

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

MP-79/2005 ordersheet 1 to 2 **INDEX**
closed date-11/04/2005

O.A.T.A No. 86/2005

R.A/C.P No.

E.P/M.A No. 79/2005

1. Orders Sheet. O.A/86/2005 Pg. 1 to 2
2. Judgment/Order dtd. 11/04/2005 Pg. to No. separate orders
Disposed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 86/2005 Pg. 1 to 38
5. E.P/M.P. 79/2005 Pg. 1 to 5
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.)

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

ORDERSHEET

Original Application No. OA 86/05

Misc. Petition No. X

Contempt petition No. X

Review Application No. X

Applicant(s) L. Saitang

Respondents UoG & Co

Advocate(s) for the Applicant(s) Mr. N A Singh

Advocate(s) for the Respondents CGSC

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed in Form No. 42 deposited vide IPC/BD No. <u>204-116/23</u> Dated <u>30.3.05</u> by <u>Mr. N. Singh</u></p> <p><u>30.3.05</u> Dy. Registrar</p>	<p>4.4.05.</p> <p>lm</p> <p>11.04.2005</p>	<p>Present: Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.</p> <p>Post the matter on 11.4.05, before Division Bench.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>Present: The Hon'ble Mr. Justice B. Sivarajan, Vice-Chairman.</p> <p>The Hon'ble Mr. K.V. Prahladan Member (A).</p> <p>Heard Mr. N.A. Singh, learned counsel for the applicant and Ms. U. Das, learned Addl. C.G.S.C. for the respondents.</p> <p>It is the case of the applicant that an appeal dated 22.5.2001 (Annexure-L) has been submitted before the 1st respondent against the dismissal order dated 21.7.1998 by the 3rd respondent and it is affirmation by the 1st respondent as per order dated 27.2.2001 (Annexure -J) in spite of reminder letters. Since it is stated that Annexure-L</p>

Contd.

Contd.

11.04.2005 is pending before the 1st respondent we are of the view that this application can be disposed of at the admission stage itself with the direction to 1st respondent i.e. Member (P), Postal Directorate, Government of India to dispose of the said appeal in accordance with law any by a reasoned order within a period of three months from the date of receipt of the copy of this order. *by we order accordingly.*
The O.A. is disposed of as above. Applicant will forward a copy of this judgment to the 1st respondent for compliance.

8/5/05

Copy of the order has been sent to the office for issuing the rule to the applicant as well as to the ADD, C.G.S.C. for the record.
MS

[Signature]
Member

[Signature]
Vice-Chairman

bb

30 MAR 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI.

Filed By: 2. Anix So
Advocate
30.3.05

(An Application Under Section 19 of the Central
Administrative Tribunal Act 1985)

ORIGINAL APPLICATION NO. 86 /2005.

Shri L. Soithang

— Applicant.

-Vs-

The Union of India & Ors.

— Respondents.

List of Dates and Synopsis

30.10.81	Applicant appointed as Postal Assistant in Churachandpur Post Office.
1992-1996	Applicant worked as V.P. delivery clerk in same post office.
19.11.96	Applicant placed under suspension.
Anx-A 20.11.96 Page.12	The photo copy of Memo No.FI-1/96-97 suspension order confirmed by the senior superintendent of post offices, i.e., respondent No.5.
Anx-B 13.5.97 Page.13	The photo copy of memorandum with its annexure-I, authorities propose to hold inquiry against applicant.
Anx-C 24.6.97 Page.16	M. A. MALAI, C.I. division office Imphal, appointed as Presenting Officer.
Anx-D 24.6.97 Page.17	H.B. Hazarika, Sub-Division Inspector (P) Ukhrul, Sub Division, Appointed as inquiry offices.
Anx-E 28.10.97 Page.18	Inquiry under Rule 14 of the CCS(CC &A) Rules, 1965.
Anx-F 9.1.98 Page.19	M.A. Malai being transferred to Arunachal Pradesh, Shri B. Rajbangshi, SDPI 05, appointed as the presently offices.
Anx-G 29.5.98 Page.20	Proceeding of Preliminary Hearing.

26.6.98	Enquiry report submitted,
Anx-H 21.7.98 Page.22	Applicant dismissed from service by Director Postal Service Manipur's Memo No.F1-1/96-97/Disc.
Anx-I 6.9.98 Page.26	Appeal against order dated 21.7.98 before Post Master General N.E., Circle, Shillong, through directed of postal services, Manipur.
Anx-J 27.2.01 Page.28	Appellant authority upheld order dated 21.7.98
Anx-K. 11.4.01. Page.31	For appeal or review. If denier
Anx-L 22.5.01 Page.32	Appeal before Members (P), Postal Director of Govt. of India, Assailing order dated 21.7.98 (appeal is pending)
Anx-M 05.02.04. Page.36	Reminder letters.
Anx-N 6.11.03 Page.37	Cril. Misc Case No.810 of 203 for consideration of the final Report. which was filed against applicant.
Anx-O 14.11.03 Page.38	The learned CJM, Churachandpur Manipur, discharged the applicant as the final report showed insufficiency of Evidence joint application.

Applicant was rendering his service as VP (value paid) delivery Postal Assistant (PA) Churachandpur during the period from 2.11.1992 to 18.11.96 he delivered 165 V.P. Articles and its value and commission amounting to Rs.80,946/- (Rupees eighty thousand nine hundred and forty six) only was used by the applicant in order to meet the treatment expenses as he was suffering from diabetic. As a result of which a Departmental Enquiry was held against the applicant, since the applicant have no alternative to repay the said amount of Rs.80,946/- as such he was made forced to admit and requested to give a chance to repay the aforesaid amount from his G.P.F. balance and the remaining due amount be adjusted from the monthly pay and allowances, But the Enquiry Officer failed to accept the apology / truth made by the applicant and finally he was terminated from service w.e.f. 21.7.98 .

5
1
Filed By
N. Anish
Advocate
30.3.05

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

**(An Application Under Section 19 of the Central
Administrative Tribunal Act 1985)**

ORIGINAL APPLICATION NO. 86/2005.

Shri L. Soithang ----- Applicant.

-Vs-

The Union of India & Ors. --- Respondents.

1. Particular of the Applicant designation and office:-

Shri L. soithang, aged about 53 years, S/o Late Otpao, a resident of Phailian Village, P.O. & P.S. Churachandpur, District- Churachandpur, Manipur "The Applicant was serving as Postal Assistant, Churachandpur, S.O. under the Directorate of Postal Service, Manipur, Imphal, Deptt. Of Postal.

2. Particulars of the Respondents Name Designation and Address:-

1. Union of India, represented by the Member(P),
Postal Directorate, Government of India.
2. The Post Master General, N.E. Region, Shillong,
Department of Post.
3. The Director of Postal Service N. E. Circle, Shillong,
Department of Post.
4. The Director Postal Service, Manipur, Impahl,
Department of Post.

5. The Senior Superintendent of Post Offices,
Manipur Division, Imphal-795001, Department of Post.

3. Particular of Order against which application is made:-

3.1) Memo No.FI-1/96-97, dated, Imphal the 20.11.1996 issued by the Senior Superintendent of Post Offices, Manipur Division, Imphal-795001.

3.2) Memorandum dated 13.5.97 being No.FI-1/96-97/Disc along with its Article of charges issued by the Senior Superintendent of Post Offices, Manipur Division, Imphal-795001.

3.3) Proceeding of preliminary hearing dated 29.5.98 passed by the Superintendent of Post Offices, Manipur Division, Imphal-795001.

3.4) Order dated, Imphal the 21.7.98 being No.FI-1/96-97/Disc issued by the Director Postal Service, Manipur Division, Imphal- 795001.

3.5) Office letter No.STAFF/109-Misc/7/98 dated, Shillong, the 27.2.2001 issued by the Postmaster General, N.E. Region, Shillong-793001.

4. Subject in brief

That your applicant begs to state that while he was rendering his service as VP delivery PA Churachandpur SO during the period from 2.11.1992 to 18.11.96 he delivered 165 V.P. Articles and its value and commission amounting to Rs.80,946/- (Rupees eighty thousand nine hundred and forty six) only was used by the applicant in order to meet the treatment expenses as he was suffering from diabetic.

As a result of which a Departmental Enquiry was held against the applicant, since the applicant have no alternative to repay the said amount of Rs.80,946/- as such he was made forced to admit and requested to give a chance to repay the aforesaid amount from his G.P.F. balance and the remaining due amount be adjusted from the monthly pay and allowances, But the Enquiry Officer failed to accept the apology / truth made by the applicant and finally he was terminated from service w.e.f. 21.7.98 .

5. Jurisdiction of the Tribunal

Since the applicant was an employee under the Directorate of Postal Service, Manipur, Imphal, the Central Administrative Tribunal Gauhati Branch has the ample jurisdiction to decide the case.

6. Limitation

This application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

7. Facts of the Case

Facts of the case in brief are given below:-

7.1) That your humble applicant is a citizen of India and as such he is entitled to all rights and privileges guaranteed under the Constitution of India

7.2) That the applicant is one belonging to the schedule tribe community in the State of Manipur and was serving as postal Assistant at Churachandpur Post Office since his appointment to the post of Postal Assistant on 30.10.1981 and since then he have been discharging his duty as assigned to him by his superior officer diligently and honestly without any adverse remarks against his service.

7.3) That, the applicant worked in V.P. counter as V.P. delivery clerk in the same office since 1992-1996 and during the aforesaid period he was placed under suspension vide Memo No.AI/Misc/L. Soithing dated 19.11.96 on the ground of misappropriation of V.P. articles amounting to Rs.81,060/- by Shri U. Basumatary, SPIPOS, Churachandpur which was confirmed on the next day by an order issued by the Sr. Supdt. of Post Offices, Manipur Division, Imphal Vide Memo No.FI-1/96-97 dated 20.11.96.

Annexed A is the confirmation of suspension order issued by the Sr. Supdt. of Post Offices Manipur Divn., Impahl.

7.4) That, the concerned authority proposes to hold an inquiry against the applicant under Rule-14 of the Central Civil services (Classification, control and appeal Rules 1965) vide its Memorandum bearing No.FI-1/96-97/Disc dated 13.5.97 enclosing the substance of the imputation of misconduct or misbehavior as Annexure-I to the Memorandum and the proposed inquiry was held in the presence of enquiry Officer duly appointed for the same.

Annexure B is the Memorandum dated 13.5.97 with its Annexure-I.

Annexure C,D, is the order dated. 24.6.97 as to appointment of Presenting Officer and Inquiry authority.

Annexure E, 28.10.97 for attending the related document to the enquiry.

Annexure F, is order dated 9.1.98 for appointment of new Presenting Officer.

7.5) That, the applicant submitted his defence statement dated 6.6.97 and in the said he have also made a request to the I.O. that he will make total recovery of the alleged misappropriated amount

from his pays D.A. and other payable amount to him from his account to the government and the misappropriation was not his intention or purpose but due to irregularity cause in the maintenance of V.P. articles- value on his part to some extent. The Superior Officer(s) or controlling officer were failed to perform important routine checking duty. There was no routine checking within the span of one year.

7.6) That, the applicant had said so, that he may get relief and his problem may be settled without termination, as he belongs to the economically backward class and he is desperately in need of the said job to run his family, as was advised by the senior official

7.7) That, the enquiry Report was submitted vide SPOS Imphal letter No.A-1/Inquiry/Rule-14/1/97-98 dated 26.6.98 to the concerned authority with the representation of the Applicant (charged Officer) dt. 29.5.98 thereby he had admitted to all the charges leveled against him with the hope that the concerned authority will give him a chance. Further he had stated that he would repay all the dues from his GPF balance and further remaining amount from his salary.

Annexure G is the order dtd. 29.5.98



7.8) That, from the said enquiry report and representation of the Applicant the concerned authority have come to the finding that the applicant had mis-appropriated the said amount and he desires to be punish in commensurate to his offence and passed the order of dismissal from his service with immediate effect by the Director Postal Services, Manipur Divn. Impahl vide Memo No.FI-1/96-97/Disc. Dated 21.7.98.

H
Annexure ~~8~~ is the order dated 21.7.98



7.9) That, being aggrieved by the said dismissal order, the applicant filed Appeal/Review before the Post Master General, N.E.

Circle Shillong (Through the Director of Postal Service Manipur, Imphal) to review the finding of the dismissal order dated 21.7.98 on compassionate ground but he was instructed that appeal/representation against service dismissal be submitted to the P.M.G. Shillong (N.E. Region) through their Office vide communication lette. No. FI-1/96-97/Disc. Dated 3.9.98. And as per instructions Appeal was submitted before the same for favorable orders and to excuse the offence so committed by the Applicant.

1
Annexure ~~H~~ is the Review. Petition dated 6.9.98.

7.10) That, further an appeal was made to the post Master-General, North East Circle, Shillong, Meghalaya with prayer for modification of the extreme penalty of dismissal from service impose upon the Applicant to that of a minor or less leinous penalty providing him the privelege of getting re-enstate to his former post with protection of past service for the purpose of pension crave for, however the post master General N.E. Region, Shillong expressed his view in his order No.STAFF/109-M ISC/7/98 dated 27.02.2001 that he did not find any reason to change the punishment awarded to the Appellant (Applicant) by the disciplinary authority under DPS Imphal, Memo No.FI/1/96-97/Disc Dated 21.7.98.

Annexure J is the order dated 27.02.2001.

7.11) That, the contents of the said order was communicated to the applicant vide N.O. DPS(HQ)/Misc/2001 dated, Shillong 11.4.2001 with the information that he may address the member (P) of Postal Directorate New Delhi for appeal and review if so desired. As such the Applicant approached. The Member (P) Postal Directorate, Government of India, New Delhi-1 by an appeal dated 22.5.2001 for modification of the extreme penalty of dismissal and further for imposing a minor or less Leinous penalty providing him the privileges of getting re-instatement to his former post.

Annexure K is the letter dated 11.4.2001.

Annexure L is an appeal dated 25.5.2001.

7.12) That as the authority concerned did not consider properly the said representation/appeal of the applicant, your applicant had to file several representations/reminder again and again before the members (P) Postal Directorate, Government of India New Delhi-1. The last one of the said reminder is dated 05.02.2004 for disposing of the Appeal at the earliest humanitarian ground.

Annexure M reminder letter dated 5.2.2004.

7.13) That, a criminal case was filed against the Applicant bearing No. Cril. Misc Case No.810 of 2003 (Ref. F.I.R. No.69(3) 1997 of CCP P.S. U/S 420/409 I.P.C. before the Chief Judicial Magistrate, Churachandpur and the Hon'ble Court has pleased to passes orders dated 6.11.2003 and 14.11.2003 whereby the accused/Applicant was discharged from the case and his bond and surety bond were cancelled thereby closing the proceeding of the case.

Annexure N and O are the Hon'ble Courts Order dated 6.11.2003 & 14.11.2003.

7.14) That this application is filed bonafide and for the interest of justice.

The applicant craves leave of this Hon'ble Tribunal advance further grounds the time of hearing of this instant application.

8. GROUNDS FOR RELIEF :-

8.1) For that here being insufficiency of evidence to bring home the charges as raised against the applicant, the impugned order of dismissal dated 21.7.98 and consequent order dated 27.2.2001 passed by the appellate authority are liable to be interfered with.

8.2) For that assuming without admitting that there has been irregularity on the part of the applicant, even then, non-crediting of value and commission as alleged does not absolve the superior authorities of their irregularities in as much as they having not checked and assessed the same and the authorities having proceeded against the applicant only to the exclusion of others, culminating to the order of dismissal, the same is vitiated and calls for interference by the Hon'ble Tribunal.

8.3) For that there being no cogent and adducible evidence to hold the applicant as responsible for the alleged irregularities and the learned Chief Judicial Magistrate, Churachandpur, Manipur, having recorded a finding that the applicant was discharged due to insufficiency of evidence, the impugned order of dismissal dated 21.7.98 is not commensurate with the gravity of alleged misconduct, if any and as such the order dated 21.7.98 and consequent order dated 27.2.2001 are liable to be set aside and quashed.

8.4) For that the concerned authorities having failed to take into consideration all relevant the facts and considerations and having proceeded to inflict the penalty of dismissal on irrelevant and extraneous considerations, the impugned orders dated 21.7.98 and 27.2.2001 are vitiated and as such are liable to be set aside and quashed.

8.5) For that the concerned authorities committed manifest error of law in inflicting the order of dismissal completely glossing over the attending materials on record and as such the orders dated 21.7.98 and 27.2.2001 are liable to be set aside and quashed.

8.6) For that the applicant having admitted his liability out of fear, the concerned authorities ought not to have proceeded against him in the absence of any evidence sustaining the charger as alleged

and as such the impinged order being vitiated, are liable to be set aside and quashed.

8.7) For that the police having carried out the investigation in the criminal Misc Case No.810/2003 in full conformity with the procedure of law and the authorities having miserably failed to produce any evidence against the applicant, the impugned orders are liable to be set aside and quashed.

8.8) For that the finding of the appellate authority that the applicant could not furnish any evidence that he did not actually misappropriate the amount is illegal in as much as save and except the admission out of fear on the part of the applicant, the authorities totally failed to prove the guilt of the applicant and the appellate authority having glossed this vital aspect of the matter, the impugned order are liable to be set aside and quashed.

8.9) For that in any view of the matter, the impugned orders are liable to be set aside and quashed.

9. Details of Remedies Exhausted:-

That there is no other alternative and efficacious and remedy available to the applicant except the invoking the jurisdiction of this Hon'ble Tribunal under section 19 of the Administrative Tribunal Act, 1985.

10. Matters not Previously filed or Pending in any other Court:-

The application further declares that he has filed application in respect of the subject matter of the instant application before the Member (P) Postal uirectorate, Government of India, New Delhi-1. The application is still pending from 22.5.2001.

11. Relief Sought for:-

Under the facts and circumstances stated above the applicant most respectfully prayed that Your Lordships may be pleased to admit this application, call for the records of the case, issue notice to the Respondents as to why the relief and relieves sought for the applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

11.1) That the Hon'ble Tribunal may be pleased to direct the Respondents to set aside and quashed impugned order of dismissal dated 21.7.98 and consequent order dated 27.2.2001 passed by the appellate authorities.

11.2) To pass any other relief or relieves to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

11.3) To pay the cost of the application.

12. Application is field through Advocate.

13. Particulars of I.P.O.

I.P.O. No. 206-116123

Date of Issue 31-3-05

Issued from G.P.O.

Payable at Gavel.

14. List of Enclosures:-

As stated above.

Verification -----

VERIFICATION.

I, Shri L. Soithang, son of Late Otpao, aged about 53 years, resident of Phailian Village, P. O. & P.S. Churachandpur, Manipr, do hereby solemnly verify that the statements made in Paragraphs Nos. 7.1, 7.2, 7.5-7.7, 7.14 are true to my knowledge and those made in paragraphs Nos. 7.3, 7.4, 7.8, 7.9, 7.10 & 7.13 being matters of records are true to my information derived there from which I believe to be true and those made in paragraph No. 8 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 30th day of March 2005, at Guwahati.

L. Soithang

ANNEXURE - A


4-12-

Department of Post:India.
Office of the Director Postal Services:Manipur:Imphal:
795001.

Memo No. FI-1/96-97. Dated at Imphal, the 20.11.96.

Whereas an order placing Shri L. Soithang, P.A. Churachandpur S.O. under suspension was issued by Shri U. Basumatary, SDIPOS, Churachandpur vide his memo No. AI/Misc./L.Soithang dtd. 19.11.96.

Now, therefore, the undersigned in exercise of the powers conferred by clause 2 and 4 of para 7 of the Govt. of India instructions below Rule 10 of the Central Civil Services(Classification, control and Appeal) Rules, 1965 hereby confirmed the said order of suspension.


(R.K. BISWANATH SINGH)
Sr. Supdt. of Post offices
Manipur Divn:Imphal-795001.

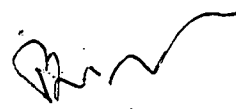
Copy to :-

Regd AD

1. Sri L. Soithang, P.A. Churachandpur S.O. for information.
2. The Postmaster, Imphal H.O.
3. The SDIPOS, Churachandpur -795128 for information.
4. Vig/stt file.

5. Circumstances in which the suspension order was made are as follows :-

M/a of amount from at least 220 V.P. articles amounting approximately Rs. 92,977/-.


(R.K. BISWANATH SINGH)
Sr. Supdt. of Post offices
Manipur Divn:Imphal-795001.

Certified to be true Copy


Advocate

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES, MANIPUR, IMPHAL-795001.

No. FI-1/96-97/Disc

Dated at Imphal the 13.5.97

79

M E M O R A N D U M

The undersigned proposes to hold a inquiry against **Shri L. Soithang P.A. Churachandpur** under Rule -14 of the Central Civil Services (Classification, Control and Appeal' Rules 1965. The substance of the imputation of misconduct and or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure-I). A statement of the imputation of misconduct or misbehaviours 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 (Annexure III and IV).

1. **Shri L. Soithang P.A. Churachandpur S.O.** is directed to submit within 10 days of the receipt of this memorandum as 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 L. Soithang P.A. Churachandpur S.O.** 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 provision 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 L. Soithang P.A. Churachandpur S.O.** is invited to Rule 20 of the CCS(Conduct) Rules , 1964, under which no Govt. Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that **Shri L. Soithang P.A. Churachandpur S.O.** 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.

Regd. A/D

13 **Shri L. Soithang**
P.A. Churachandpur
(under suspension)
P.O. Churachandpur-795128

26 Vig/Stt.

(R.K. BISWANATH SINGH)
Name and designation of
competent Authority
Senior Superintendent of Post Offices
Manipur Division, Imphal-795001.

Classified to be kept secret

N. A. Singh

14-

ANNEXURE - I.

Statement of articles of charge framed against
Shri L. Soithang, P.A. Churachandpur S.O.

ARTICLE - I.

That the said Shri L. Soithang while working as VP delivery P.A. Churachandpur S.O. during the period from 2.11.92 to 18.11.96 had not credited a sum of Rs.81,060.00 to the Govt. account being the value and commission of VP articles violating the provisions of Rule-4(1) and 103 of P&T Financial Hand Book Volume-I and thereby infringed the provisions of Rule-3(1)(i)&(iii) of CCS Conduct Rules, 1964.

ARTICLE - II.

That during the aforesaid period and while working in the aforesaid office the said Shri L. Soithang did not enter the particulars of V.P. articles received for delivery at Churachandpur S.O. in the register of V.P. articles received, violating the provisions of Rule-219(1) of P&T Manual Volume VI Pt-I, corrected upto 31 March, 1982 and thereby infringed ~~upto~~ the provisions of Rule-3(1)(i)(iii) of CCS conduct Rules, 1964.

ARTICLE - III.

That during the aforesaid period while functioning in the aforesaid office the said Shri L. Soithang did not made over the value & commission of 165 VP articles amounting to Rs.81,060.00 only which were delivered to the addressees after realising the value and commission as shown in Annexure- 'A' & 'B' to the M.O. P.A. under receipt violating the provisions of Rule-227(1) of P&T Manual Volume VI Pt-I corrected upto 31 March 1982, thereby infringed the Rule-3(1)(i) & (iii) of CCS Conduct Rules, 1964.

ANNEXURE - II.

Statement of imputations of misconduct or misbehaviour in support of the articles of charges framed against Shri L. Soithang P.A. Churachandpur S.O.

ARTICLE - I.

That the said Shri L. Soithang while working as V.P. delivery P.A. Churachandpur S.O. during the period from 2.11.92 to 18.11.96 realised a sum of Rs.81,060.00 (Rupees eighty one thousand & sixty) only being the value and commission of 165 V.P. articles from the addressees of the VP articles received at Churachandpur on different dates.

Contd. P/26...

The said Shri L. Soithang instead of crediting it into Govt. account pocketified the amount for his personal use. The said Shri L. Soithang in his written statement dtd. 20.11.96 admitted that he realized the value & commission of the VP articles delivered to the addressees but he had not credited the amount into Govt. account violating the provisions of Rule-4(1) and 103 of F.H.B. Vol-I, thereby infringing the provisions of Rule-3(1)(i) & (iii) of CCS conduct Rules, 1964.

ARTICLE - II.

On 11.11.96 and 12.11.96 Shri U. Basumatary, SDIPOS Churachandpur visited Churachandpur S.O. to find out the disposal of some VP articles received at Churachandpur. The said Shri L. Soithang P.A. Churachandpur was absent on both dates. In his absence the SDIPOS Churachandpur verified the VP records and found that the particulars of VP articles which were transferred from Regn/Parcel Branch never entered in the registers of VP articles received by the said Shri L. Soithang. The said Shri L. Soithang in his written statement dtd. 20.11.96 admitted the fact.

By this act of non entering the particulars of VP articles in the register of VP articles received, the department sustained loss to the tune of Rs. 81,060/- and contravened the provisions of Rule-219(1) of P&T Manual Volume VI Pt-I, corrected upto 31 March, 1982 and thereby infringed the provisions of Rule-3(1)(i) & (iii) of CCS conduct Rules, 1964.

ARTICLE - III.

That during the aforesaid period while working in the aforesaid office, the said Shri L. Soithang realised the value & commission of 165 VP articles amounting to Rs. 81,060.00 from the addressees of the VP articles. The said Shri L. Soithang did not made over the amount released from the addressees of the VP articles to the M.O. issue PA under receipt with the VP MOs for remittance to the senders of the VP articles. The said Shri L. Soithang, instead of transferring the amount to M.O. issue Branch pocketified it for his private use and thereby sustained loss to the Govt. to the tune of Rs. 81,060.00 as shown in Annexure 'A' & 'B'. The said Shri L. Soithang in his written statement dtd. 20.11.96 admitted that he realised the amount from the addressees of the VP articles but did not transferred the same to M.O. issue Branch. By this act the said Shri L. Soithang contravened the provisions of Rule-227(1) of P&T Manual Vol-VI Pt-I & thereby infringed the Rule-3(1)(i) & (iii) of CCS conduct Rules, 1964.

Contd. P/3.....

ANNEXURE - C

-16-
29

DEPARTMENT OF POSTS
OFFICE OF THE DIRECTOR POSTAL SERVICES: MANIPUR: IMPHAL: 795001

ORDER RELATING TO THE APPOINTMENT OF PRESENTING OFFICER
(Rule 14(5)(c))

Memo No. F 1-1/96-97/Dise.
Dated at Imphal the 24/6/97

ORDER

WHEREAS an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, is being held against Shri d: Soithang P.A: Chura-Chanelpur S.O (Name and designation of the accused officer).

AND WHEREAS the undersigned considers that a Presenting Officer should be appointed to present on behalf of the undersigned the case in support of the articles of charge.

NOW, THEREFORE, the undersigned in exercise of the powers conferred by sub-rule (5) (c) of Rule 14 of the said rules, hereby appoints Shri M.A. Malai C.I. 90 DPS/P (Name and designation of Presenting Officer) as the Presenting Officer.

Sd/
(F.P. Solo.)
Director Postal Services
Manipur Imphal - 795001

Copy to:-

1. Shri MA Malai C.I. 90 DPS Imphal
Presenting Officer.
2. Shri d: Soithang PA (under suspension)
Accused
Chura Chanelpur - 795128
3. Shri H.B. Hazarika SDIPo Ukhrul - 795142
the Inquiry Officer.

24/6/97
(F.P. Solo.)
Director Postal Services
Manipur Imphal - 795001

Certified to be true Copy
N. Anix Singh
Advocate

ANNEXURE - D3

-17-

DEPARTMENT OF POSTS
OFFICE OF THE DIRECTOR POSTAL SERVICES, MANIPUR, IMPHAL: 795001

ORDER RELATING TO APPOINTMENT OF INQUIRING AUTHORITY
(Rule 14 (2) of C.C.S. (C.C. & A) Rules 1965)

No. F-1/96-97

Dated at Imphal the

24/6/97

WHEREAS an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 is being held against Shri L. Soithang P.A. Churachandpur S.O.

(Name and designation of the Government servant)

AND WHEREAS the undersigned considers that an Inquiry Authority should be appointed to inquire into the charges framed against the said Shri L. Soithang P.A. Churachandpur S.O.

NOW, THEREFORE, the undersigned, in exercise of the powers conferred by Sub-Rule (2) of the said rule, hereby appoints Shri H.B. Hazarika, S.D. (Pos) Ukhrul.

(Name and designation of the Inquiring Officer) as the Inquiring Authority to inquire into the charges framed against the said Shri L. Soithang P.A. Churachandpur S.O.

(F.P. Solo)

Director Postal Services
Manipur Imphal - 795001

Regd AID

Copy to:-

1. Shri L. Soithang P.A. Churachandpur
2. Shri H.B. Hazarika (under suspension) - 795128
3. Shri M.A. Malai

C.G. of DPS IP for information & n/a. with a copy of CH/Sheet memo

(F.P. Solo)

Director Postal Services
Manipur Imphal - 795001

Certified to be true Copy

N. Anix Byn
Advocate

ANNEXURE - E

22-18-

DEPARTMENT OF POST : INDIA
OFFICE OF THE SUB-DIVISIONAL INSPECTOR(P),
UKHRUL SUB-DIVISION, UKHRUL-795 142, MANIPUR

To

Log. AD
Shri L. Seithang,
Postal Assistant (Under Suspension),
Churachandpur P.O.
795128.

No. Inq./R-14/L. Seithang

Dated, Ukhrul,
28.10.97.

Sub:- Inquiry under Rule 14 of the CCS (CC&A) Rules, 1965
against Shri L. Seithang, PA(U/S), Churachandpur S.O.

Ref:- DPS, Imphal's Order No. F1-1/96-97 Dated, 24.6.97.

Sir,

The undersigned has been appointed as Inquiry Officer by the Director of Postal Services, Manipur, Imphal to inquire into the charges levelled against you vide S.S.P.Os, Imphal's Memo. No. F1-1/96-97/Disc. dated 13/19.5.97 & DPS, Imphal's Memo. No. F1-1/96-97 dated 24.6.97. A copy of the order appointing the undersigned as Inquiry Officer is enclosed for your kind perusal and satisfaction please.

The date hearing of the case has been fixed on November, 21 of 1997 (Friday) at 1100 Hours in the office of the Director of Postal Services, Imphal for simple appearance before the undersigned.

You are, therefore, hereby directed to attend the inquiry as scheduled. You may take the assistance of any Central Govt. Servant to act as Defence Assistant and for this purpose you may send intimation to the undersigned nominating any other Govt. servant alongwith a letter of willingness of that Govt. servant well in advance so that the undersigned may take up the matter for follow up action.

You are entitled to TA/DA for attending the inquiry for both up and down journey and you may apply for TA advance to the Director of Postal Services, Manipur, Imphal.

S. S. HAZARIKA
Sub-Divisional Inspector(P)

Ukhrul Sub-Division, Ukhrul
(INQUIRY OFFICER)

Certified to be true Copy

N. Anil Singh
Advocate

Contd. ... P/2.

Department of Post, India.
Office of the Director Postal Services, Manipur, Imphal.
795001.

Memo No. P1-1/96-97/Disc Dated at Imphal the 9.1.98.

- O R D E R -

Whereas an inquiry under Rule-14 of the CCS(CCA) Rules, 1965 against Shri L. Soithang PA, Churachandpur has been ordered vide this office memo of even No. dtd. 13/19.5.97.

Whereas Shri M.A. Malai C.I. Divisional office Imphal has been appointed as presenting officer vide this office memo of even No. dtd. 24.6.97.

And whereas Shri M.A. Malai has since been transferred and posted as SDIPOS Arunachal Pradesh Itanagar and whereas the undersigned has considered the necessity of change of Presenting officer for the above inquiry.

Now, therefore, the undersigned in exercise of the powers conferred by Sub rule(2) of Rule-14 of the CCS(CCA) Rules, 1965, hereby appoints Shri B. Rajbangshi, SDIPOS 3rd Imphal as the presenting officer with immediate effect in place of Shri M.A. Malai to present in-to the charges framed against the said Shri L. Soithang vide this office memo of even No. noted above.

Self
(LALHLUNA)

Director Postal Services
Manipur Divn. Imphal-795001.

Copy to:-

1. Shri B. Rajbangshi, SDIPOS, 3rd Imphal for information and necessary action. The copies of this office Ch/sheet memo of even No. 13/19.5.97 with corrigendum memo of even no. dtd. 25.6.97 is enclosed herewith.
2. Shri M.A. Malai the then C.I. Divisional office now SDIPOS(West) Arunachal Division Itanagar.
3. Shri L. Soithang PA, Churachandpur S.O. (under suspension) for information.
4. Shri S.B. Hazarika, I.O./SDIPOS Ukhrul for information.
5. Vig/Stt (INV)
6. The SDIPOS, CCPur.
- 7-8. Spare.

Certified to be true Copy

N. Anix Singh
Advocate

U. L. Luna
(LALHLUNA)

Director Postal Services
Manipur Divn. Imphal-795001.

ANNEXURE. 9

Department of Post: India.
Office of the Director Postal Services: Manipur: Imphal.
795001.

- 20 -
24

Proceeding of Preliminary Hearing Dtd. 29.5.98.

The proceedings of Preliminary hearing were taken up by the undersigned in the office of Director of Postal Services, Manipur Divn, Imphal in my chamber on 29.5.98 at 11.00 hrs. and the following officials were present:-

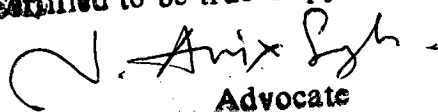
1. Shri L. Soithang (Charged official)
2. Shri B. Rajbangshi (Presenting officer)
3. Shri N.C. Halder (Inquiry officer)

I have introduced myself as well as presenting officer and charged official in the proceedings of Preliminary hearing. I explained everything to the charged official clearly and vividly about the case. I asked the charged official whether he has received the copy of charge sheet which was issued by Shri R.K. Biswanath Singh, Sr. Supdt. of Post offices Manipur Division, Imphal vide his memo No. FI-1/96-97/Disc. dtd. 13/19.5.97 in reply Shri L. Soithang, Charged official, admitted to have received the charge-sheet and to have understood the charges against him fully.

I asked Shri L. Soithang, Charged official whether he admitted the all charges or not. In reply the charged official has categorically admitted all charges which were framed against him vide SSPOs, Manipur Division, Imphal, Memo No. FI-1/96-97/Disc. dtd. 13/19.5.97. Moreover I asked Shri L. Soithang, Charged official, whether he pleads him guilty or not. In reply Shri L. Soithang Charged official, pleads him guilty.

Contd. P/20....

Certified to be true Copy


Advocate

- (2) -

I asked Shri L. Soithang, Charged official to submit his written statement, accordingly he has submitted his written statement dtd. 29.5.98. I have gone through his written statement and it is seen that he has categorically admitted all charges which have been framed against him by Sr. Supdt. of Post offices, Manipur Dn, Imphal vide Memo No. F1-1/96-97/Disc dtd. 13/19.5.97.

The case is therefore closed in the preliminary hearing stage.

L. Soithang
Charged official
29.5.98

[Signature]
Presenting officer
29-5-98

[Signature]
Inquiry officer 29/5/98

अधीक्षक डाकघर, मणिपुर राज्य, इम्फाल
Superintendent of Post Offices
Manipur Division, Imphal-795001

Copy to :-

1. The Director Postal Services, Imphal.
2. Shri B. Raybansinghi, SDI, 3rd Sub Dn and P.O. of the Can.

3. Shri L. Soithang, Charged official.
4. Sp. an.

[Signature]
अधीक्षक डाकघर, मणिपुर राज्य, इम्फाल
Superintendent of Post Offices
Manipur Division, Imphal-795001

Department of Post:India.

Office of the Director Postal Services:Manipur:Imphal,

795001.

Memo No. Fl-1/96-97/Disc

Dated at Imphal the 21.7.98.

It was proposed to take action against Shri L. Soithang PA Churachandpur S.O. under Rule-14 of CCS(CCA) Rules, 1965 vide this office memo of even No. dtd. 13/19.5.97. The substance of the imputation of misconduct or misbehaviour on which the action was proposed to be taken is reproduced below:-

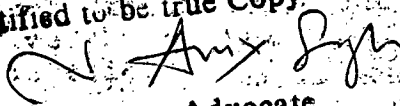
That the said Shri L. Soithang while working as VP delivery PA, Churachandpur SO during the period from 2.11.92 to 18.11.96 realised a sum of Rs.81,060.00 (Rupees eighty one thousand & sixty) only being the value and commission of 165 V.P. articles from the addressees of the VP articles received at Churachandpur on different dates. The said Shri L. Soithang instead of crediting it into Govt. account pocketified the amount for his personal use. The said Shri L. Soithang in his written statement dtd. 20.11.96 admitted that he realised the value & commission of the VP articles delivered to the addressees but he had not credited the amount into Govt. account violating the provisions of Rule-4(1) and 103 of F.H.B. Vol-I, thereby infringed the provisions of Rule-3(1)(i) & (iii) of CCS conduct Rules, 1964.

On 11.11.96 and 12.11.96 Shri U. Basumatary, SDIPoS, Churachandpur visited CCPur S.O. to find out the disposal of some VP articles received at Churachandpur. The said Shri L. Soithang PA, Churachandpur was absent on both dates. In his absence the SDIPoS Churachandpur verified the VP records and found that the particulars of VP articles which were transferred from Rang/Parcel Branch never entered in the registers of VP articles received by the said Shri L. Soithang. The said Shri L. Soithang in his written statement dtd. 20.11.96 admitted the fact.

By this act of non entering the particulars of VP articles in the register of VP articles received, the department sustained loss to the tune of Rs.81,060/- and contravened the provisions of Rule-219(1) of P&T Manual Volume VII Pt-I, corrected upto 31 March, 1982 and thereby infringed the provisions of Rule-3(1) (i)&(iii) of CCS conduct Rules, 1964.

That during the aforesaid period while working in the aforesaid office, the said Shri L. Soithang realised the value and commission of 165 VP articles amounting to Rs. 81,060.00 from the addressees of the VP articles. The said Shri L. Soithang did not made over the amount realised from the addressees of the VP articles to the M.O. issue PA under receipt with the VP MOs for remittance to the senders of the VP articles. The said Shri L. Soithang, instead of transferring the amount to MO issue Branch, pocketified it for his private use and thereby sustained loss to the Govt. to the tune of Rs.81,060.00 as shown in Annexure 'A' & 'B'. The said Shri L. Soithang in his written statement dtd. 20.11.96 admitted that he realised

Certified to be true Copy



Advocate

-23-
27

-42-

he realised the amount from the addressees of the VP articles but did not transferred the same to M.O. issue Branch. By this act the said Shri L. Soithang contravened the provisions of Rule-227(1) of P&T Mannual Vol-VI, Pt-I, thereby infringed the Rule-3(1)(i)&(iii) of CCS conduct Rules, 1964.

Shri L. Soithang was asked to submit within 10 days of the receipt of the memorandum a written statement of his defence. The said Shri L. Soithang PA Churachandpur has submitted his defence statement dtd. 6.6.97 which runs as below:

Sir,

I have the honour to receive the memorandum of chargesheet, the charge framed against me and in this connection I would like to submit my explanation in the following few paras

Article No. I:

That Sir, it is truefact that the value and commission of some VPs articles were used for my treatment which I now suffering from Diabetes.

That Sir, the amount which have been shown in the chargesheet ie. Rs.81060.00 is quite doubtful and I have no id that I have misappropriated so much Govt. money.

That Sir, in connection with the article No.II framed against me is that I was working in the VP branch along with 10 paid works. The work load of this branch is so heavy that I could not manage the normal works smoothly. On the otherhand the SPM ie. Shri M. Ibobi Singh (former SPM) habitually attended office very irregularly and during his absence I had to work all the works of SPM almost all the time and as a result, my own work of the branch pending day by day and at last this pending works became a headache for me and complete in due time this is the reason that I could not entered the Particulars of VP Articles received from the branches in the VP Register daily and at last I could not adjust the amount and commission of the VP articles. By the by my health became deteriorating day by day and due to Poor financial condition of income and haveing no any other sources completed to use Govt. money in my own treatment.

That Sir, with Ref. to the above my compelling circumstances I had mistaken, violating prescribed norms of the department and I would like to pray you to extend your sympathetic consideration to exonerate all the lapses which committed the reason cited above. I would like to pray you again that the dues of the Govt. money may be recovered from my PF balance and whatabout the remaining amount to be adjusted may kindly be recovered from my pay in installment in every month. For which act of your kindness shown I shall ever remain greateful to you honour.

Yours faithfully,

Sd/-

L. Soithang, PA,
Churachandpur S.O.
(under suspension)

Dated at CCPur
6th June '97.

Contd. P/3....

- 24 -
28

-(B)-

Shri S.B. Hazarika the S.D.P.O., Ukhrul was appointed Inquiry Officer to enquire into the charges framed against the said Shri L. Soithang under this office memo of even No. dtd. 24.6.97. Shri M.A. Malai the then C.I. O/o Divisional office, Imphal was appointed as presenting officer to present the case on behalf of the Disciplinary authority to administrative reason, Shri N.C. Halder Supdt of P.Os Imphal and Shri B. Rajbangshi S.D.P.Os, 3rd Imphal were again appointed as I.O & P.O. respectively vide this office memo of even No. dtd. 19.2.98 and 9.1.98 to enquire into the case.

The Inquiry officer enquired into the case and submitted enquiry report, vide Spos Imphal letter No. A-1/Inquiry/Rule-14/1/97-98 dtd. 26.6.98 with a copy of written statement of C.O. dtd. 29.5.98. The copy of I.O's report was received at this office on 29.6.98. The written statement of the C.O. dtd. 29.5.98 which was submitted with I.O's report runs as under:-

I, Shri L. Soithang PA, now under suspension do hereby state that I have gone through the contents of the charge sheet issued by Sr. Supdt. of Post offices Imphal vide memo No. P1-1/96-97 Disc dtd. 19.5.97. All the charges levelled against me in the chargesheets in article I, II, III are true. I hereby admitted all the three charges framed against me. I admitted that all the 165 V.P Articles were delivered by me and its value and commission amounting to Rs.80946/- (Rupees eighty thousand nine hundred forty six) only was used by me for my personal use. I used the amount for my treatment of diabetes. I have no other sources for getting money I am compelled to use the Govt. money I am ready to repay the amount lost by me if the Govt. gives me a chance. I would like to repay, that all the dues of the Govt. money may be recovered from my GPF balance and wherabout the remaining amount may please be adjusted from my pay in installment. For which act of your kindness shown I shall ever pray.

Sd/-

L. Soithang
PA, CCpur now u/s.

Findings :-

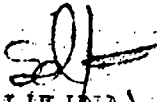
I have gone through the whole case, inquiry report submitted by the Inquiry officer and the representation submitted by the Charged official. From the report of the Inquiry office and personal statement of the accused official it is proved beyond any doubt that the accused official had misappropriated the said amount of Govt. money. He deserves befitting punishment commensurate to his offence. Hence as the case deserves and to meet justice, I pass the following order :-

Contd. P/4....

95-
21
-(4)-

- O R D E R -

I, Shri Lalhluna, Director Postal Services, Manipur Division, Imphal hereby order that Shri L. Soithang Postal Assistant Churachandpur S.O, now under suspension be published with dismissal from his service with immediate effect.


(LALHLUNA)

Director Postal Services
Manipur Divn, Imphal-795001.

Copy forwarded for information & n/action to:-

- Regd AID*
1. Shri L. Soithang Postal Assistant Churachandpur S.O, now under suspension P.O, Churachandpur,
 2. The Postmaster, Imphal H.O-795001.
 3. The DA(P) Calcutta through PM/Imphal H.O.
 4. The P.F of the official.
 5. The C.R. file of the official.
 6. The Punishment register.
 7. The Vig/Set. Inv Br.
 - 8-10. Spare.


(LALHLUNA)

Director Postal Services
Manipur Divn, Imphal-795001.

ANNEXURE - I

-26-
80

Dated, Churachandpur
6th Sept. 1998.

TO: 17

The Post Master General,
N.E. Circle, Shillong.
(Thru the Director of Postal Services,
Manipur, Imphal).

Applicant/ Appellant: Mr. L. Soithang s/o (L) Oztapao of D. Phailien village a/p Tuibong HQ. P.O. & P.S. Churachandpur, Manipur. (former P.A. of Churachandpur Post Office.

Subject: IN the matter of appeal against the dismissal order passed by the Director of Postal Services, Manipur Divn. Imphal under No. FI.I/96-97/Disc. dated 21.7.98.

Most respectfully sheweth:

That, the petitioner/Applt. was serving to the post of Postal Asst. as appointed by the concerned appointing authority being one of the candidate for seeking appointment to the said post on 30.10.1981 and since then I had performed my duty as assigned to me by my superior officer without any adverse remarks against my service.

That, however, ill luck would have it I have been dismissed from service by Director of postal service, Manipur Divn. Imphal vide order No. mentioned in above subject on the ground of misappropriation of V.P. articles amounting to Rs. 81.060/- only.

That, at the time of investigation into the case, as fear psychological influence, being bad health by that time had confessed that I did wrong against the government before the investigation team.

contd. next page 2 pl.

Certified to be true Copy

Advocate

- 2 -

That, before passing the findings/orders against me the correct procedures as contemplated in the provisions of CCS (CCA) Rules, 1965 was not observed properly. (See Swami's handbook Page 221).

That, Dismissal order awarded to me at present case amount to me irregular and illegal to some extent.

That, anyhow, I also admitted the missappropriation of some amount of Vp articles while in service in my statement furnished to Enquiry Officer Mr. U. Basumatari, SDPO, Churachandpur with request for taking necessary action to continue my service by making recovery of amounts liable against me from monthly salaries, GPF and other payable amounts in my favour.

That, since the reviewing authority would be the appellate authority, this review petition is prepared and submit for kind perusal and acceptance. Also please refer to D.G., P&T. Letter No. 6/28/72-Disc. dated 2.8.1973 (page 66 of CCS(CCA) Rules, 1965.

In the above circumstances, I, therefore request you kindly to look into this review petition and please take necessary action for acceptance to review the findings of dated 21.7.98 under reference noted in above so that I can continue my service on a compassionate ground. Lost of job is lost of life is also a point to be considered on humanitarian ground. As it is the first time of offence committed by me your kind pardon is also requested to be considered.

Yours faithfully.

Dated, Churachandpur
29/8/98.

L. Soithang
(L. Soithang)
for P.A. Churachandpur S.P.O.
now under dismissal from service
a/p Tuibong HQ. Churachandpur.

....(0).....

ANNEXURE - J

- 28 -
321

DEPARTMENT OF POSTS OFFICE OF THE POSTMASTER GENERAL, N.E. REGION, SHILLONG

NO.STAFF/109-MISC/7/98

Dated at Shillong, the 27.02.2001.

This is regarding appeal dated 6.9.98 of Shri L. Soithang, Ex-P.A., Churachandpur against the order of punishment of dismissal from service issued under DPS, Imphal's Memo No.FI-I/96-97/Disc. dated 21.7.98.

The case in brief is that Shri Soithang while was working as VP Delivery clerk at Churachandpur S.O. from 2.11.92 to 18.11.96 realised value and commission of as many as 165 VP articles counting Rs.81,060/- from the addressees of the articles on different dates but did not credit the same to Govt. account. Therefore, charge-sheet under Rule-14 of C.C.S. (CCA) Rules, 1965 was issued against him under SSPOs, Imphal's Memo No.FI-1/96-97/Disc. dated 13/19-5-97. The following were the charges framed against him.

- i. That said Shri L. Soithang while working as VP delivery P.A., Churachandpur during the period from 2.11.92 to 18.11.96 had not credited a sum of Rs.81,060/- to Govt. account being the value and commission of VP articles violating the provision of Rule 4(I) and 103 of Financial Hand Book Vol.I and thereby infringed the provision of Rule 3(I)(I)&(iii) of C.C.S. (Conduct) Rules, 1964.
- ii. That during the aforesaid period and while working in the aforesaid office the said Shri L. Soithang did not enter the particulars of VP articles received for delivery at Churachandpur S.O. in the register of VP articles received violating the provisions of Rule 219(I) of P&T Man. Vol. VI Part-I corrected upto 31.3.82 and thereby infringed the provisions of Rule 3(I)(I)(III) of C.C.S. (Conduct) Rules, 1964.
- iii. That during the aforesaid period while functioning in the aforesaid office the said Shri L. Soithang did not make over the value & commission of 165 VP articles amounting to Rs.81,060/- only which were delivered to the addressees after realising the value and commission as shown at annexure A&B to the MO>PA under receipt violating the provisions of Rule 227(I) of P&T Man. Vol. VI Pt.I corrected upto 31.3.1982, thereby infringed the Rule 3(I)(I)&(iii) of C.C.S. (CCA) Rules, 1965.

Shri Soithang in his defence statement dated 6.6.97 admitted to have utilised the day to day collection of value and commission of VP articles delivered by him for his personal treatment. He however expressed doubt about the correctness of total amount which was arrived at Rs.81,060/- but could not say as to what should be the amount according to his own opinion. On completion of the inquiry into the case DPS, Imphal found him guilty of misappropriation of Govt. money and imposed a punishment of dismissal from service under his Memo No.FI-I/96-97/Disc. dated 21.7.2001. Hence this appeal.



Certified to be true Copy

[Signature]
Advocate

Shri Soithang in his appeal dated 6.9.2001 prayed for exoneration and reinstatement in service offering that the amount misappropriated may be recovered from his dues from the Department. The following are the main points he put forward in support of his appeal.


1. That at the time of investigation he confessed that he did the wrong out of fear psychological influence and being of bad health.
2. That irregular attendance of the Supervisor i.e. SPM and his negligence in checking of VP register etc. for about a year were responsible to lead him to commit the irregularities.
3. That he was doubtful about the total amount which was arrived at Rs.81,060/- as the records were beyond his assessment. In his opinion, had the SPM carried out regular checks this situation would not have arisen.
4. Lastly he stated that his dwelling house and properties were gutted in fire during ethnic violence during 1997 making his family homeless. In addition to this, his ill health is another cause of anxiety of his family. He, therefore, prayed for re-instatement in service on exoneration from the charges and offered recovery of the loss from the amounts payable to him.



I have gone through the appeal thoroughly and considered the points raised by the appellant. My observation on the points raised by the appellant is as follows :-

- i. Although he stated that he admitted the misappropriation on fear and due to his bad health he could not furnish any evidence that he did not actually misappropriate the amount.
- ii. His argument that the negligence of Supervisor in checking the VP abstract, etc, was the reason for misappropriation cannot be accepted. Non-checking may lead to commission of some mistakes but not misappropriation. It was his duty to credit the amount whatever he realised from the addressees on delivery of the VP articles. Even if it is agreed that due to pressure of work he could not maintain the proper records on some occasion, he could deposit the money collected as UCR.
- iii. Regarding his doubt about correctness of the amount of misappropriation, it is hypothetical only. The amount has been arrived at based on the records. He had every opportunity to verify it with reference to the records and remove his doubt. Moreover he did not deny that he committed the misappropriation.
- iv. The loss of his property in fire and his ill health etc. are extenuating reasons and these cannot be the justification for misappropriation of Govt. money.

-30-
34

In view of this, I do not find any reason to change the punishment awarded to the appellant by the disciplinary authority under DPS, Imphal's Memo No.FI-I/96-97/Disc. dated 21.7.98.


27/2/2001
(ZASANGA)
Postmaster General,
N.E. Region, Shillong-793 001.

  Shri L. Soithang
Ex. Postal Assistant
C/O DPS, Manipur Division, -
Imphal.

Copy to:-

- 1-2. The Director Postal Services, Manipur Division, Imphal.
3. Office copy.

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL N.E. CIRCLE SHILLONG

No. DPS(HQ)/Misc/2001

Dated Shillong, the 11-4-2001

To

Shri L. Saithang,
Ex-P.A., Churachandpur SO,
Phailian village,
C/O the Sub Postmaster,
Churachandpur S.O.,
Manipur.

Your letter No. nil dated 2-4-2001 addressed to Shri Zasanga, Postmaster General was received and processed by me as the officer has already retired from service.

In this connection, I would like to tell you that the said PMG has upheld your punishment of dismissal. For appeal and review, you may address the Member (P) of Postal Directorate, New Delhi as he desires.

you

(LALHLUNA)

Director of Postal Services.

Certified to be true Copy

Anix Lyh
Advocate

ANNEXURE - L

-32-
ye

To:

The Member (P),
Postal directorate,
Government of India,
NEW DELHI-1.

Petitioner/Applt: Mr. L.Seithang s/o (L)otpaø of D.Phailien
village, P.O.& P.S. Churachandpur-795128,
Churachandpur Dist. Manipur state,
and Ex.P.A. Churachandpur Post office.

बीमा नहीं लगाये गये डाक टिकटों का मूल्य Amount of Stamps Affixed एक रजिस्ट्री * Received a Registered पानेवाले का नाम Addressed to	NOT INSURED The member Postal Director India	क्रमांक No. 3530 पानेवाले हस्ताक्षर Signature of Recdng Officer
--	--	---

In the matter of an appeal against the order passed by Director of Postal service, Imphal, Manipur - under No.FI.I./96/97-Bscn. dated 21-8-1998. thereby dismissed Mr. L.Seithang s/o (L) otpaø, Ex-Postal Assistant, Churachandpur Post office, Manipur from HIS SERVICE.

-A N D-

In the matter of modification of the extrimist penalty of dismissal from service thus imposed upon the Appellant to that of a minor or less heinous penalty providing him the privilege of getting re-enst-ate to his former post with protection of his pasts service for th the purpose of pension.

Craved for.

Most respectfully sheweth:-

1. That, the Appellant was serving to the post of Postal Assistant at Churachandpur Post office as appointed by the concerned Authority being one of the candidate for seeking appointment to the post of POSTAL ASST. on 30-10-1981 and since then I had performed my duty as assigned to me by my superior officer without any adverse remarks against my service.

2. That, however, ill luck would have it I have been dismissed from service by Director of Postal service, Imphal, Manipur vide order mentioned in a bove subject on the ground of misappropriation of "V.P.articles " amounting to Rs. 81,060, only.

A Xerox copy of the dismissal order No.FI.I/96-97-Bscn. dated 21.7.98 is enclosed herewith as Annex."A".

Certified to be true Copy
N. Anix Advocate

Copy of order made-3

3. That, at the time of investigation into the case by the authorised officer of Postal directorate, Imphal, Manipur fear psychological influence, being in bad health by that time, had confessed that I did wrong against the government before the Investigating team.

4. That, sometimes due to the irregular routine checking by my superior officer(s) (Postmaster) viz: V.P. abstract on the daily transaction register records etc. by the said S.P.M. my duty as assigned to me sometimes caused irregular & negligance in the proper counting of V.P. articles values on my part.

5. That, the appellant worked in the V.P. Counter of the same post office since 1992 to 1996 i.e. 5 years. Why the controlling officer concern allowed him (Applt.) for handling V.P. Branch for a term of 5 years. The S.P.M., S.D.I.P.O. and D.P.S. did not check the V.P. branch from February, 1996 to November, 1996 i.e. 10 months. Such irregular routine checking of V.P. articles also amounts to violation of postal Rules.

6. That, over and above, the irregular attendance of S.P.M. and his negligance in checking of V.P. articles for almost of one year and the heavy loaded to me in picking up even the duty of SPM also become one of the factor that leads irregularity on my part in proper counting of V.P. values to effect my service. To add further, my bad health (diabetis) also affected for proper discharge of my duty at that time which sometimes failed for proper and regular entry of V.P. articles and values for the last one year.

On the other hand the S.P.M. also failed to put his signature on the records and also did not check up V.P. articles (counter) for the last one year. For all these reasons I have been blamed for misappropriation of V.P. article-values to the tune of Rs. 81,060/- only. by the postal directorate. And hence I have been placed service dismissal by the postal directorate, Imphal, Manipur.

7. That, there is a cloudy of doubt that the V.P. articles to the tune of Rs. 81,060/- only has been recorded beyond my assessment. This alleged amount cannot be treated true and correct, as the root of ellegation levelled against me.

contd. on next page -3.

-3-

If regular routine checking on the working of V.P. counter was conducted regularly such irregularity also could not be happened so far and I will also not face such situation to affect even my service. Why the SPM of other my superior officer(s) were failed to perform such important routine checking duty. There was no routine checking within the span of one year from my superior or controlling officer.

8. That, during deposition of my statement before the Investigating officer or Enquiry officer into the allegation, I have also made a request to the I.O. that I will make total recovery of the alleged misappropriated amount from my pays B.A of other payable amount to me from my accounts to the Government, but the concerned Investigating officer has a deaf ear to my request. I further appeal to him to drop from further proceedings against the charge levelled against me on the plea that it was my first mistake or wrong committed against the govt. while in service and misappropriation of V.P. article-values as alleged against me was not my intention or my purpose but ill luck would have it such irregularity has been caused in the maintenance of V.P. articles-values on my part to some extent.

9. That, all the charges framed against me by E.O /I.O. were admitted by me in force by fear of torture or suffering as I have never faced such offence in my life. The written statement of C.O. dt. 22-5-98 by L. Seithang was misguided by the Inquiry officer.

10. That, on 11-11-96 and 12-11-96 Shri. U. Basumitra SDISO, Churachandpur visited during the absence of V.P.P.A. on both dates the P.A.(V.P.) was on leave. And such I, Shri. L. Seithang did not know the articles and V.P. vouchers when other documents were scattered. I did not see the seized articles and vouchers. It was beyond my knowledge and assessment. As it was during my absence I knew nothing about this concern. All the statements and representation submitted to the D.P.S. were misguided by the Enquiry officer and presenting officer, SDIPO. Checking was done during my absence. Hence the dismissal from service imposed upon me is unjustifiable, improper and irregular and I strongly denied the charges.

contd. on page 4 -

11. That, a representation regarding the dismissal of service review was made to the D.P.S. Imphal, but a communication was received from Superintendent of Post office, Imphal, Manipur that review petition should be submitted to the P.M.G. Shillong N.E. circle, Meghalaya state within 45 days from the date of dismissal. The said representation was submitted to the Post Master General (PMG) on 6-9-98 where a communication was received from his office in the month of February, 2001. It was communicated that the P.M.G. N.E. circle could not be in a position to change punishment so awarded to me. Again, a second representation was submitted in the month of March, 2001 to the Director of postal service, Shillong who informed that such Review petition/appeal should be submitted to the Hon'ble Member, (P) of postal directorate, New Delhi under No.DPS(HQ)/Misc/2001 dated .11/4/01.(enclosed ~~xxxx~~ -copies for reference).

That to add further the postal rules does not allow for handling one branch not more than 6 months.

12. That, the appellant worked in the V.P.counter of the same post office since 1992 to 1996 i.e. 5 years. Why the controlling officer concerned allowed him (Applt.) for handling V.P.branch for a term of 5 years. The S.P.M. & S.D.I.P.O. and D.P.S. did not check the V.P. branch from Feb.1996 to Nov.1996 i.e. 10 months. It also amounts to violation of post office rules.

IN the above mentioned circumstances it is, therefore request that the respectable Sir be kind enough to look into this appeal -representation and please entertain it for further sympathetic consideration against the impugned order passed by the Director of Postal service, Imphal, Manipur and please set aside the said order or to modify the major punishment of service dismissal into less or minor penalty which is found proper and adequate according to the nature of the case for ends of justice.

L. Seithang
Yours faithfully.

(L.Seithang) 12/5/01

Dated 12/5/2001.
D.Phaillien vill:

ANNEXURE. M

-36-
40

Dated, Churachandpur,
5th Feb, 2004.

To,
The Member (P),
Postal Directorate,
Government of India,
New Delhi-1.

Sub:- In the matter of appeal against the dismissal order ~~pass-~~
passed by the Director of Postal Services, Manipur
division. Imphal under FI.1/96-97/Disc. dated 21.7.98.

Sir,

I have the honour remind your honour to refer the appeal
petition filed by my husband Mr. Seithang Ex. P.A, Churachandpur
post office, Manipur dated 16.5.2001 with for your kind reference.

IN this connection, I therefore request you kindly to
look into the long ~~xxx~~ pending case of my husband stated
thereon and the grievance face by his wretched family.
Due to his bad health and in weaker state of life, there
is no any possibility means and ways to get daily bread,
our orievrance is beyond ~~xxxxxxxxxxxx~~ expression, as you
are aware better the family life conditions of his family
when he is not service, we are to die of starvation ~~xxxw~~
unless your kind personal attention is paid to the part-
icular case.

YOUR KIND LENIENCE IN DISPOSAL OF THIS CASE IS
HIGHLY SCLICITED ON HUMANITARIAN GROUND.

Hope to communicate the matter which is resting
with your office at an early date.

Enc: as above

Yours faithfully,

Certified to be true Copy
N. Anix Sph
Advocate

Kholnu
(Ms. Kholnu M'sao)
W/O L. Seithang M'sao
Ex. P.A, Churachandpur
Post Office.



IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, CHURACHANDPUR.
MANIPUR



Cril, Misc, Case No. 810 of 2003
Ref: - F.I.R. No. 69(3) 1997 of CCP, PS.
U / S. 420/409 I.P.C.

The State of Manipur.

-versus-

Shri. L. Soithang 47 yrs s/o late. Otpao of
Phailian Vill, Churachandpur serving Postal
Asstt of Churachandpur Sub-Post Office.

Accused.

CERTIFY TO BE TRUE COPY: ORDER DATED 6-11-2003

This is a final report u/s 173 Cr.P.C filed by the I.O.
in connection with the case. Perused the materials on re-
cord. Register it as Cril, Misc, Case.

Issue notice to the Complaint or informant.
Fix on 14-11-2003 for consideration of the Final Report.
Inform the Ld. A.P.P. and D/A is to take step in time.

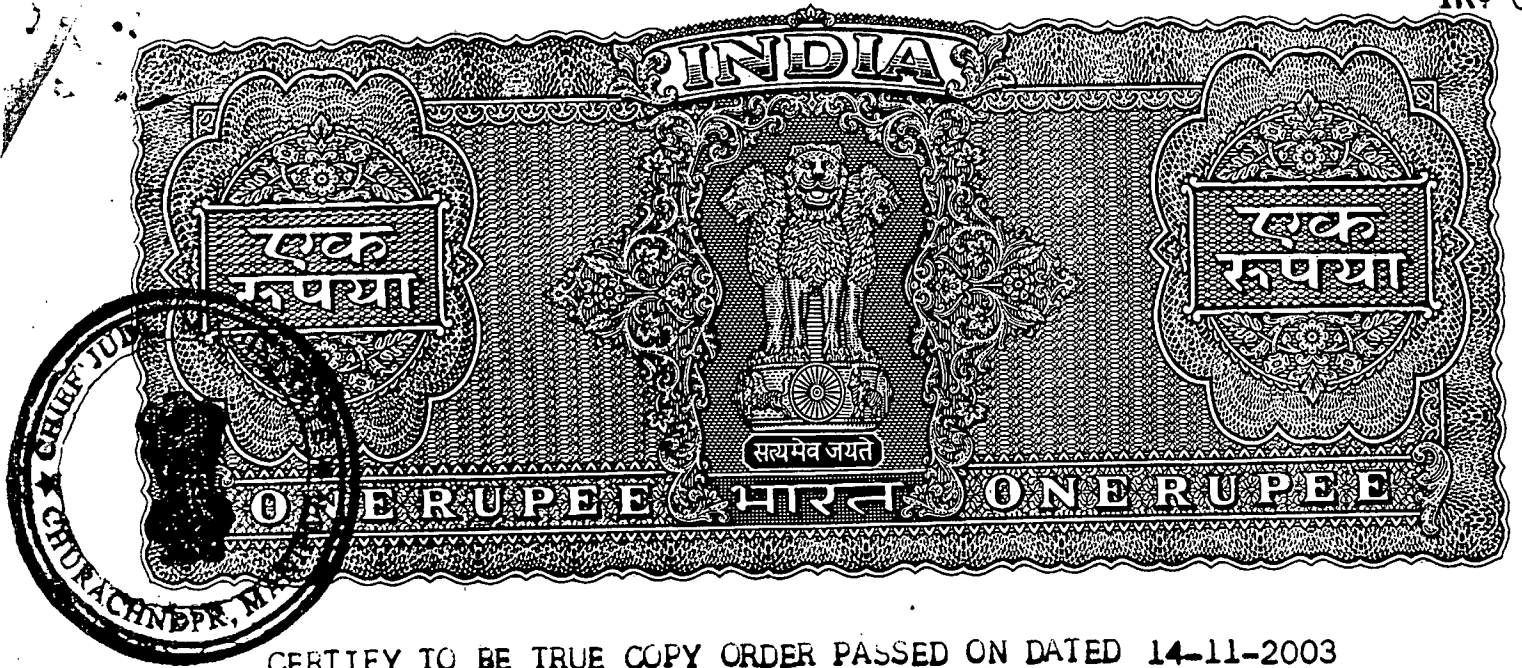
Sd/-, Ch. Brajachand Singh,
Chief Judicial Magistrate, Churachandpur
Manipur.

Examined by me and attested to be
true copy of the original.

14/11/03

cont -

Certified to be true Copy
N. Anix Singh
Advocate



CERTIFY TO BE TRUE COPY ORDER PASSED ON DATED 14-11-2003

The complainant, informant as well as the Ld. A.P.P are present. The complainant, informant orally pray submit that he has no objection in accepting the Final Report.

Perused the Final Report. The report states that the case has been returned in Final Report on insufficiency of evidence. The report is considered in the light of other materials before me and I, can not see any reason to disallow the same. Hence, the Final Report is accepted. Accordingly the accused is discharge from the case and his bond and surety bond are cancelled. The seized articles, if any, be confiscated to the State. The proceeding of the case is hereby closed.

Announced in the open court.

Sd/- Ch. Brajachand Singh.
Chief Judicial Magistrate/Churachand
pur, Manipur.

Date of application for the copy 10-11-2003
 Date fixed for notifying the requisite number
 of folios and stamps 2. Rs. 2.00
 Date of delivery of the requisite folios and
 stamps 14-11-2003
 Date on which the copy was ready for delivery
 14-11-2003
 Date of making over the copy to the applicant
 18-11-2003
 Cost of the copy 2.00 N.P.
 Signature of R.G. 14/11/03
 Assistant to Magistrate

Examined by me and attested to be
true copy of the original.

14/11/03
Sd/- Ch. Brajachand Singh

Certified to be true Copy
N. Anix
Advocate