

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A./T.A No... 57/2005

R.A/C.P No.....

E.P/M.A No... 62/2005

1. Orders Sheet.....Pg... 01.....to... 02 NIL
2. Judgment/Order dtd. 02.03.2005 Pg... 01.....to... 02
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....Pg... 01.....to... 18
5. E.P/M.P. Order Sheet Pg. 01 to NIL Pg... Petition Pg. 01 to 05.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....Pg.....to.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

  
01/11/17

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

ORDER SHEET

Original Application No. 57/05

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicants: Rahimul Haque Barbhuiya

Respondents: U.O.I. Pers.

Advocates for the Applicant: B.K. Acharyya, P. Bhowmik

Advocates of the Respondents: case

Notes of the Registry: Date: Order of the Tribunal

This application is in form  
is filed/C.F. for Rs. 50/-  
deposited vide P.O. No. 206/16075  
Dated 18.2.05

02.03.2005

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

Heard learned counsel for the  
applicant. Order passed, kept in  
separate sheets.

O.A. is dismissed in term of  
the order at the admission stage  
itself.

Member

Vice-Chairman

bb

Steps taken with  
envelops.

Received  
copy

Alsha Das

ALL C.A.S.C.

CAT/ANY

17/3/05

17.3.05

Copy of the Judgment has  
been sent to the office for  
circulation. The same to be  
submitted by post.

7

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

M.P.No.62/2005 & O.A. No. 57/2005

DATE OF DECISION 02.03.2005

Shri Rahimul Haque Barbhuiya.

APPLICANT(S)

Mr. P. Bhowmick

ADVOCATE FOR THE  
APPLICANT(S)

- VERSUS -

The Union of India & Ors.

RESPONDENT (S)

Ms.U.Das, Addl. C.G.S.C.

ADVOCATE FOR THE  
RESPONDENT(S)

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

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

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

*not  
necessary*

Judgment delivered by Hon'ble Vice-Chairman.

*2. 3. 05*  
*3. 3. 05*

CENTRAL ADMINISTRATIVE TRIBUNAL : : : GUWAHATI BENCH

Misc. Application No. 62 of 2005 & Original Application No.57 of 2005

Date of Order : This, the 2<sup>nd</sup> Day of March, 2005.

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

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

Shri Rahimul Haque Barbhuiya  
S/o Late Moniruddin Barbhuiya  
Vill. Dhancheri, P.O. Dhancheri  
Dist. Cachar, Assam.

Applicant in both the M.P. & O.A.

By Advocates S/Shri P.Bhowmick & B.K.Acharyya.

- Versus -

1. Union of India  
Represented by the Secretary  
to the Government of India  
Ministry of Communication  
New Delhi.
2. The Senior Superintendent of  
Post Offices, Cachar Division  
Silchar, Assam.
3. The Sub-Divisional Inspector of  
Post Offices, Silchar, South Division  
Silchar, Assam.

... Respondents in both the M.P. & O.A.

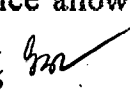
By Ms. U. Das, Addl. C.G.S.C.

ORDER (ORAL)

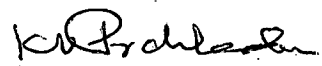
SIVARAJAN, J.(V.C.):

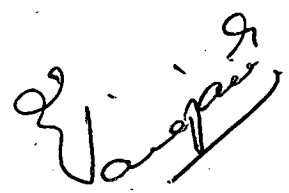
The Misc. Petition is for condonation of delay of 529 days for filing this O.A.57 of 2005. The applicant sought to explain the delay on the ground that the applicant is employed in a remote place, that there was lack of means of communication and that he is a last grade servant. Mr. P. Bhowmick, learned counsel for the applicant also submitted that the applicant has got a good case on merits and therefore notices has to be ordered to be issued to the respondents. We have also heard Ms. U. Das, learned Addl. C. G. S. C. for the respondents.

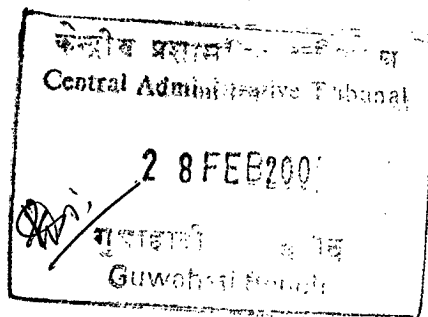
2. The delay in this case is more than a year. We have perused the records. We find that the representation seeking for grant of subsistence allowance and back wages with retrospective effect was also made after a period of one year. We also note that this Tribunal, while disposing of the O.A., did not mention anything about the payment of subsistence allowance though there was an interim direction pending an application for grant of subsistence allowance to pay subsistence allowance during the pendency of the O.A. We also note that the Tribunal has issued positive direction to pay 50% of the back wages only from the date of the impugned order i.e. from 15.6.1998.

3. Apart from the fact that there is delay in pressing the claim for grant of subsistence allowance either pursuant to the interim direction or after the final disposal of the O.A., in the absence of a specific direction in the final order of the Tribunal for payment of subsistence allowance the Tribunal in the present O.A. cannot grant such ~~reliefs~~ *reliefs* 

4. In spite of the persuasive arguments made by the learned counsel for the applicant, we do not find any merit in the O.A. and consequently there is no point in ordering notice in the Misc. Petition. Hence we do not think it justified in issuing notices to the respondents in the Misc. Petition. The Misc. Petition for condonation of delay is dismissed. Consequently, the O.A. is dismissed.

  
(K.V. PRAHLADAN)  
ADMINISTRATIVE MEMBER

  
(G. SIVARAJAN)  
VICE CHAIRMAN



b  
Filed by:-  
Pallab Ghosh  
Addl. Secy, 48-02, PS

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI

Original Application No. 57 /05

Shri Rahimul Haque Barbhuiya,  
....Applicant

-vs-

Union of India & Others  
....Respondents

SYNOPSIS OF THE CASE

- 6.5.04 - Applicant put off duty w.e.f. 1.5.94
- 15.6.98/  
12.8.98 - Pursuant to a disciplinary proceeding under Rule 8 of the P & T Agents (Conduct Service) Rules, 1964 applicant removed from service.
- 26.11.99 - Departmental Appeal against the order of removal rejected by the appellate authority.
- 22.01.01 - This Hon'ble Tribunal in O.A. No.247/2000 filed by the applicant directed the respondents to pay subsistence allowance.

Annexure-2 Page -16.

- 8.5.2001 - O.A. No. 247/2000 disposed off by this Hon'ble Tribunal by setting aside the order of removal and directing reinstatement of the applicant with 50% back wages.

Annexure-1 Page -10 to 15

Contd..P/2

- 12.08.02 - Representation made by the applicant for payment of 50% back wages from the date he was put off duty and not from the date he was actually removed from service.

Annexure-3 Page -17.

- 17.09.02 - Representation dated 12.8.02 rejected by the respondents.

Annexure-4 Page -18.

6

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI

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

Original Application No. 57 /2005

Shri Rahimul Haque Barbhuiya,

...Applicant

-VS-

The Union of India and Others,

...Respondents

I N D E X

<u>Sl. No.</u>	<u>Particulars</u>	<u>Page</u>
1.	Original Application	1-8
2.	Verification	9
3.	Annexure-1	10-15
4.	Annexure-2	16
5.	Annexure-3	17
6.	Annexure-4	18

Filed by

*Pallabh Bhowmick*  
(Pallabh Bhowmick)  
Advocate

*Rahimul Haque Barbhuiya*



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH:: GUWAHATI.

(An application under Section 19 of the Administrative  
Tribunals Act, 1985).

ORIGINAL APPLICATION NO. /2005.

Shri Rahimul Haque Barbhuiya  
S/O Late Moniruddin Barbhuiya  
Vill. Dhancheri, P.O. Dhancheri,  
Dist. Cachar, Assam.

....Applicant

-VS-

1. Union of India,  
represented by the Secretary  
to the Govt. of India,  
Ministry of Communication,  
New Delhi.
2. The Senior Superintendent of  
Post Offices, Cachar Division,  
Silchar, Assam.
3. The Sub-divisional Inspector of  
Post Offices, Silchar,  
South Division, Silchar, Assam.

... Respondents

DETAILS OF THE APPLICATION

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

This application is directed against the  
order No. A-328 dated 17.9.2002 passed by the  
Senior Superintendent of Post Offices, Cachar  
Division, Silchar, rejecting the representation  
dated 12.8.2002 whereby the applicant had made a

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Rahimul Haque Barbhuiya

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Filed by :-  
Pallab Ghosh  
Advocate, 28.02.05

request for payment of his back wages from the date he was put off duty till the date of his actual removal i.e. from 1.5.94 to 12.8.98 in terms of order dated 8.5.01 passed by this Hon'ble Tribunal in O.A. No. 247 of 2000.

(2) JURISDICTION OF THE TRIBUNAL

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

(3) LIMITATION

The applicant further declares that since this application has been filed beyond the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985 he has filed a separate Misc. Application under Section 21 (3) of the aforesaid Act praying for condonation of delay.

(4) FACTS OF THE CASE

(i) That the applicant is serving as EDDA cum EDMC under the respondents since 1.6.1985. By order dated 6.5.94 the applicant was put off duty

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*Rahimul Haque Barbhuiya*

w.e.f. 1.5.94. Thereafter, pursuant to a disciplinary proceeding initiated against the applicant under Rule 8 of the P & T Agents (Conduct Service) Rules 1964, the applicant was removed from service vide order dated 15.6.98/12.8.98 by the respondents with retrospective effect. A departmental appeal preferred by the applicant against the said order of removal was also rejected by the appellate authority vide order dated 26.11.99.

(ii) That being aggrieved by the aforesaid order of removal from service the applicant preferred original application No. 247/2000 which was disposed off by this Hon'ble Tribunal vide order dated 8.5.01 holding interalia that the impugned order of removal dated 15.6.98/12.8.98 can not be sustained and accordingly, the same was set aside and the respondents were directed to reinstate the applicant in service forthwith. It was made clear that the removal of the applicant with retrospective effect can not be sustained and order of removal will be read as on and from 1998. It was further directed that the applicant shall be entitled to 50% of the wages from the date of the impugned order. Earlier this Hon'ble Tribunal vide order dated 22.1.01 passed in the aforesaid O.A. No. 247/2000 while granting time to the respondents to file the written statement and to obtain

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Rahimul Haque Marbhuza

12

instruction as to why the subsistence allowance should not be paid to the applicant during the period he was put off duty, this Hon'ble Tribunal directed the respondents to pay subsistence allowance to the applicant.

A copy of the aforesaid orders dated 8.5.01 and 22.1.01 passed by the Hon'ble Tribunal in O.A. No. 247/2000 are annexed herewith and marked as Annexures- 1 and 2 respectively.

(iii) That the applicant states that after delivery of the aforesaid order dated 8.5.01 passed in the aforesaid O.A. No. 247/2000 the applicant was reinstated in service and he was paid his back wages as directed by this Hon'ble Tribunal from the date of his removal from service and not from the date he was put off duty. In this connection, it is pertinent to mention that although there is an order dated 22.1.01 by this Hon'ble Tribunal for payment of his subsistence allowance during the period he was put off duty, he was not paid anything. As such vide representation dated 12.8.02 he requested the respondent No.2 for payment of his back wages from the date he was put off duty and not from the date he was actually

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Rahimul Hogue Marthuzi

removed from service.

A copy of the aforesaid representation dated 12.8.02 is annexed herewith and marked as Annexure-3.

(iv) That the applicant states that although he is legally entitled for payment of his back wages from the date he was put off under suspension, but, the respondent No. 2 by a cryptic order bearing No. A-328 dated 17.9.02 intimated the applicant that they can not go beyond this Hon'ble Tribunal's order.

A copy of the aforesaid order dated 17.9.02 is annexed herewith and marked as Annexure-4.

##### 5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS

(i) For that the respondents were not justified in rejecting the prayer of the applicant for grant of back wages as directed by this Hon'ble Tribunal for the period of his suspension although this Hon'ble Tribunal has held that he shall be entitled for payment of back wages from the date of impugned order.

Contd....

Rahimul Haque Marthuri

(ii) For that the respondents were not justified in denying the applicant's subsistence allowance during the period of his suspension even though there is a specific order of this Hon'ble Tribunal for payment of his subsistence allowance. It has been held by this Hon'ble Tribunal vide order dated 8.5.01 that an enquiry held without paying any form of allowance can not be held to be a just and fair enquiry meeting the test of reasonable opportunity. It was also held that the applicant was not provided with fair and reasonable opportunity to defend his case. Therefore, this hon'ble Tribunal was pleased to direct the reinstatement of the applicant which leads to the inevitable conclusion the applicant would be entitled to pay of his back wages from the date of his suspension as because no subsistence allowance has been paid to him.

(iii) For that the action of the appellants in denying subsistence allowance to the applicant and/or back wages from the period of suspension is highly arbitrary. As such, it amounts to denial of right to equality of the applicant as guaranteed under the Article 14 of the Constitution of India.

(6) DETAILS OF THE REMEDIES EXHAUSTED

Contd...

Rahimul Haque Parbhari

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The applicant declares that he has submitted representations dated 4.6.02 and 12.8.02 praying for payment of his back wages from the date of his suspension, but, the said representations have been turned down by the respondents in an illegal and arbitrary manner.

(7) MATTER NOT PREVIOUSLY FILED OR PENDING  
WITH ANY OTHER COURT OR TRIBUNAL.

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of payment of his back wages as directed by this Hon'ble Tribunal from the date of his suspension before any Court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT:

- (i) To direct the respondents to pay the back wages of the applicant from the date he was put off duty till the date of his reinstatement in service i.e. from 1.5.94 to 12.8.98.

Contd...

*Rahimul Haque Barbhuiya*

(ii) To pay the interest on the aforesaid amount of his unpaid wages at a reasonable rate of interest.

(iii) To any other order or orders to which the applicant is found to be entitled in law and equality.

9. This application is filed through the counsel for the applicant.

10. Particulars of Postal Order filed in respect of the application fee :-

Postal Order No. :- 20 6 116075

Drawn in favour of :- The Registrar,  
Central Administrative  
Tribunal,  
Guwahati Bench.

Amount :- Rs. 50/-

Date of issue :- 18.02.05.

11. List of enclosures as  
per the Index.

Contd...

*Rahimul Hoque Marbutia*



14

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

I, Shri Rahimul Haque Barbhuiya, S/O Late Monir-uddin Barbhuiya, aged about 39 years, resident of Vill. Dhancheri, P.O. Dhancheri, Dist. Cachar, Assam, do hereby verify and declare that the statements made in paragraphs 1,2,3, 4(i), 4(ii), 4(iii),4(iv),6,7,8,9,10 and 11 are true to my personal knowledge and those made in paragraphs 5(i), 5(ii) and 5 (iii) of the application believe to be true on legal advice and that I have not suppressed any material fact.

Date:- 15.02.05

(SIGNATURE OF THE APPLICANT)

Place:- Silchar.

Rahimul Haque Barbhuiya

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.247 of 2000

Date of decision: This the 8th day of May 2001

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

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri Rahimul Hoque Barbhuiya,  
Resident of Village Dhancheri, P.O.- Dhancheri,  
District Cachar, Assam.

.....Applicant

By Advocates Mr A.K. Choudhury, Mr B.K. Acharyya and  
Mr S. Chakrabarty,

versus

1. The Union of India, represented by  
The Secretary to the Government of India,  
Ministry of Communication,  
New Delhi.
2. The Sub-divisional Inspector of Post Offices,  
Silchar South-Division,  
Silchar.
3. The Senior Superintendent of Post Offices,  
Cachar Division,  
Silchar.
4. The Chief Postmaster General,  
Assam Circle,  
Guwahati.

.....Respondents

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

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 has arisen and is directed against the order dated 15.6.1998/12.8.1998 removing the applicant from service with retrospective effect as well as the order dated 26.11.1999 passed by the Appellate Authority dismissing the appeal preferred by the applicant against the order of removal. The relevant facts for proper adjudication of the matter are summed up below:

Attested  
P. Bhawan  
Advocate  
28-02-05

-11-  
10

The applicant prior to the impugned order of removal was working under the respondents as an EDDA-cum-EDMC, in which post he joined on 1.6.1985. By order dated 6.5.1994 the applicant was 'put off duty' with effect from 1.5.1994 in view of his arrest by the Sonai Police Station in connection with Sonai P.S. case No.259 of 1993. It has been stated that the applicant was finally acquitted from the charge by a Judgment and Order dated, 31.12.1997.

2. A disciplinary proceeding was initiated against the applicant under Rule 8 of the P. & T Agents (Conduct Service) Rules, 1964 vide order No.A1/Ed-Staff/95-96 dated 5.6.1995. The authority by the aforementioned communication forwarded the statement of the article of charges framed against the applicant under the rules alongwith the statement of imputations of misconduct or misbehaviour in support of the article of charges, the list of documents and the list of witnesses. The relevant statement of the article of charges framed against the applicant reads as follows:

"Shri. R.H. Borbhuiya, EDDA-Cum-EDMC/Dhanchari B.O. while working as the same took away Chapakhowa M.O. No.743 dt. 16/3/92 for Rs.508/- payable to Shri. Badaruddin Barbhuiya Vill. & P.O. Dhanehari with cash for effecting payment under his clear receipt in B.O. Journal dt. 25/3/92 But instead of paying the amount to the real payee Shri. Babaruddin Barbhuiya, the EDDA-Cum-EDMC /Dhanehari B.O. Shri R.H. Barbhuiya defrauded the amount by showing the M.O. was paid to one Shri. Basiruddin Laskar by writing his name himself against the Chapakhowa M.O.No.743. By his above act he exhibited lack of integrity and devotion to duty thereby violating the Provisions of Rule 17 of the P & T ED Agents. (Conduct & Service) Rule 1964."

In the list of witnesses the authority cited the names of one Shri Harkumar Das, Office Superintendent, Mails, South Sub-division, Silchar and Shri Baburuddin Barbhuiyan, Vill. & P.O. Dhanehari and the payee of Chapakhana M.O. No.743 dated 16.3.1992 for Rs.500/-. The authority, in the list of documents also referred to the written statement of the applicant that he submitted to the competent authority on 22.3.1994, the relevant part of which is reproduced below:

-12-  
29

"I, Md. Rahumul Hoque Barbhuyan, father of Late Maniruddin Barbhuiya, working in the Dhanehari Post Office at EDDA for last nine years. On 25/3/92 One Money Order bearing No.743 dt. 16/3/92 for Rs.500/- (five hundred only) from Dibrugarh Chapachuwer favouring Md. Bakuruddin Barbhuiya C/O Aftabur Rahman Barbhuyan, P.O.&Vill. Dhanehari I by mere mistake misquoted Basiruddin Laskar instead of Baburuddin Laskar in the Money order Book and delivered the amount of Rs.500/- to him. Now I am regretting for my such mistake I will deposit the said Money order & Rs.500/- to the Departmental Head by next thursday. And I assure that I shall not commit such type of mistake and thus for this time I beg pardon to the Departmental Head."

3. The applicant submitted his written statement denying and disputing the charges. In due course an Inquiry Officer was appointed and the Inquiry Officer held a preliminary enquiry on 17.5.1997. The Inquiry Officer explained the charges to the charged official and the charged official denied all the charges framed against him. In the departmental proceeding the Inquiry Officer examined Shri Harkumar Das, who stated that he proceeded to Dhanehari B.O. on receipt of verbal instruction from SDI (I), Silchar South, to enquire the case of payment of Chapakhowa M.O.743 dated 16.3.1992 for Rs.500/-. He examined the B.O. Journal and Postman Book and noticed that the M.O. was paid to one Shri Basiruddin Laskar instead of the real payee, Shri Baburuddin Barbhuya. As the M.O. was shown as paid to Basiruddin Laskar, Shri Basiruddin Laskar was contacted who denied the receipt of M.O. from the EDDA-cum-EDMC in writing on 26.7.1995. The Office Superintendent, Mails, then contacted Shri Babaruddin Barbhuya, the real payee. He also denied that the M.O. was paid to him. The Inquiry Officer also summoned Md. Babaruddin Barbhuya on 13.6.1996, 3.7.1996, but Babarudding Barbhuya did not attend the hearing though he was summoned under Registered Post. The Inquiry Officer, on completion of the enquiry, submitted his report and held that the applicant misappropriated the value of the M.O. and admitted the fact in his written statement on 22.3.1994. The Disciplinary Authority, after consideration of the materials on record including the representation of the applicant, accepted the report of the Inquiry Officer and found the applicant responsible for fraudulent payment of the amount by forging

the.....

the signature of Shri. Basiruddin Laskar and accordingly found him guilty of the charges. The Disciplinary Authority accordingly ordered for removal of the applicant from service from the date from which the applicant was "put off duty". The applicant preferred an appeal and the Appellate Authority in cryptic order dismissed the appeal. Hence this application assailing the legality and validity of the order of removal as arbitrary and discriminatory.

4. Mr A.K. Choudhury, learned counsel for the applicant, assailed the order of removal on the ground of perversity and also on the ground of violation of the principles of natural justice. Mr Choudhury submitted that there was no material of whatsoever manner to hold the applicant guilty of the charges. The Inquiry Officer reached his finding on the basis of assumption and presumption. The learned counsel further submitted that the respondent authority acted in a most illegal fashion in conducting the departmental proceeding in total violation of the principles of natural justice. The learned counsel submitted that the applicant was put off from duty with effect from 1.5.1994 vide order dated 6.5.1994 and the said order continued till completion of the proceeding and till the impugned order of removal was passed. During this period the applicant was not paid any subsistence allowance, save and except the Ex gratia compensation equivalent to 25% of the basic allowances together with admissible allowance as per Government of India, Department of Posts Order, dated 13.1.1997. Mr Choudhury submitted that on the admitted facts the applicant was not provided with reasonable opportunity to defend his case.

5. Mr A. Deb Roy, learned Sr. C.G.S.C., concurring the submissions of Mr Choudhury, referred to the written statement and submitted that the order of removal was passed in accordance with the P & T EDDA (Conduct and Services) Rules, 1964. The applicant was informed of the charges and he was given the opportunity to submit his written statement. In the enquiry one witness and relevant records were examined and on assessment of the materials on record the

Impugned.....

92  
-14-

impugned order was passed. There is, however, no dispute as to the fact that the applicant was put off duty from 1.5.1994 to 12.8.1998. It is also not disputed that the applicant was not paid any subsistence allowance during that period. Mr Deb Roy submitted that there is no provision under the rules for any subsistence allowance.

6. There is no indication in the rules as to the payment of subsistence allowance if an employee is put off from duty. The said rule was, however, struck down as ultra vires by the Bangalore Bench of the Tribunal in O.A.No.553 to 556 of 1987, Peter J. Desouza and others, disposed of on 13.7.1988. The said decision was later followed by the Ahmedabad Bench of the Tribunal in O.A.No.221 of 1991, V.B. Raval vs. Union of India and others, disposed of on 12.5.2000. In O.A. No.144 of 2000 disposed of on 2.3.2001 this Bench also followed the aforementioned two decisions. An enquiry held without paying any form of allowance cannot be held to be a just and fair enquiry meeting the test of reasonable opportunity. In the circumstances it cannot be said that the applicant was provided with fair and reasonable opportunity to defend his case. That apart, the materials relied upon by the Disciplinary Authority to hold the applicant guilty did not support the conclusion reached by the Inquiry Officer. The alleged admission that was relied upon by the Inquiry Officer was already mentioned. The aforesaid statement did not indicate that the applicant admitted the guilt. As a matter of fact, the very departmental proceeding containing the statement of allegation was initiated on 5.6.1995, i.e. after receipt of the copy of the alleged admission. As per the charge the applicant instead of paying the amount to the real payee diverted the amount and thereby violated the provisions of Rule 17 of the P&T EDA (Conduct and Service) Rules, 1964. The Inquiry Officer in his report also found that the Disciplinary Authority failed to produce the relative vital evidence in the Memorandum of Charges and to remedy the situation summon was issued to Basiruddin Laskar though he was not a listed witness and accordingly found that the forgery brought against

the.....

the applicant was not proved due to insufficient evidence and thus the charge could not be sustained. The materials on record, itself, did not support the conclusion reached by the Inquiry Officer. The Disciplinary Authority without applying its mind acted on the said report and the Appellate Authority also did not address its mind to those aspects of the matter.

7. For the reasons stated above the impugned order dated 15.6.1998/12.8.1998 thus cannot be sustained and accordingly the same is set aside and the respondents are directed to reinstate the applicant forthwith. However, the removal of the applicant with retrospective effect cannot be sustained and the order of removal will be read as on and from 1998. Accordingly the applicant shall only be entitled to 50% of the wages from the date of the impugned order. The respondents are directed to complete the exercise within two months from the date of receipt of the order.

8. The application is allowed to the extent indicated. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

TRUE COPY

सत्यप्रति

Section Officer (I)

आयुक्त-प्रशासकीय (प्रशासिक शाखा)  
Central Administrative Tribunal

कोर्टा प्रशासकीय न्यायालय  
Gowahati Bench, Gowahati  
गुवाहाटी न्यायालय, गुवाहाटी-७

Attested  
P. Bhawan  
Advocate  
28-02-15

96/2001

FORM NO. 4

(See Rule 42)

## The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 247/2000 OF 199

Applicant(s)

Sri Ramesh Hogue Borahujya

Respondent(s)

Union of India and ors.

Advocate for Applicant(s)

Mr. A.K. Choudhury, Mr. B.K. Acharyy  
Mr. S. Choudhury.

Advocate for Respondent(s)

C.G.S.C.

22.1.01

List on 22.1.01 to enable the respondents to file written statement. Mr. A. Deb Roy Sr. C.G.S.C. to obtain instructions as to why the subsistence allowance should not be paid to the applicant during the period he was put off duty. List on 12.2.01 for orders. Meanwhile the respondents shall pay the subsistence allowance to the applicant.

Sd/-  
MemberSd/-  
Vice-Chairman

Attested  
P. Ghosh  
Advocate  
28.02.05



✓ -17-

To,

The Senior Supdt. of Posts, Cachar Division. Silchar - 1

Sub. :- Prayer for reconsideration of my appeal dated 4-6-02

Ref. : Your letter No. A-328 Dated 25-07-02

Respected Sir,

With due respect, I beg to say that, Through my above appeal, self prayed for releasing my pay and allowance for the period from 1-5-94 to 12-8-98 (Put off duty period) as the punishment order is of removal by my appointing authority (S.D.I Pos. South Silchar Sub-Division Silchar - I) <sup>with</sup> retrospective effect is not permitted by departmental rules "Code, An order of dismissal can not be given effect to retrospectively from the date of Commencement of Suspension, but only from the date on which the order of dismissal is passed"

D.G. P&t. memo No. Est. - III - 7/32/dated 10-6-1933, and letter No. IC/N - 168 Dated 31-12-1957.

Further the honble cat Gauhati also while delivering the judgement dis allowed the removal of mine with retrospective effect.

By Passing the above two major grounds in support of my claim your honour decided my appeal, without giving any judicious decesion, and through a non speaking order which could not satiesfied me for which I am once again praying to your honour for reconsideration of my case and of obliged.

✗

Yours Faithfully.

Rahimul Haque Borbhuiya

Rahimul Haque Borbhuiya.

EDMC Paloi

गिमा नहीं NOT INSURED

प्राप्त गये डाक टिकटों का मूल्य

Amount of Stamps affixed

रु. 22/-

Received a Registered \*

प्राप्त किया

प्राप्त करने वाले का नाम

Addressed to

Supdt. of Post

Silchar

3235

6.0. 8.02

तारीख मीथर

Date Stamp

प्राप्त करने वाले अधिकारी का हस्ताक्षर

Signature of Receiving Officer

Attested  
P. Bhawani  
Advocate

म्युहोर-22  
CT-22भारतीय डाक विभाग  
DEPARTMENT OF POSTS, INDIA

वर्य अर्जीकृत अधिकारी

श्रीमान एम डब्ल्यू शिलचर

Senior Supdt., Post Offices,

Silchar Division, Silchar-788001

सेवा में

To Shri Rahimul Haque Barbhuiya  
EDMC, Paloi Bora - Bekerpan

संख्या

A-328

दिनांक

Dated at

Silchar - 1 The 17/9/02

विषय  
SubjectRelease of allowance for the  
period from 01-05-94 to 12-68-98.

Ref:- your application dtd 12/8/2002.

With reference to your  
application dtd 12/8/2002 regarding above  
subject it is to intimate that we cannot  
go beyond CAT's order.

for Senior Supdt., Post Offices,  
Silchar Division, Silchar-788001

Copy to -

The Inspector Posts (South) Silchar for  
information w/o to his letter no. A1/ED staff  
dtd 16/9/02.

Self  
for Senior Supdt., Post Offices,  
Silchar Division, Silchar-788001

Attested  
P. Bhousain  
Advocate,  
28.02.05