 (General) and the overall violation of Rules 3 (1) (i) (ii) (iii) of CCS(conduct) Rules 1964. I agree to the contention of the P.O in his presenting brief that the SPS neither handed over the 24 Nos. of dishonoured cheques to the cashier nor informed to the AO(cash) rather kept them under his custody which is against the procedure. This resulted long delay (for more than one year) in processing the disconnection of telephones whose cheque had been dishonoured due to insufficient fund in credit of tenderers. It involved a sum of Rs. 10,53,307/- resulting loss of this huge amount from the Government ex-chequerer.

The SPS during the relevant period admittedly handled the SRCs up to going to the TRA section and encircled the payment columns in red ink in respect to the dishonoured cheques which is not under his jurisdiction of working. He has done it without any valid authority.

The defence in his very short defence brief advanced his plea that the SPS on receipt of the dishonoured cheques remained trying to contact the relevant subscribers and insisting them for making the payments. He further claimed that due to his such attempt, some outstanding dishonoured cheque amount have been realised. As per the defence the practice of handing over the dishonoured cheques to the SPS is nothing but the violation of rules. His above noted two claims seemed not true. First the dishonoured cheques as per the prevailing procedure were to be made over to the counter clerk only for giving phonic intimation to the subscribers for dishonouring his cheques by the respective Banks and insisting for making payment in cash at once or latest within a day or two after that the dishonoured cheques are to be made over to the Divisional Cashier for onward processing and disconnection from TRA section. In the instant case the SPS kept the cheques in his custody for a

pretty long period till 17.08.99 without any authority and valid reason it clearly establishes wilful violation of the coded Rule by the SPS along with his intention for ill gain by extending undue privilege to the subscribers for more than one year in stead they became defaulters.

On the overall assessment of the both oral and documentary and after thoroughly scrutinising the whole things, I am of the opinion that Sri Prasulla Bordoloi (SPS) has failed to observe the procedure, rules and regulation and wilfully kept all the dishonoured cheques under his custody for more than one year and thus violated Departmental Rule under 110B of FHB Vol.I (General) and while doing so he violated the general conduct rule of maintaining integrity, maintaining devotion to duty and to do nothing which is unbecoming to the Government servant. The defence while cross examining all the four state witnesses could not gain anything material to nullify the respective charges.

It is important and vital fact that the SPS has fully admitted the fact that he kept the 24 Nos. of dishonoured cheques in his custody for long period as well as he has made entry in SRC's but he miserably failed to justify his such act during the entire course of inquiry. Now there is hardly a need for any more argument to bring home the charges.

Accordingly I hold rather strongly that all the charges levelled against the SPS are fully PROVED.

Q31  
 (A.B. SHARAN)  
 INQUIRING AUTHORITY

to  
The D.G.M.  
BSNL, Jorhat.

Dated at Jorhat, the 17.07.02

Subject: Appeal against charges framed under Rule 14.

Sir,

With due respect and humble submission, I beg to state the following few lines for favour of your kind consideration.

Sir, since my working in the TRA cash counter, I had been dealing with various dishonoured cheques. Since then, I performed my best to recover the same by giving phonic reminder to the subscribers as well as preparing duplicate bill for the concerned amount for payment. If not paid, in spite of several phonic reminders, the TRA dealing assistants were asked to cancel the amount paid in SRCs. The same procedure was adopted in case of these cheques also. But, these cheques were completely different from others. Because, a cheque contained payment of several telephone numbers which were not noted on the back side of the cheques, resulting enough time taken in giving phonic reminder as well as realisation. I have to go through the vouchers which were not readily available in the vouchers bundles, some cheque vouchers in cash bundle and same in other month's bundle. Sir, I like to mention that since my working in the cash counter till the erroneous handling of the cheques, I was not educated with proper way of handling the dishonoured cheques, by the AOs. The cheques given to AO (TRA) by the Divl. Cashier were also given to me for giving phonic reminder and recovery.

Sir, most of the cheques, out of those 24 nos. were from the other two counters. I was just recovering only. When it went beyond my control, I had to hand over the same to AO (Cash). Sir, I am a lay man in case of deptl. rules. If I have violated the same due to my ignorance, I may kindly be excused.

Sir, as alleged this was not for my personal gain. I gave much emphasis on speedy recovery only. That's why, my intimation to the subscribers as well as to TRA clerks were going on.

Sir, regarding loss of deptl. money, I like to mention that I personally realised more than 25% of the amount and so far I know, rest of amount have also been recovered from the subscriber so far.

Regarding noting in the SRC, this was done in the presence of the DA who did not know to deal with the dishonoured cheques, because she was appointed under normal relaxation rules. This was done to educate her only so far these can be speedy recovery. I never thought that my goodwill will violate any depttl. rule and procedure.

Sir, I like to apprise you that timely disconnection of telephone is interrelated with speedy recovery, which was not done in TRA at that time inspite of apprising them about the dishonoured amounts in time.

Sir, at last I request you kindly to go thorough my CR file. Once I have a self appraisal and A.O. Cash gave a special report where, I think, A.O. Cash appreciated me for realising the amount against dishonoured cheques due to my personal efforts.

Sir, I fervently request you kindly to exonerate me from the charges and take a lenient view, so that, I can serve the depttl. with my utmost sincerity under you.

Yours faithfully,

(PROFULLA BORDOLOI)

Sr.TOA (G)

TRA Computer Section

BSNL, Jorhat.

34  
Annexure - E-8

**BHARAT SANCHAR NIYAM KER.**

*A GOVERNMENT OF INDIA ENTERPRISE*  
*OFFICE OF THE GENERAL MANAGER*  
*JORHAT TELECOM DISTRICT*  
*JORHAT - 785001*

No. X-1/PB/2003-2004/06

Bharat Sanchar Niyam Limited.

Dated 25.04.2003.

**ORDER**

WHEREAS Shri Prafulla Bordoloi, Sr. TOA(G), o/o the General Manager Telecom District, Jorhat has been convicted on charge under section Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules, 1965.

AND WHEREAS it is considered that the conduct of the said Shri Prafulla Bordoloi, Sr. TOA(G), which had led to his conviction is such as to render his further retention in the public service undesirable/the gravity of the charge is such as to warrant the imposition of a major penalty:

AND WHEREAS Shri Prafulla Bordoloi, Sr. TOA(G), was given an opportunity of personal hearing and offer his written explanation:

AND WHEREAS the said Shri Prafulla Bordoloi, Sr. TOA(G), has given a written explanation which has been duly considered by the undersigned:

NOW, THEREFORE, in exercise of the powers conferred by Rule 19 (i) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the undersigned hereby dismisses Shri Prafulla Bordoloi, Sr. TOA(G), office of the GMTD, BSNL, Jorhat from service with effect from 25-04-2003 impose the penalty of dismissal.

Sd/-

(Rajesh Kumar)

Deputy General Manager  
o/o the GMTD, BSNL, Jorhat

Station : Jorhat

Date : 25.04.2003

Copy to

1. Shri Prafulla Bordoloi, Sr. TOA(G), o/o the GMTD, BSNL, Jorhat.
2. The Chief General Manager Telecom, Assam Circle, Guwahati.
3. The Vigilance Officer, o/o the GMTD, Assam Circle, Guwahati.
4. The Deputy General Manager (F), o/o the GMTD, BSNL, Jorhat.
5. The Accounts Officer (Cash), o/o the GMTD, BSNL, Jorhat.

Deputy General Manager  
o/o the GMTD/BSNL, Jorhat

IN THE CENTRAL ADMINISTRATIVE  
TRIBUNAL GUWAHATI BENCH,  
GUWAHATI

O.A.NO : 50/2005

Shri Prafulla Bordoloi

-VS-

U.O.I. & ORS

## Rejoinder to the written statement

That the applicant most respectfully begs to state as under :

(1) The applicant has gone through the aforesaid written statement and understood the contents therein.

(2) That the applicant begs to state that applicant was given duty to receive dishonored cheques from the cashier and persue the subscribers to expedite the payment. He persued seriously and huge arrears are collected for which he was given Sanchershree Award. It is stated that there has not been any revenue loss of the department. The matter relates to procedural aspect and the applicant was in no way negligent or insubordinate. The defaulters of dishonoured cheques paid their dues in cash subsequently but did not collect the dishonoured cheque. There was no scope for fraudulently practice by the applicant. As per procedure the cashier is the actual custodian of the dishonoured cheques. The cashier works under Accounts Officer (Cash). The cheques were entered in the register by the cash section and the applicant was to assist the cash to chase the subscribers to pay the amount of the cheques in cash

The P & T Manual Vol (XIV) state clearly that

"cheques and drafts etc received by post along with forwarding by letters should be entered in a peon book maintained for the purpose and made over at once to the cashier."

Filed by the applicant / 13  
through S. N. Tumuli  
Advocate

In this way the cheques were handed over to the cashier.

The rule 147 of P & T FHB Vol (V) directs the fact of dishonored of cheque should be intimated to the subscriber for immediate payment and dealing clerk on TRA section should take action regarding disconnection of the phone. Applicant was not responsible in any way. The cash and cheque received in TRA counters were handed over to the cashier who had send the cheques and cash to the bank after entering in the cash book (recite side). The dishonoured cheques were received by the cashier from the general section. The cashier after making necessary entry in the cash book and informing the TRA section hands over the cheques to the petitioner. Therefore the petitioner has very limited scope to the extent of pursuing the defaulting subscribers. Therefore under the procedure also the applicant has no scope of keeping dishonoured cheques i.e. 10,53,000 can be assumed as loss incurred due to the fault of the petitioner.

In the above circumstances it is humbly stated that the applicant is in no way responsible for causing loss to the department. The entire matter the facts relate to procedural aspect in office in which other section staff/officers including cashier/AO (Cash)/TRA section and officers are involved and the applicant also had role in the matter for pursuing the subscriber.

(3) That in reply to the statements made in para 1, 2, 3 and 4 of the written statement it is denied that the applicant had unauthorisedly made entries in the subscribers record card. The register of the dishonoured cheque is maintained by the cash section. The statements in para above are related and it is stated that applicant had not kept alleged cheques unauthorisedly and he has cause no revenue loss to the government.

It is stated that as explained in the preceeding para cheques are received by the cashier in cash office and cheque register is maintained by the section. There is no rule or office order that the applicant had to maintain the cheque register and hand over the cheques to higher authority

as alleged in the para 4 of the written statement. The respondents have made vague and cryptic statements.

(4) That the applicant denied the correctness of the statements in para 5 of the written statement. The applicant has not violated any rule nor he has kept the cheque under his custody as alleged. The respondents should be put to strict proof of violation of the rules as alleged. There is no para 6 in the Written Statement.

(5) That in reply to the statements made in para 8 it is stated that the applicant has been highly prejudice for enforcing the hearing on 8.10.2001 ignoring the already fixed date which denied him the scope of his defence by the duly consented and appointed defence assistant. This is violative of the procedure and offends Article 21 of the Constitution. Suddenly taken defence counsel was under compulsion and could not studied the brief fully and put up the defence adequately. This is violence of the principles of Natural Justice. The inquiry officer should learn that the duly appointed defence counsel, Shri Shankar Das is very thorough and in colourable exercise of power change the date of hearing to avoid Shri Shankar Das.)

(6) That statements in para 4.11 reiterated. (The State witness was dropped who was AO (TR) and his evidence could have been very important in showing the true picture and procedure. Malice in law is explicit in dropping the State Witness.)

(7) That in reply to statements made in para 9 it is stated that the statements of the other witnesses has became incomplete and irrelevant in view of their absence of evidence of Shri M.U. Gureswamy, AO (TD). It is denied that "till sending of dishonoured cheques to the Divisional Cashier all works relating to cheque collection are entrusted to the counter clerk (applicant) only". This is a deliberate wrong statement. There is no rules or procedure for such duty of the applicant as alleged in the para 9 of the W.S.

(8) That in reply to the statements made to para 10 to 16 of the W.S. the statements made in the OA and the preceding paragraphs of this rejoinder are retracted. (It is denied that evidence of state witness have gone against the applicant. The vital state witness was not examined. The inquiry report therefore perverse. This was done deliberately and for which the hearing date was altered.)

(9) That in reply to statements in para 17 to 27 the applicants retreated that statements in the O.A. and most humbly states that the inquiry officer has been conducted violating the mandate procedures as per rules and the punishments imposed deserves to be set aside and quashed and the application deserves to be allowed with cost.

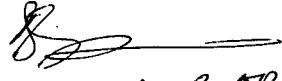
## VERIFICATION

I, Shri Prafulla Bordoloi, Son of Late Hemodhar Bordoloi, aged about 56 years, resident of Jorhat do hereby verify that statements made in para 1 to 9 are true to my knowledge.

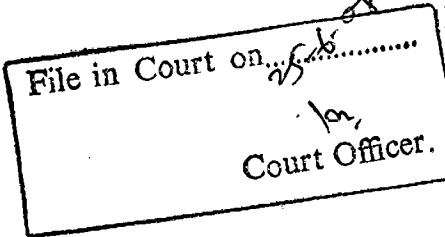
Place

Jorhat

21/7/06

  
(PRAFULLA BORDOLOI)

Signature.



1/28  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

O.A. 50/ 2005

Shri P. Bordoloi

-vs-

Union of India & Ors

Filed by H. G. applicant  
Z. S. Tomziri  
through S. C. Advocate  
25/6/08

IN THE MATTER OF :

Non payment of amount of pension  
and related benefits causing  
hardship to the applicant towards  
subsistence causing hindrance in  
conducting the case

-AND-

IN THE MATTER OF :

Order dated 7.8.2006 in M.P.No.  
81/2006 in the above O.A.

The humble applicant most respectfully begs to state as under.

1. That after compulsory retirement of the applicant with effect from 6.10.2004 by departmental proceedings the applicant files the instant O.A. challenging the action of the Respondents.

2. That the above action of the respondents caused the applicant immense hardship towards subsistence of the family and education of the children. After the compulsory retirement the applicant has not been paid pension and other retiral benefits.

3. That facing untold financial hardship the applicant filed M.P.No.81/2006 in the above O.A praying for release of pensionary benefits and the Hon'ble Tribunal was pleased to record the submission of the respondents that ".....it is under process and eligible amount

*Received  
Gobind Kumar  
S. C. Advocate  
25.06.08*

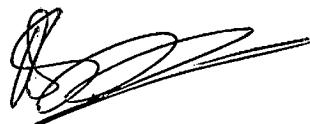


179

will be disbursed shortly....." and disposed of the M.P.81/2006 vide order dated 7.8.2006.

Copy of the order dated 7.8.2006 is annexed herewith and marked as Annexure-I.

4. That the applicant has come to know that the respondents have been deliberately not paying the pension and other amount to cause hardship to the applicant so that he is unable to contest the case and he is compelled to withdraw the same.
5. That under rule of law while under suspension also the person is paid subsistence allowance and non payment of the same vitiate the action under the disciplinary proceedings. The applicant submits that the respondents have denied the applicant his right to life and personal liberty deliberately neglecting the procedure established by law even after the order of the Hon'ble Tribunal dated 7.8.2006.
6. That the applicant submits that the impugned order of penalty is liable to be set aside on the ground of scope of subsistence and also causing hindrance in the legal process by putting him in acute financial constraint.
7. That this additional statements are made bonafide and for the ends of justice.



VERIFICATION

I, Shri Prafulla Bordoloi Son of Late Hemodhar Bordoloi, aged about 58 years by profession retired employee, resident of Tarajan, D.C.B Road, Jorhat do hereby verify that I am the applicant in the accompanying statement. I am acquainted with the facts and circumstances of the case and to swear this verification. I hereby verify that the statements made in paragraphs 1 to 6 are true to my knowledge and that I have not suppressed any material facts.

And I set my hand in this verification today the 24<sup>th</sup> June 2008 at Guwahati.

  
Signature

## CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

## ORDERS SHEET

1. Original Application No. ....
2. Misc. Petition No. ....
3. Contempt Petition No. ....
4. Review Application No. ....

Applicant (S) ... Smt. P. P. Pandit

Respondent (S) ... A. K. P. Ray

Advocate for the Applicant (S) ... A. A. S. Das

... S. N. Mandal

... Miss U. Das

Advocate for the Respondent (S) ... Addl. C.G.S.C.

Notes of the Registry

Date

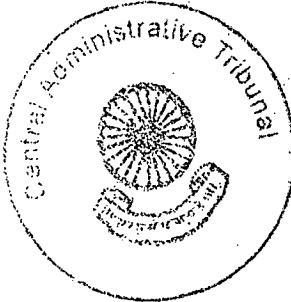
Order of the Tribunal

07.08.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.Hon'ble Sri Gautam Ray,  
Administrative Member.

This Misc. Petition has been filed by the Applicant seeking a direction to the Respondents to release the amounts of monthly pension, commutation of pension, leave salary, CGEIS, GPF and DCRG and permit the Petitioner to receive the same without prejudice to the cause in the O.A.

Ms. U. Das, learned Addl. C.G.S.C. for the Respondents submitted that she has received instruction over telephone that the matter is under serious consideration of the Respondents and it is under process and the eligible amount will be disbursed shortly.

Recording the said submission, the M.P. is closed and the Respondents are directed to expedite the matter as expeditiously as possible.



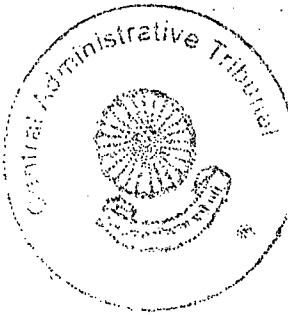
Attested  
General  
Advocate

182

Contd/-

07.08.2006

Dr. J.L. Sarker, learned  
Counsel for the Applicant submitted  
that the Applicant may be permitted  
to receive the amount without  
prejudice to the contention made in  
the O.A. Permission is granted.



M.P. is closed.

Sd/- Vice-Chairman

Sd/- Member (Admn)

Date of Application : 9/8/06  
Date on which copy is ready : 16/8/06  
Date on which copy is delivered : 16/8/06  
Certified to be true copy

*N. Sarker*  
16.8.06  
Section Officer (Jadl)  
C. A. T. Guwahati Bench  
Guwahati-5

*AKS*  
16/8/06

केन्द्रीय प्रशासनिक अधिकार  
Central Administrative Tribunal

25 JUL 2005

गुवाहाटी न्यायपीठ  
Guwahati Bench

103  
Filed by  
Harrané Kri. Gogoi  
Advocate  
25.7.2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI

O.A. No. 50 /2005

Prafulla Bordoloi ... Applicant

- Vs -

Union of India & Others ... Respondents.

(Additional Written statements filed by the respondent No. 2 and 3)

The Additional Written statements of the respondents are as follows:

1. That the aforesaid answering respondents have submitted their written statements in the case. But due to some inadvertence, certain facts and circumstances could not be incorporated in the said written statements. Moreover, during the pendency of the case, it has come to the notice of the respondents that there are some subsequent developments / discovery of additional information, which need to be brought before the Hon'ble Tribunal for just and proper adjudication of the matter and therefore this additional written statements has been filed.
2. That the Government of India pursuant to the New Telecom Policy, 1999, decided to set up a company under the name and style as Bharat Sanchar Nigam Limited (hereinafter referred to as the 'BSNL'). The said BSNL has been registered and incorporated under the Companies Act, 1956 on 15.9.2000. The date of Certificate of Incorporation of the said BSNL and the commencement of business is 15.9.2000. The said BSNL is a Govt. Company under Section 617 of the Companies Act, 1956 and is a body corporate. The BSNL is a State within the meaning of Article 12 of the Constitution of India as the Central Government has its deep and pervasive control in the affairs of the said company.

Surananda Nath Chakravarty

25.11.2000

গুৱাহাটী ন্যায়পাঠ  
Guwahati Bench

2

The copies of Certificate of Incorporation and the Commencement of Business are annexed as ANNEXURE: R10 & R11 respectively.

3. That as a matter of policy, the Government of India decided to transfer all the assets and liabilities of the Department of Telecommunications (referred to as the 'DOT') to the said newly set up BSNL with effect from 1.10.2000. This was done vide Govt. of India Office Memorandum No. 2-31/2000-Resig dated 30.9.2000. Amongst other, it was provided by the said OM that the matter relating to personnel (Governments servants) pending before various Administrative Tribunals, High Courts and Supreme Court, the company will defend and assigns and successor in interest as per existing rules till the time employees are on deemed deputation with the company. It has also been provided that any judgment / order / award delivered by an authority / Tribunal / Court / Arbitrator in respect of all the matters described there shall be implemented in letter and spirit by the company, in accordance with rules, regulations, directions and statutes.

A copy of the said OM dated 30.9.2000 is annexed as ANNEXURE: R12.

4. That the aforesaid change over / transformation started with effect from 1.10.2000 as a process. Although this change took place, the personnel (both the officers in the Group A & B and the employees in the Group C & D remained the same under the same roof and the same set up having the same functions. The change took place by fiction of law only for the purpose of determination <sup>of</sup> legal status regulating the rights and duties and in order to achieve the purpose of the New Telecom Policy, 1999. The said officers and the employees are / were the same in their official hierarchy as they were in the erstwhile DOT and then in BSNL after 1.10.2000. However, all of them were considered to be employees of the DOT on deemed deputation w.e.f. 1.10.2000 till they were finally absorbed in BSNL.

Sreenadra Nath Chouravarty,

25 JUL 2008

गुवाहाटी न्यायालय  
Guwahati Bench

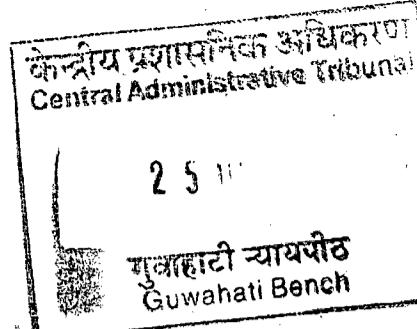
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5. That the process of absorption of the Group C & D employees started first and they were given the chance to exercise option either to be absorbed in BSNL or to remain in DOT. The said process started vide BSNL communication No.BSNL/4/SR/2000 dated 2.1.2001, D.O.No.BSNL/4/SR/2000 dated 3/1.2001, STES-BSNL/Assam/2-58/2 dated 8.1.2001, DOT letter No.27-1/2001-SNG dated 13.11.2001 and such process were to be completed by 19.2.2002. However, those employees against whom the disciplinary action were contemplated or pending were treated differently. Those who exercised option to be absorbed in BSNL have been absorbed through a Presidential Order. Thereafter, the process of absorption of the Group B officers started in the year 2003 and the said process is, except few cases, also almost over. The process of absorption of Group A officers (Indian Telecom Services) has not yet been taken up so far.

The answering respondents crave the leave of the Hon'ble Tribunal to allow them to refer to and rely upon the said letters/ communication dated 2.1.2001, 3/1.2001 8.1.2001 and 13.11.2002 at the time of hearing.

6. That as stated above, Sri Prafulla Bordoloi was not absorbed in BSNL as the disciplinary action was pending against him and accordingly he remained the employee of DOT in deemed deputation by virtue of the operation of the provisions of the OM dated 30.9.2000 till he was given the punishment as he found guilty. By the provisions of the OM dated 30.9.2000, the applicant was not exactly on deputation within the true import of the meaning of 'deputation' as the borrowing and the lending departments remained the same except the concept of being determined as different entity attributed by fiction of law. Therefore, the term 'deemed deputation' has been used in the said OM. That being the ground reality, the disciplinary and the appellate authority remained the same either in DOT or in BSNL in the instant case. In BSNL (the deemed borrowing authority) they are the authority for the purpose of disciplinary action as required under Rule 20 of the CCS (CCA) Rules, 1965 as in deemed deputation as they were not absorbed in BSNL at the said relevant point of time. Whereas, the same authority were also the authority for the DOT (lending department) for the purpose of the provisions of the Rule 20 of the CCS (CCA) Rules, 1965. Hence, the provisions of Rule 20 (2) (ii) cannot be applied in the instant case as the disciplinary /

Sreenadra Nath Chakravarty.



4

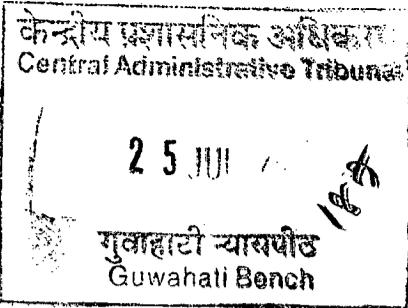
appellate authorities are the same as indicated above. Therefore there was no infirmity in the award of punishment to the applicant.

7. That the BSNL vide their circular letter No.250-80/2001-Pers-III dated 5.11.2001 decided to adopt the CCS (CCA) Rules, 1965 till they frame their own Administrative / Disciplinary Rules. The Board of Directors of the BSNL vide circular letter No.2580/2001. Pers-III dated 11.7.2002 took the decision to adopt the CCS (CCA) Rules, 1965 and the CCS (Conduct) Rules, 1964 for the Group C & D and clarified certain authorities to be therein. The DOT vide their Circular letter No. 15-7/2003-Vig.III dated 23.12.2003 has also issued direction to the BSNL that the cases of dismissal / removal of the employees absorbed in BSNL be referred to the DOT for confirmation / ratification to ensure the protection given under Rule 37 A and sub-rule 24 (c) of the CCS (Pension), Rules, 1972. In the instant case the applicant was never absorbed in BSNL and therefore the question of confirmation / ratification by the lending department (DOT) does not arise.

The copies of the said circular letter dated 5.11.2001, 11.7.2002 and 23.12.2003 are annexed hereto as the ANNEXURE: R13, R14 & R15 respectively.

8. That after 1.10.2000, when the personnel of the erstwhile DOT got absorbed in BSNL, such absorbed employee were debarred from approaching the Central Administrative Tribunal to implicate BSNL as a party respondent as there has been no notification as required under Section 14(2) of the Administrative Tribunal Act, 1985 to bring the BSNL within the jurisdiction of the said Hon'ble Tribunal. There are a plethora of decision of the Hon'ble Tribunal and High Court by which it has been held that the Central Administrative Tribunal has no jurisdiction over the BSNL as there is no notification so far issued by the Govt. of India in this regard as required under Section 14(2) of the Administrative Tribunal Act, 1985. Hence, in this instant case the respondent No. 2 and 3 were the official respondents under the DOT prior to 1.10.2000 and after that they are authority under the BSNL. The said posts of respondent No. 2 and 3 are Group – A posts

*Surendra Nath Chakravarty*



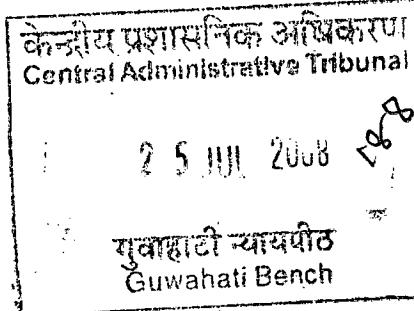
held by ITS officers. Such officers are in deemed deputation in BSNL (the borrowing authority) and are still the public servants under the DOT (the lending authority). The said posts / official designation and the authorities has merged into one instead of two different authorities on 1.10.2000 onwards and the erstwhile posts / designations / authority under the DOT have ceased to exist. For the said typical reasons and ground reality, the case of the applicant cannot be referred to the non-existing authority. Hence the procedure adopted to arrive at a decision to punish the delinquent employee does not suffer from any illegality or infirmity as alleged by the applicant.

9. That after the award of punishment of compulsory retirement, the respondents asked the applicant to fill up the necessary forms / applications for grant of pension and other DRCG benefits. Accordingly the applicant submitted all the relevant forms and applications supported by necessary information. The case of grant and payment of GPF, Group Insurance and Leave Encashment has already been settled and paid to the applicant by Rs.4,58,334/- as GPF, Rs.17,760/- as Group Insurance and Rs.1,46,590/- as Leave Encashment. The case of sanction of pension has also already been sent to the appropriate authority vide communication dated 21.9.2006. All these information are provided by the concerned authority of the BSNL vide letter No.E-1/Pen/PB/Ex.Sr.TOA(G)/GMTD-JRT/08-09/15 dated 6.7.2008 along with the enclosure annexed thereto.

The copies of the said letter dated 6.7.2008 along with the enclosures are annexed as ANNEXURE: R16 (colly)

10. That the allegation of finding in the disciplinary proceeding as perverse and improper assessment of evidence and failure to adduce necessary witnesses etc. cannot sustain in the instant case as the fact remains is that the delinquent employee deliberately and clearly violated the provisions of maintaining the records involving financial matter and for not bringing the same to the notice of the concerned authorities for appropriate action and to avoid financial loss to the department.

Surendra Nath Chakravarty



6

11. That the statements made and the defence set up in the written statements already filed in the matter may kindly be considered along with this additional written statement that has been filed for the just and proper adjudication of the matter.

In the premises aforesaid, it is therefore, prayed that your Lordships would be pleased to hear the parties peruse the records and after hearing the parties and perusing the records also be pleased to dismiss the application with cost.

Sreendra Nath Chakravarty

25/11/11

7

गुवाहाटी न्यायालय  
Guwahati Bench

VERIFICATION

I, Shri S.N. Chakraborty, son of late Taranath Chakraborty, aged about 53 years, presently working as the Assistant Director (Legal) in the office of the Chief General Manager, Telecom, Bharat Sanchar Nigam Limited, Administrative Building, Panbazar, Guwahati—1 and taking steps in court cases and being duly authorized and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para 1, 4, 8, 10 & 11 are true to my knowledge and belief, those made in para 2, 3, 5, 6, 7 & 9 being matter of records, are true to my information derived therefrom and the rest are my humble submission in before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 25<sup>th</sup> day of July, 2008 at Guwahati.

Surendra Nath Chakraborty.

DEPONENT



प्रारूप एक

Form 1

नियमन का प्रमाण पत्र

**Certificate of Incorporation**

रां. 55-107739 तिथि 19. 22.

No. 55-107739 of 2000-2001

मैं प्रत्यक्ष प्रमाणित करता हूँ कि आज, भारत संचार निगम लिमिटेड

कम्पनी अधिनियम 1956 (1956 का 1) को अधीन प्रमाणित की गई है और यह कम्पनी परिसीमित है।

I hereby Certify that BHARAT SANCHAR NIGAM LIMITED

is this day incorporated under the Companies Act, 1956 (No. 1 of 1956) and that the Company is limited.

मेरे हस्ताक्षर से आज ता० 24 अक्टूबर, 1922 को दिया गया।

Given under my hand at NEW DELHI this FIFTEENTH  
day of SEPTEMBER Two Thousand.

(राकेश चन्द्र)

कम्पनी रजिस्ट्रार

Registrar of Companies

ए. ए. शेत्र दिल्ली एवं हरियाणा  
N.C.T. of Delhi & Haryana

Certified to be true Copy.

Hemanta Kumar Gogoi  
Advocate



No. 2-31/2000-Kesig.  
Government of India  
Ministry of Communications  
Department of Telecommunication Services

ANNEXURE : R/2

New Delhi, the 30<sup>th</sup> September, 2000.

OFFICE MEMORANDUM

Subject:-

Transfer and assigning of existing and subsisting agreements and Memoranda of Understanding of the Department of Telecommunications, Department of Telecom. Services and Department of Telecom. Operations to Bharat Sanchar Nigam Limited.

In pursuance of New Telecom Policy 1999, the Government of India has decided to corporatise the service provision functions of Department of Telecommunications (DoT). Accordingly, the undersigned is directed to state that the Government of India has decided to transfer the business of providing telecom services in the country currently run and entrusted with the Department of Telecom Services(DTS) and the Department of Telecom Operations(DTO) as was provided earlier by the Department of Telecommunications to the newly formed Company viz., Bharat Sanchar Nigam Limited (the Company) with effect from 1<sup>st</sup> October 2000. The Company has been incorporated as a company with limited liability by shares under the Companies Act, 1956 with its registered and corporate office in New Delhi.

2. The Department of Telecom. Services and Department of Telecom. Operations concerned with providing telecom services in the country and maintaining the telecom network/telecom factories were separated and carved out of the Department of Telecommunications as a precursor to corporatisation. It is proposed to transfer the business of providing telecom. services and running the telecom factories to the newly set up Company, viz. , Bharat Sanchar Nigam Limited w.e.f. 1<sup>st</sup> October 2000. The Government has decided to retain the functions of policy formulation, licensing, wireless spectrum management, administrative control of PSUs, standarisation & validation of equipment and R & D etc. These would be responsibility of Department of Telecommunications (DoT) and Telecom Commission.

3. Government of India has decided to transfer all assets and liabilities, (except certain assets which will be retained by Department of Telecommunications required for the units and offices under control of DoT, to be worked out later on), to the Company with effect from 1<sup>st</sup> October 2000. All the existing contracts, agreements and MoUs entered into by Department of Telecommunications, Department of Telecom Services and the Department of Telecom Operations with various suppliers, contractors, vendors, companies and

Certified to be true Copy.

*Hemanta K. Gogoi*

Advocate

केन्द्रीय प्रशासनिक अदायक (पा)  
Central Administrative Tribunal

25 JUL 2000

गुवाहाटी न्यायपीठ  
Guwahati Bench

individuals in respect of supply of apparatus and plants, materials, purchase of land and buildings and supply of services, subsisting on date of transfer of business and/or required for operations of the Company and with subscribers of all types of services to be provided by the Company, will also stand transferred and assigned to the Company with effect from 1<sup>st</sup> October, 2000. The Company will be solely responsible for honouring these contracts, agreements and MoUs for their due performance and in case of disputes to sue and be sued as the successor/assignee under the contract, agreement and MoU.

4. The Company, Bharat Sanchar Nigam Limited will file suitable required appearances/memos in all pending cases before the Courts, Tribunals, Arbitrators, Adjudicators in all matters except issues of licensing; and policymaking which are with the Department of Telecommunications. The Company may get substituted or become an additional party as the case may be, or just conduct the cases as assigns or successor in interest of the Government/Department of Telecommunications, as permissible. This may, in so far practicable, be completed by 31<sup>st</sup> December 2000.

5. In respect of matters relating to personnel (Government servants) pending before various Administrative Tribunals, High Courts and Supreme Court the Company will defend as assigns or successor in interest as per existing rules till the time employees are on deemed deputation with the Company.

6. Any judgement/order/award delivered by an Authority/Tribunal/Court/Arbitrator in respect of all the matters described there shall be implemented in letter and spirit by the Company, in accordance with rules, regulations, directions and statutes.

7. These instructions will come into force with effect from 1<sup>st</sup> October 2000.

*Vinod Vaish*  
(VINOD VAISH)  
Secretary to the Government of India

To

To

1. The Secretary DoT and Chairman Telecom Commission.
2. The Secretary, DTS.
3. The Secretary, DTO and Member(Prodn.) Telecom Commission.
4. Member(Finance) Telecom Commission.
5. Member(Services) Telecom Commission.
6. Member(Technology), Telecom Commission.
7. Additional Secretary(T) and Secretary Telecom Commission
8. Joint Secretary(T), DoT.

25/11/

केन्द्रीय प्रशासनिक अधिकारण  
Central Administrative Tribunal

25 JUL 2008 194

9. Joint Secretary(A), DoT.

10. OSD Corporatisation (DoT) with request to bring it to the notice of the Board of Directors of Bharat Sanchar Nigam Limited.

11. All Chief General Managers of Telecom Circles, Metro Districts, Project Circles, Maintenance Regions, Telecom Stores, Railway Electrification Projects with request to communicate these orders to all units working under their administrative control.

12. All Principal Chief Engineers / Chief Engineers - Civil and Electrical Wings, with request to communicate these orders to all units working under their administrative control.

13. Chief Architects - Che. i., Calcutta and Mumbai, with request to communicate these orders to all units working under their administrative control.

14. All Chief General Managers - Telecom Factories, with request to communicate these orders to all units working under their administrative control.

15. Sr.DDG(TEC)

16. Sr.DDsG- (BW)/(ARCH.)/(ELECT.)

17. Sr.DDG(ML) - with request to communicate these orders to all PSUs working under their administrative control.

18. Sr.DDG(IC & A)

19. Executive Director, C-DOT.

20. Sr.DDG(Vigilance), DoT

20. DDG(Pers.)

Copy to:-

1. PS to Minister of Communications
2. PS to Minister of State for Communications
3. All Advisers, DoT.

Copy also to:-

1. Bharat Sanchar Nigam Limited.

भारत संचार निगम लिमिटेड  
(भारत सरकार का उद्यम)  
**Bharat Sanchar Nigam Limited**  
(A Govt. of India Enterprise)

No. 250-80/2001-Pers.-III  
Dated: 5/11/2001

To

All Chief General Managers  
Telecom Circles/Districts/Administrative Offices,  
Bharat Sanchar Nigam Limited,

Sub: Adoption of the existing Appointing/Disciplinary/Appealato authorities contained in P&T Manual Volume III and C.C.S. (C.C&A) in respect of Group 'C' & 'D' Staff absorbed in BSNL.

Sir,

I am directed to say that as per letter No. 2-29/2000-Restg. dated 30.8.2000, the staff which was transferred to BSNL on deemed deputation basis was to be governed under the existing disciplinary rules, including C.C.S. (C.C&A) Rules, till the absorption process was completed. The process of absorption in respect of Group 'C' & 'D' staff has been finalized and it will take time to frame its own Administrative/Discipline Rules.

2. As such, the matter has been examined and it has now been decided that the existing Disciplinary/Appointing/Appealato Authorities as contained in the P&T Manual Volume III and other rules like C.C.S. (C.C&A) Rules, 1965 shall be applicable in respect of all Group 'C' & 'D' staff who have been absorbed in BSNL, till BSNL formulates its own Administrative/Disciplinary Rules. These rules will also be applicable to the staff recruited by BSNL from 1-10-2000 onwards also.

3. The above contents may be brought to the notice of all Competent Authorities.

Yours faithfully,

(RAJENDER PRASAD)  
ASSTT. DIRECTOR GENERAL (PERS.-III)  
TEL: 3310401/3036223

Copy for information to:-

1. CMD. BSNL
2. Director (HRD), BSNL
3. Sr. D.D.G (Mg.)/D.D.G (Estt.), DoT
4. D.D.G (Pers./Trg.)/M. D.D.G (CEST/Trg./TE)
5. C. S. & GM(Legal) - w.r.t. letter NO. BSNL/SECTT/EXT/13 Mg/11

Sanchay Bhawan, 20, Acharya Road, New Delhi-110001

Certified to be true Copy.

Hemanta Kr. Garg  
Advocate

ANNEXURE : R 14

196

Received  
11/7/02

भारत संचार निगम लिमिटेड  
(भारत सरकार का उद्यम) 10/14  
Bharat Sanchar Nigam Limited  
(A Govt. of India Enterprise)

No. 250-80/2001-Pers.-III  
Dated: 11/07/2002

To

All Chief General Managers,  
Vigilance Officers of all Telecom Circles,  
Telecom Circles/Districts/Administrative Offices,  
Bharat Sanchar Nigam Limited.

Sub: Adoption of the existing Appointing/Disciplinary/Appealate authorities  
contained in schedule of and C.C.S. (C.C.&A) and P&T Manual Volume  
III in respect of Group 'C' & 'D' Staff absorbed in BSNL.

Sir,

I am directed to invite a reference to this office letter of even number  
dated 5<sup>th</sup> November, 2001 on the subject noted above and to say that the  
matter has been examined further and the decisions taken by the BSNL  
Board in this regard are hereby conveyed:

- a) The provisions of Central Civil Services (Conduct) Rules, 1964,  
as amended from time to time, shall be applicable to Group C & D  
staff absorbed in BSNL for defining the Conduct/Misconduct on their  
part till BSNL frames its own Conduct Rules.
- b) The procedure laid down under the Central Civil Services  
(Classification, Control & Appeal), Rules, 1965, as amended from time  
to time, shall be followed in dealing with the disciplinary cases of  
Group C & D staff of BSNL till BSNL frames its own Discipline &  
Appeal Rules.
- c) (i) The Heads of Circles/Chief General Managers, Metro  
Telephone Districts shall continue to exercise the powers of revision in  
terms of the provisions of Rule 29(1)(vi) of CCS (CCA) Rules, 1965  
against the Appellate orders passed by the authorities subordinate to  
them in the disciplinary cases of Group C & D staff absorbed in BSNL  
  
(ii) Director (HRD) BSNL Board shall exercise the powers of  
revision under Rule 29 of CCS (CCA) Rules, 1965, against the  
appellate orders passed by the Heads of Circles/Chief General  
Managers, Metro Telephone Districts as Appellate Authorities, as the  
case may be, in the disciplinary cases of Group C and D staff  
absorbed in BSNL.

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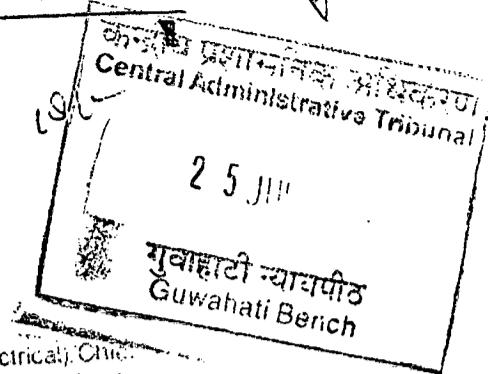
Sanchay Bhawan, 20, Ashoka Road, New Delhi-110001

Certified to be true Copy.  
Hemanta Kr. Gogoi  
Advocate

-15-

20/c

-2-



d) The Chief Engineer (Civil)/Chief Engineer (Electrical)/Chief Architect shall exercise powers of the Appellate Authority against the penalties specified in Rule 11 of the CCS (CCA) Rules, 1965 awarded to Group "C" staff absorbed in BSNL by the Superintending Engineer (Civil), Superintending Engineer (Electrical)/Senior Architect, as the case may be.

e) The powers of appointment of ad hoc Disciplinary Authority as contained in Rule 12 (2) of CCS (CCA) Rules, 1965, shall be exercised by the Heads of Circles/Chief General Managers, Metro Telephone Districts, as the case may be, in the case of Group C and D staff absorbed in BSNL.

f) An appeal against an order of punishment specified in Rule 11 of the CCS (CCA) Rules, 1965 shall henceforth be made by the concerned office bearer of the recognized union/Association to the BSNL Board under the provisions of Rule 24(3) of CCS (CCA) Rules, 1965.

2. The decisions of the BSNL Board enumerated above will also be applicable to the staff recruited by BSNL.

3. These instructions may be given wide publicity and brought to the notice of all concerned for their information and guidance.

4. Hindi version will follow.

Yours faithfully,

*Rajender Prasad*  
(RAJENDER PRASAD)  
ASSTT DIRECTOR GENERAL (PERS-III)  
TEL: 3037182, 3037181

Copy for information to:-

- i) CMD, BSNL
- ii) Directors, BSNL Board
- iii) Sr. DDG (Vig.)/DDG(Est)/ADG(Vig.III), DoT
- iv) Sr.DDsG/DDsG (PERS/O&M/TRG., BSNL
- v) All Unions/Associations/Federations of BSNL

20/c



Government of India  
Ministry of Communications & IT  
Department of Telecommunications  
Bharti Bhawan, Sansad Marg, New Delhi-110001

2003-7-2003-Vig.III

Date: 1/1/04

केन्द्रीय प्रशासनिक अधिकारपाल  
Central Administrative Tribunal

25

गुवाहाटी न्यायालय  
Guwahati Bench

All Heads of Telecom. Territorial Circles, (Kerala)  
The Chief General Managers,  
Calcutta Telephone District/Chennai  
Telephone District,  
The Chief General Managers, Telecom.  
Stores, Calcutta,  
The Chief General Managers, Projects,  
Delhi/Mumbai/Calcutta/Chennai.  
The Chief General Managers, Maintenance  
Regions, Delhi/Mumbai/Calcutta/Chennai.  
The Chief General Managers, T&D Circle/TTC,  
Jabalpur.  
The Chief General Manager, AL TTC, Ghaziabad.  
The Chief General Manager, OA Circle, Bangalore.  
The Chief General Manager, NE Task Force,  
Guwahati.  
The Chief General Manager, Railway Electrification,  
Nagpur.  
The Chief General Manager, Data Networks  
NOIDA(UP).  
The Chief General Manager, NCES, New Delhi,  
Heads of all other Administrative Offices.

Subject - Setting up of Bharat Sanchar Nigam Limited - Review/confirmation of the  
decisions of the company to award the penalty of removal/dismissal from  
service to the employees absorbed in the company - Regarding

I am directed to invite your kind attention to clause(v) of para 4 contained in  
Ministry of Communications O.M. No. 2-29/2000-Resg. dated 30.09.2000 on the  
subject noted above wherein it was stated that the officers and the staff of  
Department of Telecom., erstwhile Department of Telecom. Services and  
Department of Telecom. Operations transferred to Bharat Sanchar Nigam Limited  
on deputed basis would continue to be subject to all rules and regulations

Certified to be true Copy,

Hemant K. Garg  
Advocate

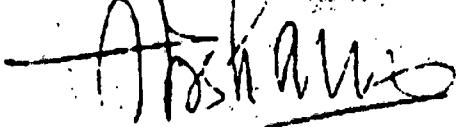
25 JUL 2006

गुवाहाटी न्यायालय  
Guwahati Bench

2  
is now applicable to the Government servants, including the CCS (CCA) Rules, Pension and Pensions' Welfare also issued finally by the company. The Department of Rules, 1972 which stipulated the terms and conditions for payment of pension etc. to the Government servants consequent upon conversion of a Government Department into a public sector undertaking or an autonomous body. Sub Rule 24(c) of the said Rule provided that the removal or dismissal from service of the public sector undertaking or autonomous body of any employee after his absorption in such undertaking or body for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his removal or dismissal or retirement the decisions of the undertaking or body shall be subject to confirmation by the Ministry administratively concerned with the undertaking or body. The provisions of the said Rule were also made applicable to the employees working in the Department of Telecom, erstwhile Department of Telecom Services and Department of Telecom Operations who were initially transferred to Bharat Sanchar Nigam Limited on deemed deputation basis and were to be subsequently absorbed in the company. Group 'C' and 'D' employees transferred on deemed deputation to Bharat Sanchar Nigam Limited have already been absorbed in the company with effect from 01.10.2000. However, it has been noticed that the respective Disciplinary Authorities have been awarding the penalty of removal/dismissal from service to Group 'C' and 'D' employees absorbed in the company without getting their decisions reviewed/confirmed by the Department of Telecom. Thus, the employees being removed/dismissed from the service of Bharat Sanchar Nigam Limited in this manner are being deprived of the statutory protection made available to them under the CCS (Pension) Rules, 1972 against forfeiture of the retirement benefits for the service rendered by them under the Government. It is, therefore, once again reiterated that all disciplinary cases, in which it is proposed to award the penalty of removal/dismissal from service on any employee absorbed in the company, should be referred to the Department of Telecom, along with all the documents relied upon and the tentative proposal of the Disciplinary Authority through the Corporate Office of BSNL for ratifying the proposed action before the penalty of removal/dismissal from service is actually awarded to an employee.

It is requested that the above instructions may be given wide publicity and brought to the notice of all concerned for their information and guidance.

Yours faithfully,

  
(N.K. SHARMA)  
UNDER SECRETARY (VIG.III)



(A GOVERNMENT OF INDIA ENTERPRISE)  
OFFICE OF THE GENERAL MANAGER  
JORHAT TELECOM DISTRICT  
JORHAT - 785001

No. E-1/Pen/PB/Ex. Sr. TOA(G)/GMTD-JRT/08-09/ 15

Dated at Jorhat the 06-07-2008

কে.এ.সি.বি.এ.লি.সি. আমেরিকা  
Central Administrative Tribunal

25 JUL 2008

গুৱাহাটী প্রান্তীয়  
Guwahati Division

To,  
The Asstt. General Manager (Admn)  
O/O the Chief General Manager,  
Assam Telecom Circle, Guwahati - 1

Sub:- OA No. 50/2005 filed by Sri Prafulla Bordoloi Ex. Sr. TOA(G), Jorhat.

Ref:- Your letter No. STES - 21/547/38 dtd. 28-06-2008.

With reference to your aforesaid letter on the mentioned subject, it is to intimate that the following payments were made to Sri Prafulla Bordoloi Ex. Sr. TOA(G) owing to compulsory retirement.

Pension papers were already submitted to the Communication Accounts Officer, O/o the Lt. Controller of Communication Accounts, Assam Circle, Guwahati, vide this office letter No. E-1/Pen/Comp. -Retirement/PB/Ex. Sr. TOA(G)/GMTD Jr/Oct-04/06-07/ Dated 21/09/2006.

1. GPF amount RS. 458334/-
2. CGEGIS amount RS. 17760/-
3. Leave Encashment Rs. 146590/-

Photocopy of the above mentioned Payment for documentary evident is forwarded herewith for favour of your necessary action please.

Enclosed:- As above.

Divisional Engineer (A & O)  
O/o the GMTD, BSNL, Jorhat.

\*\*\*\*\*

Certified to be true Copy.  
Nemanta Kr. Gogoi  
Advocate

Govt. of India  
OFFICE OF THE JT. CONTROLLER OF COMMUNICATION ACCOUNTS  
ASSAM TELECOM CIRCLE : GUWAHATI-781007

No. ASSAM/DOT-CELL/CCA/EP

Dated at Guwahati the ..... 19-03

2007

25

গুৱাহাটী ন্যায়ালয়  
Guwahati Bench

Sanction of the Dy. Controller of Communication Accounts O/o the controller of Communication Accounts, Assam Telecom Circle, Guwahati is hereby accorded for payment of Rs. 4,58,334/- (Rupees Four lacs and Fifty eight thousand three hundred and thirty four only) being the amount of GPF final payment to Sri/Smt. Prafulla Bordoloi, Ex. T.o.t./Jorhat (C.R.S. m. 06/10/2004) holder of GPF account No. 7027

The amount will be debitable to MH - 8009 GPF other than Gr. D/Gr. D

sd/-

Communication Accounts Officer  
O/o the Controller Communication Accounts  
Assam Telecom Circle  
Guwahati

Copy to:

1. The General Manager/Telecom District Manager, Ex. Ad. Cashier/Jorhat

2. Shri  
Prafulla Bordoloi  
Tengzan, D.C.B. Road,  
Green View Lane  
Jorhat - 785001

sd/- 19/3/07  
Communication Accounts Officer  
O/o the Controller Communication Accounts  
Assam Telecom Circle

ANNEXURE - 'C'

Receipt Bill

केन्द्रीय प्रशासनिक अधिकारी न्यायपीठ  
Central Administrative Tribunal  
Guwahati Bench

25 JUL 2008

Received the sum of Rs. ....  
being the total of entitlement of Rs. ....  
from the Insurance Fund and or of Rs. ....  
from the Saving Fund ....

Issued to

Name : SRI PROFULLA BORDOLOI

Designation : S. T.O. (S)

under the Central Government Employees Group Insurance Scheme, 1980.

Dated : *10/07/08*

Account Officer (Cash)  
o/o the G.M.T. B.S.N.L.  
JORHAT.

*Signature*  
Signature of the Recipient  
PROFULLA BORDOLOI  
(Name in block letters)

FOR USE IN THE DEPARTMENTAL OFFICE

(a) Relevant Bio-Data of the member

1. Type of group of the member (i.e. lowest group)  
Viz. D/C/B/A on initially joining the scheme on .....
2. Year of acquiring membership of higher group

*✓) C 1.1.82 to 31.12.89 @ Rs 20/-  
✓) B 1.1.90 to 25.04.2003 @ Rs 30/-  
3) A .....*

b) Countersigned to payment of Rs. .... to claimant(s)  
Crossed Cheque / Demand Draft to issued in favour of claimant(s)

*✓) Certified that the a/c 2613*

*Subscription duly received Signature*

*from the official pay letter's shown Date*

*in the Annexure C/ draft*

*available office records. Designation of DDO*

*✓) S. M.*  
Accounts Officer (Cash)  
o/o the G.M.T. B.S.N.L.  
JORHAT - 785001

FOR USE IN THE CIRCLE TELECOM / POSTAL

Passed for payment of Rs. 17,760/- only. (Rupees seventeen thousand seven hundred sixty only)

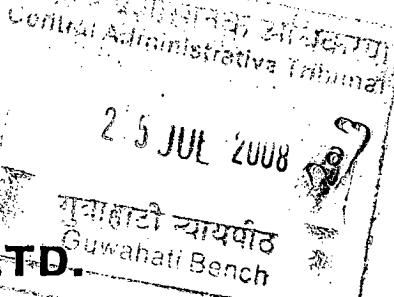
Payment through Cheque (a) No(s) .... dated ....

Copy to : (1) Profulla Bordoloi, Tarijan,  
DCS Road, Green View Lane,  
Jorhat - 785001.

(2) To (Cash) of the G.M.T. B.S.N.L.,  
Jorhat - 785001.

*✓) S. M.*  
Account Officer  
G.M.T. B.S.N.L.  
Jorhat - 785001

*✓) S. M.*  
Account Officer  
G.M.T. B.S.N.L.  
Jorhat - 785001



**BHARAT SANCHAR NIGAM LTD.**

(A GOVERNMENT OF INDIA ENTERPRISE)

OFFICE OF THE GENERAL MANAGER

JORHAT TELECOM DISTRICT

JORHAT - 785001

No. E - 1 / PEN / P Bordoloi / Ex. Sr TOAG/ 06-07/G

Dated at Jorhat the 14.11.06

Sanction of the GMTD, BSNL Jorhat is hereby conveyed for payment of an amount of Rs 146,590/- (Rupees One lakh forty six thousand five hundred ninety) only to Sri Prafulla Bordoloi, Ex- Sr TOA (G), DCB Road Green View Lane Tarajan P.O Jorhat Dist - Jorhat, Assam on account of Leave Encashment for the unutilized leave for 300 days at his credit on the last working days of his service, i.e. 06-10-2004. The official was compulsorily retired from service w.e.f. 06-10-2004.

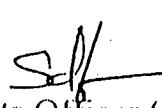
Leave at Credit	:= 300 days
Last Pay drawn	:= Rs 9,825/-
DA @ 49.2 %	:= Rs 4,834/-
Total	:= Rs.14,659/-

Rs. 14,659 x 300  
-----  
30  
Rs. 146,590/-

  
Divisional Engineer (P&A)  
O/o the GMTD, BSNL Jorhat-1

Head of Account:-

Pay Rs 146,590/- (Rupees one lacks forty six thousand five hundred ninety only)

  
Accounts Officer (Cash)  
O/o the GMTD, BSNL Jorhat-1

Copy to:- 1. The Divisional Cashier, O/o the GMTD, BSNL, Jorhat.  
2. Sri Prafulla Bordoloi, Ex- Sr TOA (G), DCB Road Green View Lane Tarajan P.O Jorhat for information and n/action.  
3. Office Copy.

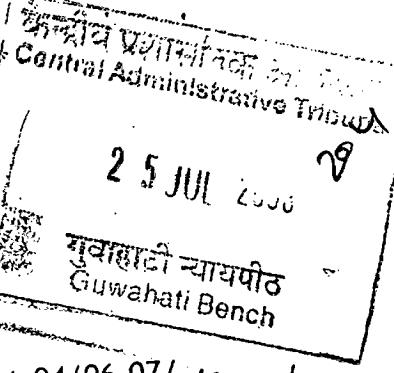
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LE/1

-22-

**BHARAT SANCHAR NIGAM LTD.**

(A GOVERNMENT OF INDIA ENTERPRISE)  
OFFICE OF THE GENERAL MANAGER  
JORHAT TELECOM DISTRICT  
JORHAT - 785001



No.E-1/ PEN/ Comp.- Retirement/ PB /Ex. Sr.TOA(G)/GMTD Jr/Oct-04/06-07/  
Dated at Jorhat the 23.8.07/06.

To

The Communication Accounts Officer,  
O/o the Jt. Controller of Communication Accounts,  
Assam Circle, Guwahati - 781007.

Sub: - Compulsory retirement case in respect of Sri Prafulla Bordoloi, Ex.  
Sr. TOA(G), O/o the GMTD, BSNL, Jorhat w.e.f. 06-10-2004.

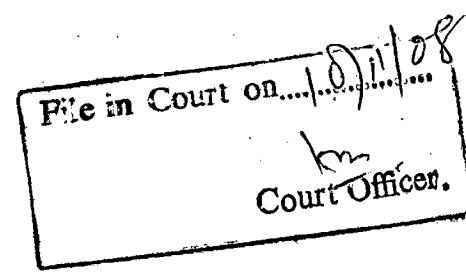
Pension papers with relevant documents in respect of Sri Prafulla Bordoloi, Ex. Sr.TOA(G), O/o the GMTD, BSNL, Jorhat retired on compulsory retirement ground w.e.f. 06-10-2004 have been forwarded to you for favour of your kind necessary action please.

Following documents are enclosed herewith.

Enclo:

1. The Service Book, LA & Nominations.
2. Check List
3. Form - 7
4. Service Verification Sheet.
5. Calculation Sheet of pensionary benefit.
6. Provisional / Final LPC.
7. Certificate of Departmental claims
8. Form - 3 } ( Duplicate )
9. Form - 5 }
10. Joint passport size photographs (3 copies) attested by the Head of office.
11. Left Hand thumb and finger impressions of the retiree
12. Height and identification marks in two sheets.
13. Annexure C (triplicate)
14. Specimen signatures.
15. Form - 4 } ( Duplicate )
16. Form - A }
17. Declaration of Medical Allowance.

Divisional Engineer (Plg. & Admn.)  
O/o the GMTD, BSNL, Jorhat



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: AT GUWAHATI

**O.A No.50/2005**

Sri Prafulla Bordoloi

....Applicant

-VS-

Union of India & others

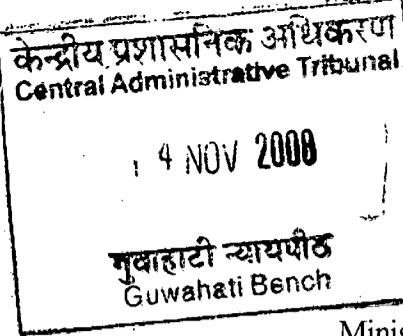
....Respondents

The respondents filed Circular dated 23.12.2003 along with Additional Affidavit filed by respondent No. 2 and 3 as **ANNEXURE: 15** in this Hon'ble Tribunal. The said Annexure being not easily readable, the **TYPE COPY** of the same is filed herewith and may kindly be read as the said **ANNEXURE: 15** of the respondents.

Filed by:

*Prafulla*  
Advocate  
Date: 10.11.2008

R  
10.11.08  
Prafulla  
(For Dr. J.L. Sankar.)



(TYPE COPY)

Government of India  
Ministry of Communications & IT  
Department of Telecommunications  
Dak Bhawan, Sansad Marg, New Delhi – 110001

No. 15-7/2003-Vig.III

Dated: 23.12.2003

To

All Heads of Telecom. Territorial Circles  
The Chief General Managers  
Calcutta Telecom Districts / Chennai  
Telephone District  
The Chief General Managers, Telecom  
Stores, Calcutta  
The Chief General Managers, Projects  
Delhi / Mumbai / Calcutta / Chennai  
The Chief General Managers, Maintenance  
Regions, Delhi / Mumbai / Calcutta / Chennai  
The Chief General Managers, T&D Circle/TTC  
Jabalpur  
The Chief General Managers, ALTTC, Ghaziabad  
The Chief General Manager, QA Circle, Bangalore,  
The Chief General Manager, NE Task Force  
Guwahati  
The Chief General Manager, Railway Electrification  
Nagpur  
The Chief General Manager, Data Networks  
NOIDA (UP)  
The Chief General Manager, NCES, New Delhi  
Heads of All other Administrative Offices

Subject: Setting up of Bharat Sanchar Nigam Limited – Review / confirmation of the decisions of the company to award the penalty of removal / dismissal from service to the employees absorbed in the company – Regarding.

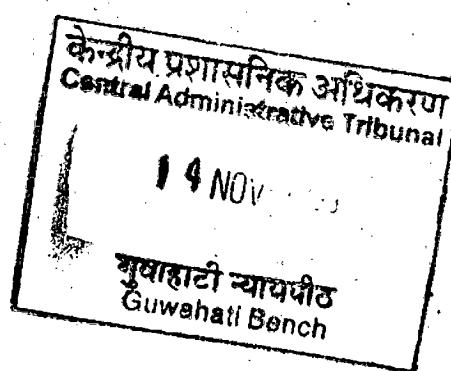
Sir,

I am directed to invite your attention to the clause (v) of para 4 contained in Ministry of Communications OM No.2-29/2000.Resig dated 30.9.2000 on the subject noted above wherein it was stated that the officers and the staff of Department of Telecom., erstwhile Department of Telecom. Services and Department of Telecom Operations transferred to Bharat Sanchar Nigam Limited on deemed deputation basis would continue to be subject to all rules and regulations

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as were applicable to the Government servants, including the CCS (CCA) Rules, 1965 till such time they were absorbed finally by the company. The Department of Pension & Pensioners' Welfare also issued a notification No.4/61/99 P&PW(D) dated 30.9.2000 inserting a new rule, namely, Rule 37-A in the CCS (Pension) Rules, 1972 which stipulated the terms and conditions for payment of pension etc. to the Government servants consequent upon conversion of a Government Department into a Public Sector Undertaking or an autonomous body. Sub-Rule 24(C) of the said Rules provided that the removal or dismissal from service of the public sector undertaking or autonomous body of any employee after his absorption in such undertaking or body for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his removal or dismissal or retrenchment the decision of the undertaking or body shall be subject to confirmation by the Ministry administratively concerned with the undertaking or body. The provisions of the said rule were also made applicable to the employees working in the Department of Telecom, erstwhile Department of Telecom Services and Department of Telecom Operations who were initially transferred to Bharat Sanchar Nigam Limited on deemed deputation basis and were to be subsequently absorbed in the company. Group 'C' and 'D' employees transferred on deemed deputation to Bharat Sanchar Nigam Limited have already been absorbed in the company with effect from 01.10.2000. However, it has been noticed that the respective Disciplinary Authorities have been awarding the penalty of removal / dismissal from service to Group 'C' and 'D' employees absorbed in the company without getting their decision reviewed / confirmed by the Department of Telecom. Thus, the employees being removed dismissed from the service of Bharat Sanchar Nigam Limited in this manner are being deprived of the statutory protection made available to them under the CCS (Pension) Rules, 1972 against forfeiture of the retirement benefits for the service rendered by them under the Government. It is, therefore, once again reiterated that all disciplinary cases, in which it is proposed to award the penalty of removal / dismissal from service on any employee absorbed in the company, should be referred to the Department of Telecom along with all the documents relied upon and the tentative proposal of the Disciplinary Authority through the Corporate Office of BSNL for ratifying the proposed action before the penalty of removal / dismissal from service is actually awarded to an employee.

2. It is requested that the above instructions may be given wide publicity and brought to the notice of all concerned for their information and guidance.



Yours faithfully  
Sd/- (N.K. SHARMA)  
Under Secretary (VIG.III)

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

Original Application No.50/2005

Shri P. Bordoloi

.....Applicant

-Vs-

Union of India and others.

.....Respondents

Reply to the additional written statement  
filed by the Respondents.

1. That Applicant had gone through the additional written statement filed by the Respondents and understood the contents thereof.
2. That the statements filed after conclusion of hearing of the case also supports the case of the Applicant as

When disciplinary case is pending the same should be completed by DOT and BSNL has no jurisdiction.

*I undertake to serve copy of this reply to additional WS to CGSC*

3. That, in reply to the statements made in Paragraphs 1, 2, 3, 4 & 5 of the additional written statement the Applicant beg to state that statement that, "BSNL is a State within the meaning of Article 12 of the Constitution" is correct and

*Mr. B. C. Pathak  
Advocate  
for BSNL*

*18/8/08*

Filed by the applicant  
through  
S. N. Tarmuli  
Advocate  
Guwahati  
18/8/08

hence Applicant an employee of DOT was in deputation to BSNL and hence his case will be governed by Rule 20(2)(ii) of CCS(CCA) Rule. Moreover, Circular No.BSNL/4/SR/2000 dated 2<sup>nd</sup> January 2001 in para(5) states:

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

18 AUG 2008

गुवाहाटी न्यायालय  
Guwahati Bench

OPTION OF STAFF FACING DISCIPLINARY CASES.

It was agreed that if the employee with ongoing disciplinary cases can also opt for absorption in BSNL but their absorption will be subject to the outcome of the vigilance cases. Their pending cases will be expedited on a fast track mode by DOT. The appeal/petition cases for those employees will also be decided by DOT authorities."

Hence, by virtue of this circular inquiry conducted by BSNL after the issue of charge sheet is illegal and liable to be quashed. Even those employees who had been absorbed in BSNL cannot be dismissed/removed without prior review by the Administrative Ministry/Departments.

4. That in reply to the statements made in paragraphs 6, 7 & 8 of the additional written



statement, the Applicant denies the correctness of the statement that,

"..... the applicant was not exactly on deputation within the true import of the meaning "deputation as the borrowing and lending departments remained the same except the concept of being determined as different entity attributed by the fiction of laws."

केन्द्रीय प्रशासनिक अधिकारपाल  
Central Administrative Tribunal

18 AUG 2003

गुवाहाटी न्यायालय  
Guwahati Bench

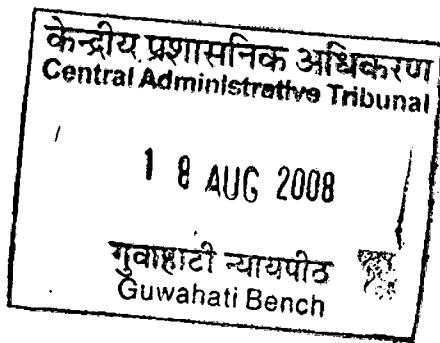
Applicant states that borrowing and lending authority are not same as BSNL is a State within the meaning of Article 12 of the Constitution of India. (para 2 of the additional written statement filed by the Respondents) and Applicant states that he was on deputation to BSNL. The Respondents are making contradictory statement.

5. That in reply to the statements made in paragraphs 9 and 10 of the additional written statement, the Applicant denies the correctness of the statements made in paragraph 10 of the additional written statement, and also states that Applicant did not received any pension and allied benefits except GPF, Group Insurance and Leave



Encashment despite of Order dated 07.08.2006 of this Hon'ble Tribunal in M.P. No. 81/2006 for which Applicant filed an additional statement informing the Hon'ble Tribunal about the correct position as Applicant faces great difficulties in his survival and conducting this O.A.

6. That this reply to the additional written statement is filed bonafide and in the interest of justice.



In the premises, aforesaid, it is, therefore, prayed that Hon'ble Tribunal will kindly be pleased to allow the O.A. with costs.

2/2

VERIFICATION

I Shri Prafulla Bordoloi, son of Late Hemadhar Bordoloi, aged about 56 years, a resident of village Tarajan D.C.B Road, Jorhat, P.O. Jorhat-1 in the district of Jorhat, Assam do hereby verify that the statements made in paragraphs 1 to 6 of the reply to the additional written statement are true to my knowledge and belief. I have not suppressed any material facts.

And I sign this verification on this 16<sup>th</sup> day of August, 2008 at Guwahati.

