

FROM No. 4.  
( See Rule 42 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

1. original Application No. 123/06  
2. Misc Petition No.                       
3- Contempt Petition No.                       
4. Review Application No.

Applicant(S) Bipul Ranjan Das

Respondants U.O.P. Gons

Advocate for the Applicant(S) M. Chanda, H. Rahman, R. Das.

Advocate for the Respondant(S) M. U. Ahmed

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. No. 20/- deposited in <u>                    </u> No. <u>266 323881</u> Dated <u>10.4.06</u></p> <p><u>                    </u> Jl. Dy. Registrar <u>                    </u></p> <p>Steps taken with envelops.</p> <p><u>                    </u></p> <p><u>                    </u> 20/5/06 with notice</p> <p>order dt. 25/5/06 issuing to learned advocate's for both the parties.</p> <p><u>                    </u> 26/5/06</p>	<p>25.05.2006</p>	<p>The case of the applicant is that h has been charge sheeted for mis-appropri ation of money and FIR was lodged. Enqui was concluded and report was also submit ted on 17.04.2004. The order of punishme was given in 2004. The applicant filed an appeal and the same was rejected vid order dated 25.7.2005. Thereafter, the applicant filed a Review Petition, whic was rejected on 23.03.2006. One of the ground is that <u>reasonable opportunity</u> was not given to the applicant and no inquiry was conducted before <sup>the</sup> orders hav been passed.</p> <p>Heard Mr. H. Rahman, learned counsel for the applicant and Mr. M.U. Ahmed, learned Addl. C.G.S.C.Z for the respondents.</p> <p>The respondents are directed to take instructions as to whether any inquiry in the matter was conducted and reasonable opportunity <del>was</del> to cross examine was granted to <del>the</del> the applicant.</p> <p>Post on 28.06.2006.</p>

Vice-Chairman

28.06.2006

Issue notice to the Respondent

No. 3. Learned counsel for the Respondents is directed to take instructions as directed vide order dated 25.05.2006.

Post on 31.07.2006 as a last chance.

Vice-Chairman

mb

31.07.2006 Present: Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.

Hon'ble Sri Gautam Ray, Administrative Member.

Post on 07.08.2006 for disposal at the admission stage itself.

Member (A)

Vice-Chairman

mb

D/No=741

07.08.2006 Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman.

Hon'ble Sri Gautam Ray, Administrative Member.

The short question asked to the learned Counsel for the Respondents to get instructions as to whether the Respondents are justified in imposing penalty of removal from service on the basis of findings of the inquiry, which has affected the Applicant. Learned Counsel for the Respondents wanted to file statement on that point with certain legal provisions.

Post on 08.09.2006 for disposal at the admission stage.

5/6/06

for Respondent No. 5 only

Copy - Received for Respondent no. 7.

20/6/06  
S.P.O. / S.H. / M.O.

Pl. comply with order dated 28-6-06.

28/6/06

Notice & order sent to D/Section for issuing order no. 3, by regd. A/D post.

D/No=741

DT= 24/7/06

28-7-06

① Notice sent to R. no. 3. on 24-7-06.

② Service awaited.

O.A. 123/2006

3-

07.08.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

Hon'ble Sri Gautam Ray,  
Administrative Member.

The short question asked to the learned Counsel for the Respondents to get instructions as to whether the Respondents are justified in imposing penalty of removal from service on the basis of findings of the inquiry, which has affected the Applicant. Learned Counsel for the Respondents wanted to file statement on that point with certain legal provisions.

Post on 08.09.2006 for disposal at the admission stage.

Member

Vice-Chairman

/mb/

24.10.2006

Counsel for the applicant submits that he has not received the copy of the reply statement. Mr.M.U.Ahmed, learned Addl.C.G.S.C. is directed to serve a copy of the same upon the counsel for the applicant.

post on 6.11.2006.

Vice-Chairman

bb

28.9.06

W/S submitted  
by Report No.1 to 7.

28.9.06

23.10.06

W/S filed.  
by

3.11.06

W/S has been filed.  
28.11.06

- 4 -

O.A. No. 123/2006

06.11.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

It is submitted by the learned Counsel for the Respondents that he has filed reply statement. Learned Counsel for the Applicant submitted that he has received copy of the reply statement without some of the annexures. Learned Counsel for the Respondents is directed to supply the same within seven days from today failing which reply statement will be rejected. Learned Counsel for the Respondents admitted that though he has mentioned the letters dated 10.09.2004 and 23.03.2006 in paragraph 3 of the reply statement, he has not produced the same and he will take step to provide the same.

The Registry is also directed to verify the pleadings either in the reply statement or in the rejoinder and if any documents, annexures are showed to have been produced, they should verify meticulously, i.e. exactly produced or not and if any such defects that should not be entertained before this Bench.

Post on 28.11.2006.

  
Vice-Chairman

/mb/

29.11.06.

The counsel for the applicant to verify whether Annexures has been annexed or not. Let it be done. Post the matter on 15.12.06.

  
Vice-Chairman

lm



Notes of the Registry

Date

Order of the Tribunal

Reply & query at 9.1.2007  
page 4 by Mr. M. U. Ahmed V.C.

Written Statement  
which is submitted by the  
Respondents in O.A 123/06,  
I carefully verified  
both the copies Part 'A' and  
'B' files. The Respondents  
have annexed only four  
annexes i.e. page No. 17 to 20.  
There is no any annexure  
of <sup>dated</sup> 10.9.04 and 23.3.06  
except for annexure which  
is mentioned at page 3 in  
the Written Statement.

Submitted before the  
Honble Court in formation  
and necessary orders.

For Secretary

/bb/

8.1.07

While <sup>again</sup> I checked the  
annexes in the Wf, I  
found - Ann - R-I dated  
23.3.06 at page - 17 and  
ann - R-II dated 10.9.04 at  
page - 22. Submitted before  
the Honble Court.

For Secretary  
8/1/07

The punishment that has been imposed  
upon the Applicant is dismissal from service.  
The contention of the Applicant in its pleadings  
and arguments is that neither any enquiry was  
conducted nor any opportunity of cross-  
examination was given to him. Mr. M. U. Ahmed,  
learned Addl. C.G.S.C. submitted that  
punishment has been culminated on the  
admission of guilt by the Applicant but some  
enquiry has been conducted. This Court would  
like to go through the enquiry report and  
therefore, Respondents' counsel is directed to  
produce the enquiry report before the next date  
of hearing.

Considering the issue involved, I am of  
the view that the O.A. has to be admitted.  
Admit the O.A. Let the case be listed on  
12.02.2007 for hearing. Pleadings shall be  
completed by that time.

Vice-Chairman

04.12/2006

12.2.2007

Notes of the Registry

Date

Mr. H. Rahman, learned counsel for the Applicant of the Tribunal submits that he has received of the documents from Mr.M.U.Ahmed, Addl. C.G.S.C. as directed by this Court. He has also filed rejoinder to the reply filed by the Respondents. Let it be brought on record, if it is otherwise in order.

Post the matter before the next Division Bench.

BZ

/bb/

Vice-Chairman

13.2.07

Reply submitted  
by the Applicant.  
page no. 1 to 32

PA

12.2.2007

Mr. H. Rahman, learned counsel for the Applicant submits that he has received of the documents from Mr.M.U.Ahmed, Addl. C.G.S.C. as directed by this Court. He has also filed rejoinder to the reply filed by the Respondents. Let it be brought on record, if it is otherwise in order.

Post the matter before the next Division Bench.

Vice-Chairman

/bb/

01.03.2007

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

Hon'ble Smt Chitra Chopra, Administrative Member.

When the matter came up for hearing, the learned counsel for the parties wanted to work out the legal position as to whether in a case where the delinquent admits the guilt, whether that can be taken as the sole criteria for

1.3.2007

entering into a major penalty of

Notes of the Registry	Date	Order of the Tribunal
	1.3.2007	entering into a major penalty of dismissal from service. Let it be done. Post the matter before the next Division Bench.
	23.3.07	There is no time for hearing. Post on 25.4.07 for hearing.
	25.4.2007	Heard counsel for the parties. Hearing concluded. Judgment pronounced in open Court, kept in separate sheets. The O.A is dismissed in terms of the order. No order as to costs.
	11.7.07	

1.3.2007

entering into a major penalty of dismissal from service.

Let it be done. Post the matter before the next Division Bench.

Ce

Membr(A)

Vice-Chairman

nkm

23.3.07

There is no time for hearing. Post on 25.4.07 for hearing.

Member

Member

Vice-Chairman

pg

25.4.2007

Heard counsel for the parties. Hearing concluded. Judgment pronounced in open Court, kept in separate sheets.

The O.A is dismissed in terms of the order. No order as to costs.

By order

/pg/

11.7.07

Copy of the order

has been sent to the Dy Sec. for info. The same to be replied by post, and a copy has been handed over to the L/Ad. for the Regd.

Received  
true copy  
of order  
25/4/07.

12/7/07

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
AT GUWAHATI.**

**No. O.A. 123 of 2006.**

**Date of Order : 25.4.2007.**

THE HON'BLE SHRI G. SHANTHAPPA, MEMBER (J)

THE HON'BLE SHRI GAUTAM RAY, MEMBER (A)

**BETWEEN :**

**BIPUL RANJAN DAS** S/o Late Sachindra Kumar Das,  
Postal Assistant (dismissed),  
Assam Rifles Sub-Post Office,  
Shillong-793011.  
C/o Mrinal Kanti Das @ Mukta,  
Proprietor : M/s Angel Tailors,  
Thana Road,  
P.O. & P.S. Shillong-793 001.  
Dist : East Khasi Hills, Meghalaya.

**... Applicant**

( By Shri R. Das. Counsel. )

**A N D**

1. Union of India through Secretary,  
Ministry of Communications and Information Technology,  
100-E, GA Section,  
Dak Bhawan, Sansad Marg,  
New Delhi-110 001.
2. The Under Secretary,  
President's Secretariat,  
Public-1 Section,  
Rashtrapathi Bhawan,  
New Delhi-110 004.
3. The Chief Post Master General,  
North Eastern Circle,  
P.O. Shillong – 793001.  
Dist : East Khasi Hills, Meghalaya.
4. Sri Sushma Chauhan,  
Desk Officer (Vig. Petition),  
(through the CPMG, N.E.Circle, Shillong)  
Government of India,  
Ministry of Communications & IT,  
Department of Posts, Dak Bhavan,  
Sansad Marg, New Delhi-110 001.
5. The Chief Post Master General,  
North Eastern Circle,  
P.O. Shillong – 793 001,  
Dist : East Khasi Hills,  
Meghalaya.
6. The Director (Headquarter),  
O/o The Chief Postmaster General,  
N.E. Circle, P.O. Shillong-793001. Dist: East Khasi Hills, Meghalaya.

7. The Sr. Superintendent of Post Offices,  
Meghalaya Division,  
P.O. Shillong-793001,  
Dist : East Khasi Hills, Meghalaya.

... Respondents

( By Shri M.U.Ahmed, Addl. CGSC. )

### **ORDER**

**( G. Shanthappa, Member (J) )**

This application has been filed u/s 19 of the A.T.Act, 1985, seeking the following reliefs:

- (i) To set aside and quash the impugned dismissal order dated 17.11.2004 (Annexure-7) passed by Shri J.Lulrinsailova, Sr. Superintendent of Post Offices, Meghalaya Division, Shillong communicated under Memo No.F4-5/03-04/Cherrabazar.
- (ii) To set aside and quash the impugned appellate order dated 25.7.2005 (Annexure-9) passed by Shri Abhinav Walia, Director of Postal Services (Headquarter), communicated under Memo No. Staff/109-21/2004.
- (iii) To set aside and quash the impugned review order rejecting the review petition of the applicant vide order No. C-17015/38/2005-VP dated 23.3.2006 issued in the name of the President under rule 29-A of the CCS (CCA) Rules, 1965, under the hand of the Desk Officer (Vigilance Petition) through the C.P.M.G., N.E.Circle, Shillong (but not the respondent no.1 as ordered by (Annexure-V and Annexure-VI) annexed herein).
- (iv) To reinstate the applicant in the post of Postal Assistant w.e.f. 17.11.2004 and to grant all service benefits such as applicant's half salaries during the period of suspension w.e.f. 22.3.2004 to 24.8.2004 and full salaries thereafter w.e.f. 17.11.2004 till date of reinvestment in the interest of justice.

2. We have heard Shri R. Das, learned counsel for the applicant and Shri M.U.Ahmed, learned Addl. CGSC for the respondents. We have also perused the pleadings and documents and the decisions referred from either side, the

*G.S.*

judgments of the Hon'ble Apex Court and the judgments as per memo dated 26.4.2007.

3. The applicant while working as Postal Assistant at Cherrabazar Sub-Post Office was served a charge sheet dated 30.8.2004 (Annexure-5) alleging misappropriation of Government money amounting to Rs.77,763/-. On receipt of the said memo of charges, the applicant submitted his representation to the disciplinary authority. Learned counsel for the respondents has produced the statements dated 25.5.2004 (Annexure-R/1) and 30.8.2004 (Annexure-R/II) of the applicant admitting to the charge memo. Both the statements show that the applicant has admitted to the charges. After considering the reply of the applicant, the disciplinary authority passed the order dated 17.11.2004 imposing on the applicant the penalty of dismissal from service. The applicant has impugned the said order in this O.A. On receipt of the impugned order of removal from service, the applicant submitted his appeal dated 2.12.2004 (Annexure-8) taking a new plea that after issue of the charge sheet, some emissary of the disciplinary authority had met the applicant who asked him to admit the charge and the authority would consider the case favourably. The applicant has accordingly accepted the proposal and remitted the amount involved from his pay, lumpsum withdrawal from GPF and the rest from DCRG but the punishment order came as a bolt from the blue and contrary to the assurance given by the emissary. This new plea taken by the applicant in the memo of appeal was rejected by the authority vide order dated 25.7.2005 (Annexure-9) which is also impugned to this application. Subsequently, the applicant has filed a review petition and the review petition has been disposed of by the authority, as directed by this Tribunal on 9.1.2006 in O.A. No. 4 of 2006. In this O.A. the applicant has also challenged the order of rejection of the review petition.

*efr.*

4. The learned counsel for the applicant has submitted that the applicant admitted to the guilt under pressure.

5. We have carefully examined the statement made by the applicant and the argument made by the learned counsel for the applicant and also the statement made by the applicant after receipt of the charge memo. It is an admitted fact that the applicant has not made any representation subsequent to his statements as per Annexure-R/I and R/II stating that the statements admitting the guilt was made under pressure. The applicant has also not given the name of the officer who pressed him for giving such statement. His subsequent statement in his appeal was an after thought and by taking this new ground in the appeal, the applicant has challenged the order of his dismissal from service. On a careful examination of the order of the disciplinary authority dated 17.11.2004 (Annexure-A/7), we find that the disciplinary authority has recorded the statement dated 10.9.2004 when the applicant has clearly admitted the guilt and as such, the disciplinary authority had no other way but to imposed the penalty on the applicant. There is no lacuna in imposing the penalty. The authority has rightly considered the statement of the applicant and thereafter passed the impugned order of dismissal from service.

6. Learned counsel for the applicant has relied on the judgment of the Hon'ble Apex Court in Jagadish Prasad Saxena vs. State of Madhya Bharat (now Madhya Pradesh) reported in AIR 1961 SC 1070 in support of his case and has submitted that the same is applicable to the facts of the present case.



7. We have carefully examined the judgment of the Apex Court in Jagdish Prasad Saxena (Supra). Para 11 of the said judgment is extracted below :

"11. It is true that the appellant specifically admitted during the course of the previous enquiry ~~that~~ illegal liquor had been delivered to the contractor and that ~~he~~ had given the key of the receiver to Narona. It is on the strength of those admissions that the High Court took the view that the appellant had substantially admitted his ~~guilt~~ and so there was really no need for holding a formal enquiry against him after the charge sheet was supplied to him. In this connection it is necessary to remember that the previous enquiry was not directed against the appellant as such, and he was certainly not in the position of an ~~accused~~ in the said enquiry. In fact, as we have already indicated, the result of the said enquiry was that the appellant was absolved from any complicity in ~~the~~ commission of the offence, and the only criticism made ~~against~~ him was that he was slack in his supervision, that is why he was transferred. In such a case, even if the appellant had made some statements which amounted ~~to~~ admission, it is open to doubt whether he could be ~~removed~~ from service on the strength of the said alleged admissions without holding a formal enquiry as required by the rules. But apart from this consideration, if ~~the~~ statements made by the appellant do not amount to a clear ~~or~~ unambiguous admission of his guilt, failure to hold a formal enquiry would certainly constitute a serious infirmity in the order of dismissal passed against him. Under Article 311(2) he was entitled to have a reasonable opportunity of ~~meeting~~ the charge framed against him and in the present case, before the show cause notice was served on him he has had no opportunity at all to meet the charge. After ~~the~~ charge sheet was supplied to him he did not get an ~~opportunity~~ to cross examine Kethulekar and others. He was not given a copy of the report made by the enquiry officers in the said enquiries. He could not offer ~~his~~ explanation as to any of the points made against him and it ~~appears~~ that from the evidence recorded in the previous enquiries as a result of which Kethulekar was suspended, an inference was drawn against the appellant and ~~show~~ cause notice was served on him. In our opinion, the ~~appellant~~ is justified in contending that in the circumstances of this case, he has had no opportunity of showing cause at all and so the requirement of Article 311 (2) is not satisfied".

We find that the above mentioned judgment is not in favour of the applicant. It is a fact that in the present case, the authority has considered the case of the applicant and pass the impugned order. There is no ambiguity regarding the





admission of his guilt. In these circumstances, the disciplinary authority accepted the admission of guilt and the statement of the applicant and by exercising his power, imposed the penalty on the applicant. The judgments referred to in the memo dated 26.4.2007 and the order of this Tribunal dated 10.8.2006 in O.A. 200/2005 do not help the case of the applicant. We have carefully examined the ratio of the judgments of the various Courts. We are of the view that the ratio of the judgments referred by the present applicant in the memo are not applicable to the facts of this case. The disciplinary authority has properly exercised his power and passed the order. Learned counsel for the applicant submitted that the penalty imposed is disproportionate to the gravity of the charges. When the applicant has himself admitted his guilt, there is no question of imposing disproportionate penalty, as held by the Hon'ble Apex Court in Maharashtra State Seeds Corporation Ltd. vs. Hariprasad Drupad Rao Jadhao (2006) 3 SCC 690, wherein it has been held that the Court and Tribunal should not interfere with the disproportionate penalty imposed by the authorities. We extract below paras 23 and 24 of the said judgment:

"23. The first respondent held an office of trust. He distributed seeds to the farmers. He collected a huge amount from them. He not only defalcated a huge amount but also misappropriated some bags of seeds. It was in the aforementioned situation improper for the High Court to interfere with the quantum of punishment. It is now well settled that in a matter of disciplinary proceedings the High Court exercises a limited power.

24. The grounds for judicial review are limited. In Damoh Panna Sagar Rural Regional Bank vs. Munna Lal Jain, this Court held that when the High Court intends to interfere with the quantum of punishment on the ground that the same is shockingly disproportionate, it must record reasons for coming to such a conclusion."

We find that the ratio of the above judgment is applicable to the present case.

8. The learned counsel for the applicant has invited our attention to the appeal memo submitted by the applicant wherein the applicant has clearly stated in para 3 of the grounds of appeal that his statement was given under the



pressure of the emissary of the disciplinary authority. We find that the applicant has not mentioned the name of the official who pressurized him to make such statement. The applicant cannot take a new ground in his appeal. The appellate authority, after considering the ground taken in para 3 of the appeal, was not inclined to interfere with the order of the disciplinary authority.

9. The applicant is not able to point out the procedural defects, irregularities and violation of the principles of natural justice by the competent authorities before imposing of penalty on him. Learned counsel for the respondents has strongly supported the action taken by the competent authority. The departmental and criminal proceedings were simultaneously conducted against the applicant. They are different in nature and operate in different field and have different objective and would not come in the way of the disciplinary authority. It is the contention of the applicant that the criminal case is still pending and if a punishment is imposed on him by the criminal court, it will amount to double jeopardy which would violate Article 20 of the Constitution of India. It is the stand of the respondents that the departmental action following acquittal in criminal case is not hit by Article 20(2) of the Constitution of India and, therefore, departmental action/penalty is not affected by subsequent acquittal and it is not necessary for the department to await a criminal proceeding. The respondents have further submitted that ample opportunity was given to the applicant to defend himself in the departmental proceedings, all procedures in the CCS (CCA) Rules have been followed while conducting the enquiry, the applicant has not been able to show at what stage procedural irregularities have been committed and that when the applicant has admitted the guilt, the disciplinary authority has no option but to impose the penalty. The appellate authority has considered the appeal memo and upheld the decision of the disciplinary authority as well as reviewing authority, after having gone through the pros and



cons of the case and its merits. When the applicant has admitted the guilt of misappropriation of Government money to the tune of Rs.3,55,592/- and upon consideration of gravity of the offence, was awarded the penalty of dismissal from service by the disciplinary authority, it is proper that this Tribunal should not interfere with the powers exercised by the competent authority. We are of the view that the appellate authority has applied his mind properly and then passed the impugned order.

10. The learned counsel for the applicant has submitted that in the criminal case, the applicant has made an oath before the Magistrate. In our view, there may be separate proceeding before the Magistrate, but that proceeding cannot be considered in the present case. There is also no bar in conducting the disciplinary proceedings during pendency of a criminal case and the disciplinary authority has properly considered the statement made by the applicant. The Review Petition filed by the applicant was also considered and decided on 23.3.2006 (Annexure-A/5). The Reviewing Authority has rightly decided and passed a reasoned order.


11. The learned counsel for the respondents has strongly supported the action taken by the respondents while imposing the penalty. Learned counsel has relied on the judgment of the Apex Court in *Ajit Kumar Nag vs. General Manager (PJ) Indian Oil Corporation Ltd., Haldia & Ors.* reported in (2005) 7 SCC 764 in a case of dismissal without enquiry. The ratio laid down in the said decision by the Apex Court is clearly applicable when the charges are admitted by the delinquent official. In another judgment in *Regional Manager, Rajasthan State Road Transport Corporation vs. Sohan Lal* reported in (2004) 8 SCC 218) the scope of judicial review in the case of penalty imposed by the disciplinary authority is restricted. In the present case, the applicant was



assigned with the work of transaction of money by the Government but the applicant misused the public funds and when the Government has lost its confidence on the applicant it thinks that the applicant does not deserve to be continued in service. We find no illegality or irregularity while considering the review petition.

12. We find that the disciplinary, appellate and reviewing authorities have properly considered the case of the applicant and imposed the penalty on the basis of the applicant's statement made on two different dates i.e. 25.4.2004 and 10.9.2004. The applicant has clearly admitted his guilt and hence the respondents i.e. the competent authority imposed the penalty on him. Accordingly, we are of the view that the authorities have acted properly in this case by following the relevant provisions of rules. The applicant has been unable to prove that the respondents have violated the principles of natural justice while passing the impugned order<sup>s</sup> and he is entitled for the reliefs prayed for by him. In view of the judgment of the Hon'ble Apex Court holding that it is improper for the Court to interfere with the quantum of punishment, we are not inclined to interfere with the impugned order of dismissal from service passed by the respondents in respect of the applicant.

13. This O.A. is accordingly dismissed. No order as to costs.

  
( Gautam Ray )  
Member (A)

  
( G. Shanthappa )  
Member (J)

Steno-Guw/rs.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORIGINAL APPLICATION NO. 123/08

- a) Name of the Applicant:- B. R. Das
- b) Respondants:- Union of India & Ors
- c) No. of Applicant(s) :-
2. Is the application in the proper form:- Yes/No.
3. Whether name & description and address of the all papers been furnished in cause title :- Yes/ No.
4. Has the application been duly signed and verified :- Yes / No.
5. Have the Copies duly signed :- Yes / No.
6. Have sufficient number of copies of the application been filed:-Yes/No.
7. Whether all the annexure parties are impleaded :-Yes/No.
8. Whether English translation of documents in the Language : Yes/No.
9. Is the application in time :- Yes/No.
10. Has the Vakalatnama/Memo of appearance/Authorisation is filed:-Yes/No.
11. Is the application by IFO/ED/For Rs: 5/- 264 32 388/
12. Has the application is maintainable :- Yes/No.
13. Has the Impugned order original duly attested been filed : Yes/No.
14. Has the legible copies of the annexures duly attested filed:-Yes/No.
15. Has the Index of documents been filed all available:- Yes/No.
16. Has the required number of enveloped bearing full address of the respondents been filed:- Yes/ No.
17. Has the declaration as required by item 17 of the form:- Yes/No.
18. Whether the relief sought for arises out of the single :- Yes/ No.
19. Whether the interim relief is prayed for :- Yes/ No.
20. In case of condonation of delay is filed is it supported :-Yes/No.
21. Whether this Case can be heard by Single Bench/Division Bench:
22. Any other point:-
23. Result of the Scrutiny with initial of the Scrutiny clerk the application is in order:-  
The application is in order.

24.5.06  
SECTION OFFICER(J)

16(5)

DEPUTY REGISTRAR

# CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

G. A. R. 6

[See Rule 22 (1)]

RECEIPT

18

No. 1960

Date 24/5/2006

Received from B. B. Das with

Letter No. OA 123106 dated 20

the sum of Rupees Ten only

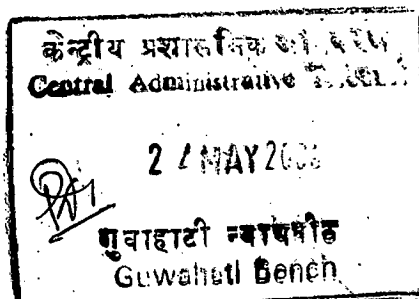
In cash/by IPO on account of Service charge for ex-cess respet.  
by bank draft

in payment of

Rs. 10/-

Signature

Cashier



DISTRICT : EAST KHASI HILLS, MEGHALAYA.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :

GUWAHATI BENCH AT GUWAHATI-781005.

O.A.No. 123 of 2006.

Shri Bipul Ranjan Das ... Applicant

- Versus -

The Union of India and others ... Respondents

SYNOPSIS

This second Original Application of the Applicant under section 19 of the Administrative Tribunal Act, 1985 has been filed against the applicant's impugned service dismissal order dated 17.11.2004 (Annexure - 7 at Page - 60)

Appellate Order dated 25.7.2005 (Annexure - 9 at Page - 66) rejecting the departmental appeal of the applicant dated 02.12.2004 (Annexure - 8 at page - 64) and the Ministry of Communications & I.T. Department of Posts's impugned order dated 23.3.2006 (Annexure - V at page - 102) respectively rejecting the Review Petition on filed by the applicant before His Excellency President of India under rule 29-A of the C.C.S. (C.C.A.) Rules 1965 sent under registered post on 28.9.05 under the hand of the Desk Officer (Vigilance Petition) through the Chief Postmaster General, N.E. Circle, Shillong-793001 which is in compliance of the order dated 9.1.06 (Annexure - III at page - 92) passed by this Hon'ble Court/Tribunal in O.A.No. 4 of 2006.

These orders were passed by the Appropriate Authorities without any lawful basis alleging misappropriation of !!!

Filed by the  
Applicant - 19  
Bipul Ranjan Das  
Through  
24/5/06  
(Hon'ble J. Das)  
Approved with  
Apprent

- (2) -

priation of Govt. money by the applicant and the resultant misconduct etc. by the applicant for which 2(two) simultaneous proceedings on the same charge/allegation for the same period of time has been initiated against the instant applicant.

The first proceeding being the C.R. case No. 7(3)/2004 u/s 409 I.P.C. (arising out of the Sohra P.S. Case No. 7(03)04 under section 409 I.P.C. and the FIR dated 25.3.04 filed by Smti F. Khongbri (a listed witness in the Departmental Proceeding) next being the second proceeding initiated on the basis of Memorandum of charges dated 30.8.04 (Annexure- 5 at page-54) under rule 14 of the C.C.S. (C.C.A.) Rules, 1965 issued by the Senior Superintendent of Post Office, Meghalaya Division, Shillong.

It appears from both the proceedings that the period of allegation is same during period from 23.2.2000 to 8.2.2004 and the "Savings Bank Account" and "Teachers Provident Fund Account" are basically the same account i.e. "Savings Bank Account" and therefore the allegation are the same in both the proceedings, although the amounts involved are shown as Rs. 1,20,684/- and Rs. 77,763/- <sup>Rs. 3,55,592/- etc.</sup> differently without specifying the details of all the numbers of the Savings Bank Account and the Teachers Provident Fund Account as stated in the F.I.R. dated 25.3.04 and the charge sheet of D.P. dtd. 30.8.04 i.e. in both the proceedings.

It is clear from the review petition dated 28.9.05 (Annexure - I at page - 34) that the applicant have been ...



- (3) -

have been approached by emissary of the Disciplinary Authority prior to lodging the proceedings on 18.3.04 by a group of officials to admit the guilt and/or the allegations (lodged subsequently) <sup>on his refusal</sup> and/ the Disciplinary Authority lodged the F.I.R. dtd. 25.3.04 in consequence thereof the applicant was arrested on 25.3.04 itself. He was in custody till 29.3.04 when he was released on bail and the learned trial court asked the accused/applicant to make confessional statement which is to be recorded on 30.3.04. On 30.3.04 it appears from the learned trial court order dated 30.3.04 (Annexure - II (b) page - 86) that the accused/ applicant gave a written statement stating that he declines to make a confessional statement, which has been accepted by the learned trial court. This is the first disclosure of defence of the accused/applicant that he is innocent. Further it also appears from order dated 29.3.04 of the trial court (Annexure - II (a) page-83) that Mr. V.I.K. Kynta, learned Counsel for the accused/ applicant appearing before the learned trial court on 29.3.04 made specific submissions on behalf of the accused/applicant before the learned trial court that the accused/applicant pleads not guilty and is prepared to stand trial. Therefore it is clear that the <sup>of</sup> first defence <sup>being the best defence of the applicant was not considered.</sup> innocence has corroborative evidence too which were accepted by the learned trial court. Therefore it is crystal clear that the first defence of the accused/applicant is that of innocence and the alleged admission on the part of the accused/ applicant is a second-thought vitiated by threat, coercion undue influence due to tricky and cunning activities of the Disciplinary Authority to make the accused-applicant a scape-goat in the whole episode if at all true.

The continuous police ...

The continuous police threat , talk of amicable settlement by the Disciplinary Authority and the promise on the part of the Disciplinary Authority to settle the matter (before taking any penal action) if <sup>at all</sup> written statement of admission was given by the applicant <sup>willfully</sup> which was obtained later on under threat and undue & illegal influence by the Disciplinary Authority in this case most arbitrarily and illegally . As such, the statement before the learned trial court subsequently and the written statement before the Disciplinary Authority are all concocted, false and biased and suffers from the vice of undue influence which cannot be termed in law as Admission the part of the applicant/accused more so when the Constitution of India clearly bars such admission under its provisions in Article 20(3) which runs thus - " (3) No person accused of any offence shall be compelled to be a witness against himself."

This is what has happened in the instant case. The relevant records pertaining to the day to day transactions of the alleged period would surely show the truth if this Hon'ble Tribunal lifts the veil and call for the records etc.

However, being aggrieved the applicant made a review petition before His Excellency the President of India on 28.9.05 under rule 29-A of the C.C.S. (C.C.A.) Rules, 1965 sent under registered post. The Secretariat of His Excellency the President of India sent a reply on 14.10.05 (Annexure - VI) at page 106) directing the Secretary to the Govt. of India, Ministry of Communications...

of Communications & I.T. (Department of Posts) New Delhi to dispose of the same by taking appropriate action. While the applicant was awaiting a decision on the same, he has been harassed by the Disciplinary Authority for vacating the official quarter for which he approached the Hon'ble Tribunal also on 5.1.06 (vide Misc. Case No. 2/06 in O.A. No. 4/06) but this Hon'ble Tribunal declined to interfere in the matter of quarter (eviction) but directed the Authorities to dispose of the review petition within 3 (three) months vide order dated 9.1.06 passed in O.A. 4/06 (Annexure - III). Thereafter the instant applicant approached the Hon'ble Gauhati High Court against eviction from quarter vide W.P.(C) No. 406/06 and order dtd. 6.2.06 (writ petition (Annexure - IV at page-97) having been filed on 19.1.06) and the Hon'ble High Court directed the applicant to be allowed to retain the quarter till disposal of the review petition or three months which ever is earlier.

Meanwhile it appears vide impugned order dated 23.3.06 (Annexure - V at page - 102) that the Ministry of Communications & I.T. Department of Posts has rejected the claim made in the review petition by the applicant which has been issued under the hand of the Desk Officer (Vigilance Petition) instead of the Secretary to the Govt. of India, Ministry of Communications & I.T. Department of Posts etc. New Delhi, apparant on the face of records, without considering the vital defence plea...

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- (6) -

defence plea (as stated herein & pointed out earlier) of the instant applicant and as such the applicant is highly aggrieved and has filed this application before this Hon'ble Tribunal again for redressal of his grievances for the reasons that the dismissal order dtd. 17.11.04, appellate order dtd. 25.7.05 and the instant order of rejection of the review petition dtd. 23.3.06 respectively are all arbitrary, illegal and not sustainable in law and thus liable to be set aside and quashed on the ground stated in this petition before this Hon'ble Tribunal and an interim order may be passed staying the operation of those orders impugned herein till disposal of this application.

*[Signature]*  
24/5/06

(RANJIT DAS)  
Advocate for the Applicant

Date:- 24-5-06

Place:- Guwahati-5.

...

27 MAY 2006

गुवाहाटी न्यायपीठ  
Guwahati Bench  
FORM - 1

APPLICATION OF THE ADMINISTRATIVE TRIBUNAL ACT 1985  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI  
BENCH AT GUWAHATI-781005.

Title of the case: Original Appln. No. 123 of 2006.

Sri Bipul Ranjan Das ... Applicant

- Versus -

The Union of India and others ... Respondents

I N D E X

Sl. No.	Description of documents relied upon	Page Nos.
1. Synopsis		(1) to (6)
1(a) Application	...	1 to 33
2. Verification & Affidavit ...		33(4)
3. Annexure - I		34 to 80(a)
4. Annexure - II		81 to 91
5. Annexure - III		92 to 96
6. Annexure - IV		97 to 101
7. Annexure - V		102 to 105
8. Annexure - VI		106
9. Postal order		
10. Vakalatnama		
11. Notice		

Bipul Ranjan Das  
Signature of the Applicant

For use in Tribunal Office:

Date of filing or date of  
receipt by post :

Registration No :

Signature for Registrar

DISTRICT : EAST KHASI HILLS : MEGHALAYA.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.

AT GUWAHATI - 781005

Shri Bipul Ranjan Das (Dismissed Postal Assistant),

in the Assam Rifles Sub Postoffice at Shillong-

793011, S/o Late Sachindra Kumar Das,

C/o Shri Mrinal Kanti Das @ Mukta,

Proprietor M/s Angel Tailrs,

Thana Road, P.O. & P.S. Shillong-793001

District : East Khasi Hills, Meghalaya.

..... APPLICANT

-Versus -

1. The Union of India, being represented by the Secretary to the Govt. of India, Ministry of Communications and Information Technology, 20 108-E, G.A. Section, Dak Bhawan, Sansad Marg, New Delhi - 110004 (110001)
2. The Under Secretary to the Govt. of India, President's Secretariat, Public - 1 Section, Rastrapati Bhawan, New Delhi - 110004.
3. The Chief Post Master General, North Eastern Circle, P.O. Shillong-793001, District : East Khasi Hills, Meghalaya.
4. Sri Sushma Chauhan, Desk Officer, (Vigilance Petition), (Through the C.P.M.G., N.E. Circle, Shillong-1), Govt. of India, Ministry of Communications & I.T., Department of Posts, Dak Bhawan, Sansad Marg, New Delhi - 110001.

5...

Filed by Mr. Applicant

Bipul Ranjan Das 26  
29/5/06  
(PART 17 OF 18) Advocate Mr. Anwar

5. The Chief Post Master General,  
North Eastern Circle,  
P.O.Shillong - 793001,  
District: East Khasi Hills, Meghalaya.
6. The Director(Headquarter),  
Office of the Chief Postmaster General,  
N.E.Circle, P.O.Shillong-793001,  
District: East Khasi Hills, Meghalaya.
7. The Senior Superintendent of Post Offices,  
Meghalaya Division, P.O.Shillong-793001,  
District: East Khasi Hills, Meghalaya.

..... RESPONDENTS

**DETAILS OF APPLICATION :**

1. Particulars of the orders against which the application is made :-

(A) Impugned order dated 23.3.2006 passed by the Govt. of India, Ministry of Communication & I.T. Department of Posts, vide order No. C-17015/38/2005-VP, dtd. 23.3.06 issued under the hand of Sushma Chauhan, Desk Officer(Vigilence Petition) (through the Chief Post Master General, N.E.Circle, Shillong -1), Dak Bhawan, Sansad Marg, New Delhi - 110000(110001) rejecting the review petition of the applicant in exercise of the powers conferred under rule 29-A of the C.C.S.(C.C.A.)Rules, 1965.

(B) Impugned Appellate order communicated under Memo No. Staff/109-21/2004, dated 25.7.05 issued by Shri Abhinavwalia, Director of Postal Services (Headquarter) in the office of the Chief Post Master General, N.E.Circle, Shillong-793001, Meghalaya, which was received by the applicant on 27.7.05 rejecting the appeal dtd. 2.12.04 preferred by the applicant herein.

Bipul Ranjendra Das

(C) Impugned dismissal order communicated under Memo No. F4-5/03-04/Cherra Bazar dtd. 17.11.04 issued by Sri J. Lalrinsailova, Sr. Superintendent of Post Offices, Meghalay Division, Shillong-793001 dismissing the applicant from his services as Postal Assistant in the Assam Rifles Sub-Office with effect from 18.11.04 i.e. the date of receipt of the said impugned dismissal order by the applicant.

These are the 3 (three) impugned orders as (A), (B) and (C) respectively above <sup>which</sup> are being challenged in this application as arbitrary, illegal and unconstitutional <sup>and apparently</sup> based on no evidence in the eye of law.

## 2. JURISDICTION OF THE TRIBUNAL :-

The applicant declares that the subject matter of the orders dtd. 17.11.04, 27.7.2005 and 23.3.2006 respectively against which the applicant wants redressal of his grievances is within the jurisdiction of this Hon'ble Tribunal .

## 3. LIMITATION :-

The applicant further declares that this application is made within the limitation period prescribed in section 21 of the Administrative Tribunal Act, 1985.

## 4. FACTS OF THE CASE :-

(A) That the applicant in this second original application comes from a very poor family. Just after the death of his father he has been compelled to take up the job at a very tender age. The applicant was initially appointed in the post...

Bipul Rana Del 72



Bipul Chandra Das '99

y. mail peon under Post and

\* in the post ~~and~~ Telegraph Department of the Govt. of India through the Shillong Employment Exchange as a Mail Peon on 4.4.1967 and he joined immediately on 1.5.1967. He was declared quasi-permanent and then permanent as Postman on promotion in Class IV service of the Department.

(B) That the applicant was thereafter promoted to the post of Postman and was made quasi permanent vide Memo No. B1-a/Exam/P.Man/74, dtd. 9.10.74 and Memo No. B1/Quasi Permanent dtd. 9.8.80.

(C) That during the course of his service the applicant underwent various trainings and served in various places of the then greater Assam and presently the state of Meghalaya. The following are the particulars of those training/tests etc. undertaken by the applicant :-

sl. no.	Letter No. & date	Name of training
1.	No.E-104/81-82/18, dtd. 9.12.81	English Morse Telegraphy.
2.	No.B-2-37/G/Ch.IV, dtd. 1.12.81	Telegraph training
3.	No.E-104/82-83/76, dtd. 17.6.82	Morse Telegraphy.
4.	No.S-1/Trg/Sig/82-83, dtd. 17.9.82	Postal signaller
5.	No.S-1/Genl/Staff/85, dtd. 7.8.85	Teleprinter Operator
6.	No.B-2279, dtd. 30.10.87	Morse Teleprinter Operation
7.	Memo No. B-1/37/G/Ch.V, dtd. 4.9.95	Mechanical Teleprinter Machine.
8.	S.20/Signal/Trg/95, dtd. 12.9.95	Electronic teleprinter training

All these would clearly show that the applicant had been successful in all these training and has gathered experience in ...

experience in these fields sincerely with devotion and full dedication since inception of his service till date.

(D) That in course of his service the applicant underwent various training as aforesaid and has served in various places of the then larger Assam and the present state of Meghalaya vide communication addressed to the applicant and few others being No B1-11/Exam dtd. 27.2.1981 (with reference to P.M.G. Shillong's letter No. Staff/125/10/80/pt.II, dated 23.1.1981. Your applicant was declared successful in the promotion examination to the clerical cadres held on 2.12.1980. And vide Memo No. B1-3/P, dtd. 7.12.84 your applicant and 23 others were appointed in quasi-permanent capacity in the Grade of Postal Assistant vide serial No. 24 with effect from 9.7.1984. Again vide Memo No. B.1-PMTT/Corr, dtd. ~~22.5.88~~ 23.5.89 your applicant on passing the confirmation exam successfully was substantively appointed in the post of Postal Assistant by absorbing him permanently in the Department. Vide No. B1/Time Bound promotion dtd. 14.12.98 your applicant was promoted to the higher scale and the present scale is Rs.4500-7000/- p.m. in the Senior Scale whereas the scale is now Rs.4000-6000/- p.m. for Postal Assistant (Jr. Grade).

(E) That it may be pointed out in this connection that as per the Department, the posts of Postal Assistant and the Sub Postmaster are equivalent and interchangeable posts and hence they are often interchangeable as per seniority. Accordingly vide order No. B1-Rotational/Tfr/III, dtd. 30.12.99, issued by the Senior Superintendent of Post

Offices, ...

Bipul Baran Das 30

Offices, Meghalaya Division, Shillong - 793001, your applicant alongwith 20 others were transferred to various places when vide serial no. 8 therein your applicant, while he has been holding the post of Postal Assistant at Laitumkhrah Subpost Office was transferred and posted as SubPostMaster at Cherrabazar Sub Office at Upper Cherra vice Smti Mukta Deb, (one of the named witnesses in the instant departmental proceeding) against the applicant.

(F) That while the applicant was serving as Sub-Postmaster at Cherrapunjee Post Office (on transfer from Cherrabazar Sub Office) at Lower Cherrapunjee sudden y on 18.3.2004 some officers (with Mr. A.R. Bhownick) Asstt. Post Master General (Vigilance) along with few others came to your applicant asking him to admit the offence of misappropriation on the assurance of getting the matter compromised amicably and settle the same before taking any penal action against the applicant. The applicant knew nothing about the matter and became perplexed.

(G) That thereafter vide order No. F4-5/03-04/Cherrabazar dtd. 22.3.04 issued by Sr. Supdt. of Post Offices Meghalaya Division, Shillong the applicant was placed under suspension in contemplation of initiating a departmental proceeding against him under the rules applicable and/or in force.

(H) That thereafter on 25.3.2004 an F.I.R. was lodged in the Sohra Police Station against the applicant

alleging ...

Bipul Ranjan Das 31

alleging that the applicant had misappropriated Govt. money to the tune of Rs.1,20,684/- (Rupees one lakh twenty thousand six hundred eighty four only). Your applicant was accordingly arrested by the police on 25.3.04 and detained in police custody. A G.D. Entry was made vide GDE No.383 dtd. 25.3.05 and Sohra P.S. Case No. 7(03)04 under section 409 I.P.C. has been registered against the applicant.

(I) That on 29.3.04 a bail petition was moved before the learned Court of Subdivisional Magistrate, Sohra and your applicant has been released on bail on certain conditions. Accordingly bail bond was furnished and your applicant is now on bail. The learned trial court ordered on 29.3.04 itself that the next date has been fixed on 30.3.04 for confessional statement of the applicant.

Be that as it may, the learned Advocate appearing on behalf of the applicant on 30.3.04 submitted before the learned trial court that the applicant/accused person pleads not guilty and is prepared to stand trial, which is a part of record, which clearly and in unambiguous terms show that the defence of the applicant/accused has been that he is innocent and/or that he pleads not and that the prosecution may prove his guilt, which is the first and the best defence of the instant applicant/accused

In other words on 30.3.04 the applicant/accused also submitted a written statement before the learned trial court stating that he declines to make a statement of confession which is well known to the prosecution, as well as the concerned respondents.

All these clearly show that the applicant/accused is innocent, which is his voluntary defence and prays that he should be tried to prove the guilt, if any against him

(J) ....

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Bipul Ranjan Das

(J) That on 18.4.04 vide postal receipt UCR Receipt No. 2698, dated 28.4.04 it appears that by undue pressure/influence of the concerned respondents the applicant/accused who was dictated and asked to sign various papers (after his release from police custody <sup>on 29-3-04 and</sup> a sum of Rs.70,000/- (Rupees seventy thousand only) has been withdrawn from the G.P.F. Account of the applicant/accused lying with the respondents and the same has been shown by the concerned respondents as refund and/or defrauded amount <sup>(without proving his guilt)</sup> by stating that the same has been deposited by the instant applicant/accused <sup>which was</sup> without his consent by undue influence, fraudulently using those signatures on occasions as and when arising to meet their ends of making the instant applicant a scape-goat, though he was innocent.

It is therefore apparant and clear that/such undue pressure and influence the concerned respondents exerted <sup>undue influence</sup> on the accused/applicant and are trying to make out a false claim that the applicant had admitted his guilt, which needs a thorough enquiry for the sake of justice.

(K) That on 25.8.04 vide No.F 4-5/03-04/Cherrabazar dated 25.8.04 issued by the Sr.Superintendent of Post Offices, Meghalaya Division, Shillong, the suspension order of the applicant was suddenly revoked without any rhyme and reason and your applicant/accused was transferred and posted vide order No. B1-Rotational/Tfr/IV, dtd. 15.8.04 to the Assam Rifles Sub Office as Postal Asstt. at Shillong - 11, dehorng the rules as he was a Subpost-master in higher rank and scale but was put in a lower post illegally, just to fulfil the unjust ~~design~~ design of the concerned respondents.

(L) ...

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Bipul Barua

(L) That vide Memo No. F-4-5/03-04/Cherrabazar dtd. 30.8.04 your applicant was served with the charge-sheet pertaining to the instant Departmental Proceeding initiated earlier on 30.8.04. (Annexure - 5). But surprisingly it appears herein that although the basis of charge and the period of alleged misappropriation remaining the same as in the criminal case stated above, the amount involved is less than in the criminal case. In other words the concerned respondents appear to be stating whimsically the amounts of misappropriation. In the Departmental Proceeding the same has been stated as Rs. 77,763/- (Rupees seventy seven thousand seven hundred sixty three only), in the criminal proceeding the amount is shown as Rs. 1,20,684/- (Rupees one lakh twenty thousand six hundred eighty four only). Again in the impugned order dated 23.3.2006 (Annexure - V) it is newly alleged <sup>now</sup> that a sum of Rs. 3,55,592/- (Rupees three lakhs fifty five thousand five hundred <sup>total</sup> Ninety two only) has been shown to be the defrauded amount after completion of the enquiry, which are confusing, self-contradictory and after-thought and thus not sustainable in law, more so when it is well known that money of public account is never kept without any account for such a long period of four years without verification of the transaction records and the concerned persons who were in charge and/or controlling the accounts over the instant applicant

\* in the concerned offices including the head offices may speak the real truth.

(M) That on 30.9.04 vide charge sheet no. 16/04 of Sohra P.S. the police submitted a charge-sheet against the instant applicant/accused before the learned trial court on 30.9.04 for trial of the aforesaid criminal proceeding, <sup>which is</sup> just after 30 days of the <sup>aforesaid</sup> charge sheet dtd

30.8.04..!!

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Bipin Ranjendra Das

30.8.04 of the departmental proceeding having been made ~~XXXX~~ on the instant applicant/accused.

(N) That thereafter vide Memo No. F-4/5/03004/Cherrabazar, dtd. 17.11.04 under rule 146f the C.C.S. (C.C.A.) Rules, 1965 simply on the basis of statements of article of charges which were the same and similar in both the proceedings as stated earlier, and the statements obtained under duress and undue influence exerted by the concerned respondents and without holding any enquiry, ~~is~~ without furnishing a copy of the earlier vigilance enquiry held on 18.3.04, without giving adequate opportunity to defend and without following due process of law and in complete violation of the procedure established under rule 15 of the C.C.S. (C.C.A.) Rules, 1965 and also in violation of the principles of Natural Justice, the services of the instant applicant/accused has been dismissed with effect from the date of receipt of the order. The dismissal order as aforesaid dtd. 17.11.04 (Annexure- 7) has been received by the instant applicant/accused on 18.11.04 which is the date when dismissal came into effect.

(O) That the applicant being thus aggrieved by the arbitrary and illegal dismissal order dtd. ~~17.11.04~~ 17.11.04 passed by the concerned Authority without giving due opportunity to defend like, giving the assistance of any Govt. Servant knowing the processes of Departmental Proceeding, inspection of documents, cross-examination of witnesses, ~~and~~ and to give his defence evidence ~~ex~~ etc. as provided for under the extant rules ~~is~~ i.e. without following the due process of law, <sup>and consequently the applicant</sup> has been compelled to prefer a departmental appeal on 2.12.2004 (Annexure - 8)

which has ...

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Bijay Ranjan

which has been addressed to the Director (Headquarter) i.e. the respondent no. 6 alleging that the alleges confessional statement is not a confession but the same has been obtained by the Disciplinary Authority under undue influence and police threat ~~by the~~ infringing the provisions of the applicant's fundamental right guaranteed under the Constitution of India in Article 20(3) i.e. " No one ~~should be~~ accused of any offence should be made a witness against himself ", and on this count alone the entire Departmental Proceeding against the instant applicant/accused is liable to be set aside and quashed in the interest of justice.

(P) That thereafter in complete violation of the procedures established by law the appellate authority i.e. the respondent no. 6 too, most unreasonably, illegally and arbitrarily upheld the impugned dismissal order dated 17.11.04 (Annexure - 7) vide Memo No. Staff/109-21/2004, dtd. 25.7.05 rejecting the ~~Appeal~~ without considering even as to whether the punishment awarded in the instant case is commensurate with the offence alleged and whether there is sufficient evidence adduced against the applicant and/or if any constitutional provisions have been infringed more so when the law of land provides that 'no one accused of an offence should be made a witness against himself' amongst others.

(Q) That meanwhile for the same alleged offence 2(two) proceedings were on simultaneously and the applicant/accused ...

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B. G. W. Ramon D.



applicant/accused had received the summon from the learned trial court of Sub-divisional Magistrate, Sohra in G.R. Case No. 7/04 issued on 25.10.04 asking him to appear on 9.12.04. Accordingly the applicant/accused had been appearing on each day since then till date and has very recently filed a petition for withdrawal of the undertaking signed by him under police threat, undue influence and duress. In the said proceeding the same is being considered although the trial had not yet commenced as no copies thereof have been served on the applicant yet to begin the trial.

(R) That on 19.5.05 at the behest of police (unknown to the applicant/accused) someone wrote a petition addressed to the learned trial court and the accused/applicant has been asked to sign the same which appear to be an undertaking from the accused to the effect that he had deposited Rs.70,000/- on 28.4.04 vide Postal receipt thereon. the Accused/applicant herein not understanding the implications of that undertaking simply signed the same under duress and undue influence of the concerned respondents followed by collusive act with the police & on the part of the respondents, for which the aforesaid withdrawal of undertaking petition has been filed by the applicant recently before the learned trial court.

(S) That on and off-day i.e. on 5.9.05 the applicant/accused made a petition before the learned trial court and pleaded not guilty and prayed that he should be tried because that was his initial defence vide order dated 29.3.04 and 30.3.04 in the aforesaid criminal proceeding.

(T) ...

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Bipul Ranjan Das

(T) That on another off day the learned trial court passed the order observing inter alia that the case against the accused/applicant to continue till further development occurs which was received by the applicant on 15.9.05 although the said order is dated 5.9.05 but it does not mention about the said petition dated 5.9.05 except mentioning that the learned court heard the counsels of the accused/applicant.

(U) That the next date fixed was 22.9.05 when the accused/applicant appeared with his learned Advocate. The Presiding Officer of the learned trial court was not available and as such the trial court fixed another date on 27.10.05 But the accused/applicant filed another petition on that day i.e. on 22.9.05 prayed for expediting the trial, which is pending. The applicant/accused has been sincerely appearing in the criminal proceeding at the learned trial court at Sohra regularly. On 01.2.05 the applicant filed an ~~xxx~~ application for allowing withdrawal of a statement ~~made~~ not made voluntarily but the same was made under undue influence and duress before the learned trial court at Sohra and the next date is fixed on 5.1.06. As such, it appears that the applicant/accused has been compelled to defend himself in 2(two) simultaneous proceedings which arises out of the same allegations causing great prejudice to his defence.

(V) That the applicant is a poor employee ( who belongs to the lowest echelon of the service) and deserves to be sympathetically considered as no assistance/ help of a departmental official well conversant with the departmental proceeding procedures has been provided to the applicant...

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Bipul Ranjan Das

to the applicant by the respondent authorities during the proceeding period from March, 2004 to November, 2004 when he was dismissed from service most unreasonably, arbitrarily and illegally without any evidence (on the contrary making him a witness against himself) without following due process of law on ~~17.11.04~~ 17.11.04. At present the applicant is in great financial hardship for want of provisions of life. There is no other source of income and the applicant is maintaining his family with the help and assistance of friends and relatives and also by raising private loans.

(2) That in the above facts and circumstances your applicant being highly aggrieved preferred a review petition under section 29-A of the C.C.S. (C.C.A.) Rules, 1965 before His Excellency the President of India on 28.9.05 sent under registered post for redressal of his genuine and lawful grievances.

This review petition has also been made because in the instant case some new material or evidence which could not be produced or was not available (readily) at the time of passing the order under review and which has the effect of changing the nature of the case has come ~~xx~~ or has been brought to the notice of the concerned respondents, in the interest of justice.

In other words, the aforesaid new material or evidence are 2(two) folds. Firstly the first defence of the applicant is...

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Bipin Ranjan Das

of the applicant is the best defence and in the instant case the applicant had stated on 29.3.04 and 30.3.04 in G.R. Case No. 7(03)04 under section 409 I.P.C. before the learned trial court of Subdivisional Magistrate at Sohra and/or Cherrapunjee that he is innocent and pleads not guilty and also prays to be tried by the learned trial court for the alleged offence of misappropriation ~~under~~ ~~xxx~~ vide FIR dated 25.3.04 (Annexure -F ) but on the face of this statement before the learned trial court, which was accepted by the learned trial court it appears that by undue pressure/influence, police threat and promise to compromise the ~~concerned~~ respondents subsequently obtained alleged admission of the guilt by the applicant, which is an after-thought, apparant on the face of records. Moreover, the " admission" on the part of the applicant as alleged being the weakest form of evidence, which is ~~xxx~~ also barred under the provisions of Article 20(3) of the Constitution Of India as it provides that " no one alleged of an offence, should be made a witness against himself ". This is what has happened in this case.

A copy of the aforesaid review  
petition dated 28.9.05 (with all annexures)  
is enclosed herewith and marked as  
Annexure - I.

(X) That your applicant states that while he was awaiting a reply from His Excellency the President of India vide letter No. P1/D-87268, dtd. 14.10.05 issued by one Shri Ashish Kalia, Under Secretary (P) of ~~the~~

His ...

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Bipul Kumar Das

His Excellency's Secretariat at Public-I Section  
Rastrapati Bhawan, New Delhi, your applicant has been  
informed that the review petition of the applicant  
dated 28.9.05 has been received and forwarded to the  
Secretary to the Govt. of India, Ministry of Communi-  
cation and I.T. ,108-E, G.A.Section, Dak Bhawan, Sansad  
Marg, New Delhi (respondent no. 1) for appropriate  
action. This communication has been received by the  
instant applicant on 9.11.05.

(Y) That your petitioner states that thereafter  
against eviction of the applicant from his official  
Quarter at Shillong - 11, and also for expediting disposal  
of the review petition, the applicant filed his first  
Original Application before this Hon'ble Tribunal which  
was registered as O.A.No.4 of 2006 (with M.C. 02 of  
2006) and this Hon'ble Tribunal on 9.1.2006 passed an  
order directing the respondent no. 1 (Union of India,  
represented by the Secretary to the Govt. of India,  
Ministry of Communications & Information Technology,  
108-E, G.A.Section Dak Bhawan, Sansad Marg, New Delhi-110001  
to consider the review application forwarded to him  
from the office of the President of India evidenced by  
Annexure - R therein and dispose of the same within a  
period of three months by a speaking order.

Copies of the order dtd. 9.1.06  
passed in O.A.4/06 and M.C.2/06 are  
enclosed herewith and marked as  
Annexure - II.

(Z) That as regards the eviction from official  
quarter, the petitioner left no stone unturned on  
the ground ...

Bipul Karmacharya

on the ground that the dismissal has not attained finality and as such the applicant had approached the Deputy Commissioner, East Khasi Hills, Meghalaya, the Meghalaya Board of Revenue, this Tribunal and the Hon'ble Gauhati High Court being case nos. Misc. Case 30(T)/2005, Rev. Appeal No. MER/RA/2/2006, O.A. No. 04/2006 (MC 02/2006) and W.P. (C) No. 406/2006 respectively vide order dtd. 21.12.2005, 16.1.2006, 9.1.2006 and 6.2.2006 respectively.

Copies of those orders passed by the Hon'ble High Court on 6.2.2006 in W.P. (C) 406/06 is enclosed herewith and marked as Annexure - III.

(Z-A). That ~~while~~ the applicant ~~wasxawaxix~~ states that all ended against the applicant as soon as the impugned order dtd. 23.3.06 was received and the applicant vacated the official quarter recently, and is now staying with his relatives in a scattered way.

(Z-1) That while applicant the communication from ~~Sush~~ one Sri Sushma Chauhan, Desk Officer (Vigilance Petition) through the C.P.M.G., N.E. Circle, Shillong-1 vide No. C-17015/38/2005-VP dtd. 23.3.2006 issued in compliance with the order dtd. 9.1.06 passed by this Hon'ble Tribunal in O.A. no. 4 of 2006 and it appears that the review petition has not put forth any valid point to disapprove the charges levelled against the applicant. On the face of records it is apparant that from order dtd. 23.3.06 that the new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case, has come or has been brought to notice of the Reviewing Authority i.e. in other words,...

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Bipul Ranjan Das

in other words, the <sup>first</sup> defence of the applicant being that of innocence made in the trial court on 29.3.04 and 30.3.04 (Annexure- II(a) and II(b) ) respectively & at pages 37 of the review petition at paragraph 7, when the charges in both criminal and the Departmental proceedings are the same of the same period, the subsequent admission as alleged by the concerned respondents is clearly an after-thought, vitiated by provisions of Article 20(3) of the Constitution of India, which bars a man to be a witness against himself when an offence is alleged against him and in this view of the matter the instant original application ought to be admitted by this Hon'ble Tribunal and <sup>Prayer for passing</sup> ~~pass~~ an interim order directing stay of the instant dismissal order dtd. 17.11.04 (Annexure - 7 at page 26 of the review petition) till disposal of the instant ~~petition~~ original application, in the interest of justice.

(Z-2). That the applicant states that since most of the documents are already enclosed with the review petition dtd. 28.9.05 as (Annexure - 1 to Annexure-12(b) at internal pages 1 to 44 ) those documents were not repeatedly enclosed in this original application. However the applicant ~~furnished~~ enclosed the orders dated 26.3.04, 29.3.04 and 30.3.04 passed by the learned trial Court of the Sub-...

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Bipin Ranjendra

of the Subdivisional Magistrate, Cherrapunji, in the East Khasi Hills District, Meghalaya in G.R. Case No. 07(03) 04 under section 409 I.P.C. are enclosed hereto and marked as Annexure - IV, IV(a) and IV(b) respectively for better appreciation of the point involved in this original application as well as in the review petition dated 28.9.05 as stated above (Annexure - I).

Copies of the orders dtd. 26/3/04, 29.3.04 and 30.3.04 passed in G.R. Case No. 07(03)04 under section 409 I.P.C. by the learned trial court is enclosed hereto and marked as Annexure- IV, IV(a) and IV(b) respectively.

(Z-3). That on 8.4.06 the applicant received a communication No. C-17015/38/2005-VP dtd. 23.3.06 which has been impugned in this original application alongwith the dismissal order dated 17.11.05 ~~and~~ (Annexure - 7 at page 26 of the review petition) and the appellate order dated 25.7.05 (Annexure -9 at page- *and that these orders are* 32 of the review petition) respectively, as arbitrary, illegal and unconstitutional and hence they are liable to be set aside and quashed in ~~this~~ the interest of justice.

A copy of the aforesaid impugned order dated 23.3.2006 rejecting the review petition is enclosed herewith and marked as Annexure - V, hereto.

(Z-4). That the applicant is in the verge of attaining supernumery age and as such prays that the application may expeditiously disposed of.

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Bipul Barua



5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :-

(I) For that it is well established in law that justice should not only be done but it should be shown to have been done. But in the instant case when the allegations and the period of allegations of misappropriation was the same in the trial court as well as in the Departmental proceeding against the applicant/accused and ~~in~~ when his first defence (being the best defence) was that of innocence for which he declined to make a confessional statement which has been accepted by the learned trial court on ~~10.12.04~~ 30.3.2004, the alleged admission on the part of the accused/applicant which was <sup>apparently</sup> actuated by police threat coercion and undue influence by the concerned Disciplinary Authority and its emissaries is nothing but an after-thought which is not sustainable in judicial scrutiny and as such the impugned dismissal order dtd. 17.11.04, appellate order dtd. 25.7.05 and the review order dated 23.3.2006 respectively are liable to be set aside and quashed.

(II) For that the impugned orders dtd. ~~23.3.2006~~ 23.3.2006 suffers from the vice of non-consideration of new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case has come or has been brought to notice. In other words, the applicant stated that vide paragraphs 7 and 8 of the (review petition at pages 34) <sup>read with</sup> ~~Annexure - IV,~~ of this original application & read with the statement made in paragraph 3 of the departmental appeal dtd. 2.12.2004 (Annexure - 8 of the review petition) that he is not guilty and he may be tried for ~~any~~ the alleged offence, if any. In view of the same subsequent ...

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Bipul Ranjend Singh

subsequent allegation of admission by the applicant/accused and making him a witness against himself by the Disciplinary Authority infringes the provisions of Article 20(3) of the Constitution of India which prohibits that no one accused of an offence should be made a witness against himself. This is what has been done in this case and as such the same is violative of the Constitution of India.

(III) For that ~~the~~ on the same allegation of misappropriation of Government money for the same period and by the same incident in 2(two) simultaneous proceedings when the first defence which is the best defence of the instant applicant/accused was not duly considered by the reviewing authority but police threat, promise to compromise the matter amicably by the Disciplinary Authority and by undue influence and thereby taking his admission by illegally making him a witness against himself is clearly barred under Article 20(3) of the Constitution of India, which is not sustainable in law being violative of the Constitution which is the fundamental right of the instant applicant/accused.

(IV) For that non application of mind, non-consideration of the review petitioner's new material evidence of defence (paragraph 7 and 8 of the review petition) which has greatly prejudiced the instant applicant and that the impugned order dtd. 23.3.06 issued by the Desk Officer (Vigilance Petition) through the Chief P.M.G., N.E. Circle, Meghalaya has not been passed by the respondent/<sup>no. 1,</sup> despite the direction of this Hon'ble Tribunal vide order dated 9.1.06 (Annexure-II), apparent on the face of records.

(V) ...

Bipul Rengam Das

(V) For that the subsequent alleged admission made in the petition/statement dated 5.9.05 (Annexure -11) and the statement dtd. 30.9.04 (Annexure- 6) before the learned trial court and in the Written Statement of defence in the departmental proceeding ~~xxx~~ has been dictated and he was asked to sign various papers under police threat, coercion and undue influence ~~xxx~~ and money lying ~~xx~~ with the respondents as the applicant's G.P.F. money had been withdraw and shown as defrauded amount before the offence is proved and written statement had been dictated after 30.3.04 by the emissary of the respondents and the applicant was compelled to sign and write the same at their dictation which cannot be termed as written statement (made voluntarily) by the applicant. <sup>review</sup> This is amply clear from paragraph 9 of the petition <sup>and from petition dtd 05/9/05</sup> dtd. 28.9.05 (Annexure - I). In view of above admission if any and/or confession/mercy petition if any arising out of the same allegation/incident were not voluntary but obtained under coercion, police threat and undue influence by the concerned respondents, which is arbitrary and illegal.

(VI) That the amount shown as withdrawal of G.P.F. money of the applicant amounting to Rs.70000/- (Rupees seventy thousand only ) without the consent of the applicant where his signature has been obtained under coercion, police threat and under undue influence and the deposit of the same allegedly shown as de-frauded/refunded amount by the applicant ~~is~~ <sup>itself</sup> is not voluntary and hence not sustainable in law as it ~~was~~ not voluntary on the part of the applicant.

(VII)...

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Bipul Ranjan Das

(VII) For that the alleged misappropriated amounts arising out of the same incident (as alleged) by the same period from 23.2.2004 to 8.2.2004 are Rs.1,20,684/- (in the criminal proceeding), Rs.77,763/- (in the Departmental proceeding charge sheet) and Rs.3,55,592/- (as alleged total defrauded amount as per enquiry as stated) in the impugned orders dtd. 23.3.2006 alleged as the total defrauded amount on completion of the alleged enquiry) copy of which was never furnished to the instant applicant are beyond the scope of the <sup>FIR and</sup> charges dtd. 25.3.04 and 30.8.04 (in both criminal and the departmental proceeding) and thus not sustainable in law for being violative of the principles of Natural Justice.

(VIII) For that no copy of both vigilance Enquiry (held on 18.3.2004 and the total enquiry as stated in the impugned order dtd. 23.3.2006) <sup>conducted</sup> reports have been served on the applicant, which is violative of the provisions of the Govt. of India, Department of Personnel & Training's Office Memorandum No. 11012-13/85-Estt(A) dtd. 26.6.89 which mandates that copy of Inquiry Report to be supplied to the delinquent Govt. servant before the final order are passed by the Disciplinary Authority & in the instant case this shortfall on the part of the concerned respondents vitiates the entire departmental proceeding as arbitrary illegal and violative of the rules in force as well as the principles of Natural justice.

IX

(IX) For that from the impugned order dtd. 23.3.06 (it appears from the 12th line from top at internal page no. 3) that an enquiry has been concluded against the

applicant!!!

Bipul Ranjan Das

applicant and on completion of which it has been found that the total defrauded /misappropriated amount was to be Rs.3,55,592/- (on the face of earlier stand of the concerned respondents in FIR dtd.25.3.04 <sup>the amount is</sup> ~~as per~~ <sup>the D.P.</sup> Rs.1,20,684/- and again in charge sheet dtd.30.8.04 it was Rs.77,763/- ) and it follows from above that on the basis of ~~of~~ ex-parte enquiries i.e. preliminary and final enquiries mainly on the evidences of 2(two) interested witnesses viz; (1) Smti. F.Khongbri and (2) Smti Mukta Deb <sup>perhaps</sup> were adduced (without giving any scope of cross-examination to the applicant) and not even copies of these enquiries were ever served on the applicant, which are clearly violative of the provisions of paragraph 94 of the P & T Manual Volume - III and as such the impugned order dtd. 23.3.06 is not sustainable in law and thus liable to be set aside and quashed being violative of the principles of Natural Justice and the law.

(X) For that ~~xxx~~ <sup>earlier</sup> it is the/case of the concerned respondents that no enquiry has been conducted, but the recently made impugned order dtd. 23.3.06 shows clearly that final enquiry had been held, the same is in complete violation of the provisions of Article 311(2) of the Constitution of India i.e. ~~xxx~~ in other words, no enquiry was held in terms of Rule 14 of the C.C.S.(C.C.A.) Rules, 1965 and no reasonable opportunity of being heard has been given to the applicant in violation of the principles of Natural Justice.

(XI)...

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Biped Ramchand Das

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(XI) For that the statement of the concerned respondents are confusing and contradictory. This is because on the one hand they are saying that the applicant/accused has misappropriated Rs.1,20,684/- and/or Rs.77,763/- vide charge sheets in Criminal proceeding and departmental proceedings i.e. on 30.9.04 and 30.8.04 respectively, but they have never proved the same, although they say that they have not conducted any enquiry since there is an alleged admission on the part of the applicant/accused, but again in the impugned order dtd. 23.3.06 they are shifting from their earlier stand when they say that the total amount involved is Rs.3,55,592/- and that they have conducted the enquiry which is clearly contradictory and confusing and the impugned dismissal order of the applicant's service cannot be sustained on such weak and illegal basis, in any judicial scrutiny.

(XII) <sup>208</sup> For that the no speaking orders have been passed in consonance with law thus the punishment ~~ex~~ inflicted on the applicant, which is a major punishment is clearly disproportionate on the face of records.

(XIII) For that as per provisions of clause (3) of Article 20 of the Constitution of India, which is one of the most important fundamental rights of the applicant appears to have been infringed by the concerned respondents as by undue pressure/influence followed by threat in collusion with police the concerned respondents have obtained statements of mercy/compromise/admission etc. (written by someone unknown and the applicant was asked to sign and also it was dictated and the applicant was compelled to write and sign the same etc.

and those were used..

Bipul Ranjan Das

and those were used against the applicant. These were long after <sup>applicant had</sup> the disclosed his defence on 29.3.04 and 30.3.04 in the criminal proceeding in the trial court of the learned S.D. Magistrate at Cherrapunji in Meghalaya to the effect that he is innocent and that he should be tried to prove his guilt as per law. Even then, the concerned respondents instead of proving their case on the floor of the Court obtained <sup>allegedly</sup> the illegal and unsustainable mercy statements of the applicant obtained under duress and thereby made the applicant a witness against himself, which is barred under clause (3) of Article 20 of the Constitution of India and in this view of the matter the impugned orders of dismissal dtd. 17.11.04 the appellate order dtd. 25.7.05 and the instant review order dtd. 23.3.06 are all arbitrary and illegal and thus not sustainable in law and are liable to be set aside and quashed.

(XIV) For that it is the law of the land ~~that~~ that the prosecution and/or the concerned respondents ought to have proved their case standing on their own feet <sup>by adducing</sup> and/or evidence without the help and/or the evidence (allegedly as Admission) of the applicant independently, being the all mighty state. Prosecution and/or punishing <sup>not proved wrong and/or alleged admission</sup> someone on the wrong of the accused/applicant that too obtained under duress and coercion is most unreasonable arbitrary and illegal more so when it denies reasonable <sup>to defend himself</sup> opportunity to the applicant which is violative of the principles of Natural Justice as it violates Article 311(2) of the Constitution of India and thus the impugned orders of ...

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Bipul Ranjan Das

orders of dismissal, appellate order and the review order(although not passed by respondent no. 1) are all not sustainable in law and hence liable to be set aside and quashed.

(XV) For that the applicant is highly aggrieved because there were 2(two) simultaneously held proceedings for the same alleged offence and the concerned respondents have followed no established procedures of law to prove the alleged offence in both the proceedings(one of which is still pending disposal). The defence of the instant applicant/accused had been thus adversely affected as even written statement on his behalf has not been accepted by his aforesaid statement ~~of~~ in the form of mercy petition has been dictated and obtained under duress and the same has been used against him and thus the instant applicant is highly prejudiced in his defence, which are arbitrary and illegal which suffers from the vice of double jeopardy, and as such the impugned dismissal order dated 17.11.04, appellate and review orders dtd. 25.7.05 and 23.3.06 are all illegal and liable to be set aside and quashed.

(XVI) For that ~~the~~ prior to his suspension on 22.3.04 i.e. on 18.3.04 a Vigilance Enquiry was conducted as stated earlier but the copy of the aforesaid Vigilance Enquiry Report has not been furnished to the instant applicant violating the principles of Natural Justice and as such the impugned order of dismissal, appellate and review orders are all not sustainable in law.

(XVII)...

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Bipul Ranjan Das



(XVII). For that the applicant being an employee of the lowest echelon of service has been treated shavely by the concerned respondents. As the applicant is not conversant with the procedures of a Departmental Proceeding the applicant should have been given the help of a Govt. servant well conversant with the procedures of such an enquiry, but it was not so given by the concerned respondents not even a whisper has been made in that regard. Thus instead of showing sympathy to the applicant by both the Disciplinary Authority as well as the Appellate and the Reviewing Authority( as required under the law), the concerned respondents are trying to take advantage of the ignorance of the applicant. The concerned appellate and the reviewing authorities has completely forgotten their mandatory duty to see if there is independent evidence against and that punishment awarded is proportionate to the offence alleged thus violating the law relating to defence of the applicant together with violation of the Principles of Natural Justice, the extant law including the principles of administrative fair play, equity and good conscience which are the cardinal principles to be followed in service jurisprudence. But the concerned respondents as stated above has not acted fairly by upholding the rule of law, but punished the applicant whimsically capriciously to gain their own ends. And in this view of the matter the impugned orders dtd. 17.11.04, 25.7.05 and 23.3.06 are all arbitrary, illegal and not sustainable in law.

(XVIII) For that the impugned dismissal, appellate and the review orders are most unreasonable, arbitrary and devoid of rule of law, having been passed by the

Disciplinary ...

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Bipal Ranjan Das

Disciplinary Authority as well as the Appellate and Reviewing Authority without application of mind and in colourable exercise of power without following the due process established by law thus violating provisions of Articles 14, 16 and 21 of the Constitution of India as many other officers <sup>in similarly alleged cases</sup> against whom only departmental action is on but no criminal proceeding has been instituted simultaneously like the applicant ~~who~~ which are discriminatory and illegal and hence the impugned orders dtd. 17.11.04, 25.7.05 and 23.3.06 are violative of rule of law and thus not sustainable.

(XIX) For that in any view of the matter the impugned dismissal order dtd. 17.11.04, appellate order dtd. 25.7.05 and the review order dtd. 23.3.06 are not sustainable in law and hence they are liable to be set aside and quashed in the interest of justice.

#### 6. DETAILS OF THE REMEDIES EXHAUSTED :-

The applicant declares that he has availed of all the remedies available to him under the relevant rules etc. which are shown as follows :-

After the impugned dismissal order dtd. 17.11.04 (Annexure - 7) the applicant preferred a departmental ~~appeal~~ appeal dated 2.12.04 (Annexure - 8) which was rejected by the concerned appellate authority vide communication Memo No. Staff/109-21/2004, dtd. 25.7.05 (Annexure - 9) upholding the impugned dismissal order dtd. 17.11.04. Being thus aggrieved...

Bipul Ranjan Das 53

thus aggrieved the applicant preferred a Review Petition on 28.9.05 (Annexure - I) under rule 29-A of the C.C.S. (C.C.A.) Rules, 1965 which is received and sent to the respondent no. 1 (the Union of India represented by Secretary to the Govt. of India, Ministry of Communications & I.T., New Delhi vide communication dtd. 14.10.05 VIDE No. P-1/D-87268 ~~xxx~~ from the President's Secretariat through the hand of respondent no. 2 (Under Secretary), for passing appropriate action. However, in the meantime vide communication No.C-17015/38/2005-VP dated 23.3.06 (sent through the Chief ~~xxxx~~ P.M.G., N.E. Circle, Shillong) passed by Sushma Chauhan, Desk Officer (Vigilance Petition) in the name of President showing it to be passed showing in pursuance of this Hon'ble Tribunal's order dtd. 9.1.06 but actually it was not passed by the respondent no. 1, which is clearly without considering the material point involved in the review petition, which is clearly in derogation of this Hon'ble Tribunal's order, appears to be a eye-wash and in colourable exercise of power. Hence the same is being challenged in this original application before this Hon'ble Tribunal.

A copy of the President's Secretariat's letter dated 14.10.05 is enclosed herewith and marked as Annexure-VI.

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

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application ...

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Biped Kumari D

application has been made before any Court of any other Authority (Except what has been stated above i.e. the review petition dtd. 28.9.05, against quarter eviction in Case No. 30(T)/2005 / in <sup>Rev. Appeal No. MBR/RA/2/2006,</sup> OA No. 4/2006 and W.P. (C) 406 of 2006 before the M.C., East Khasi Hills District, Meghalaya Board of Revenue, C.A.T., Guwahati Bench and the Gauhati High Court etc. or any other Bench of the Tribunal nor any such application, writ petition or suit the stage at which it is pending and if decided this list of the decision should be given, with reference to the number of Annexures to be given in support thereof, *has been given herein.*

8. RELIEFS SOUGHT FOR :-

*211*  
In view of the above facts mentioned in <sup>4 and</sup> paragraph 6 above the applicant prays for the following reliefs :-

- (i) to set aside and quash the impugned dismissal order dated 17.11.04 (Annexure - 7) communicated under Memo No. F4-5/03-04/Cherrabazar passed by Sri J. Lulrinsailova, Senior Superintendent of Post Offices, Meghalaya Division, Shillong - 793001 ;
- (ii) to set aside and quash the impugned Appellate order dtd. 25.7.2005 (Annexure - 9) communicated under Memo No. Staff/109-21/2004, passed by Sri Abhinav Walia, Director of Postal Services (Headquarter) ;

(iii)...

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Bipul Ranjandor

Bipin Ranjan Das

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to set aside and quash &  
 (iii) the impugned review order rejecting the  
 review petition of the applicant vide  
 order ~~Memorandum~~ No.C-17015/38/2005-VP dtd.  
 23.03.06 issued in the name of the  
 President under rule 29-A of the C.C.S.  
 (C.C.A.) Rules, 1965 under the hand of  
 the Desk Officer (Vigilance Petition)  
 through the C.P.M.G., N.E. Circle, Shillong,  
 (but not by respondent no. 1 as ordered  
 by (Annexure - V and Annexure - VI) annexed  
 \* herein ) respectfully.

(iv) to reinstate the applicant in the post of  
 Postal Assistant w.e.f. 17.11.2004 and to  
 grant all service benefits such as appli-  
 cant's half salaries during the period of  
 suspension w.e.f. 22.3.04 to 24.8.04 and  
 full salaries thereafter w.e.f. 17.11.04  
 to till date of re-instatement in the  
 interest of justice;

-AND-/OR pass such further order or  
 orders, as to your Honour/Lordships' ~~may~~ may  
 deem fit and proper.

And for this the petitioner/applicant, as in duty bound  
 shall ever pray.

~~2x RELIEFS~~

9. INTERIM RELIEF/ORDER, IF ANY PRAYED FOR :-

Pending the final decision on the application  
 the impugned orders dtd. 17.11.04 (Annexure-7) order dtd.  
 25.7.05 (Annexure - 9) and order dtd. 23.3.06 (Annexure-V)  
 respectively dismissing the service of the petitioner/applicant  
 may be stayed till disposal of the instant application.

10. IN THE EVENT OF APPLICATION BEING SENT BY REGISTERED POST IT MAY BE STATED WHETHER THE APPLICANT DESIRES TO HAVE ORAL HEARING AT THE ADMISSION STAGE AND IF SO, HE SHALL ATTACH A SELF-ADDRESSED POST CARD OR INLAND LETTER AT WHICH INTIMATION REGARDING THE DATE OF HEARING COULD BE SENT TO HIM.

- No, as the application is being filed in the C.A.T. Guwahati Bench itself.

The applicant has engaged the following Advocate (to conduct the case) on his behalf :-

- MR.H.RAHMAN,  
MR.R.DAS, Advocates  
for the Applicant.

11. PARTICULARS OF BANK DRAFT/POSTAL ORDER filed in respect of the application fee.

- A crossed postal order of Rs.50/- (Rupees fifty only) being the application fee vide No. 26G 323881 dtd. 10.4.2006 in favour of the Registrar Central Administrative Tribunal at Guwahati Bench Guwahati - 5 is enclosed herewith (in original ).

12. List of enclosures :

As detailed in the Index filed alongwith this application.

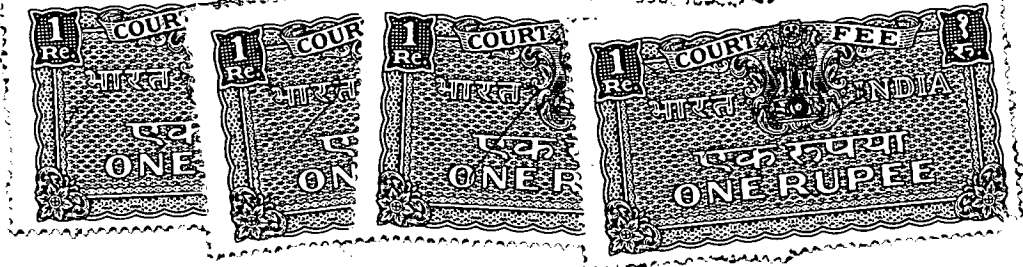
VERIFICATION

I, Bipul Ranjan Das, son of Late Sachindra Kr. Das, aged about 57 years, (DISMISSED POSTAL ASSISTANT), the applicant/petitioner herein, a resident of Nongmynsong Shillong-793001 in the East Khasi Hills, District, Shillong, Meghalaya, do hereby verify that the contents of paragraph 1 to 12 above are true to my personal knowledge/ legal advice and that I have not suppressed any material fact.

Date:- 24/5/06

*Bipul Ranjan Das*  
Signature of the Applicant.

Place:-Guwahati-18.



- 33(A) -

A F F I D A V I T

I, Bipul Ranjan Das, son of Late Sachindra Kr. Das, aged about 57 years, by religion Hindu, by occupation a Dismissed Postal Assistant, a resident of Thana Road, Shillong (near Congress Bhawan), P.O. & P.S. Shillong - <sup>now camped at GHY-18,</sup> 793001, in the East & Khasi Hills District, Meghalaya, do hereby solemnly affirm and declare as follows :-

1./ That I am the applicant in the instant case and as such I am well conversant with the facts and circumstances of the case and thus am competent to swear this affidavit.

This is true to my knowledge.

2. That the statements made in this affidavit and in paragraphs 1-3, 4(A)-4(F), I, O, Q, R-V, X, <sup>2, 2-A, 2-2, 2-4 and 6-12,</sup> of the original application are true to the best of my knowledge and belief, those made in paragraphs 4(G), H, J-N, W, X, 2-3 are true to my information derived from records which I believe to be true and correct and the rest are my humble submissions before this Hon'ble Tribunal/Court.

And I sign this affidavit on this the 3rd day of May, 2006 at Guwahati - 781001.

*Bipul Ranjan Das*  
Deponent 3/5/06

Identified by me.

*Ranjit Das*  
03/5/06  
(RANJIT DAS)  
Advocate

Solemnly affirmed and declared before me by the abovenamed deponent who is identified by Sri R. Das, Advocate on this the 3rd day of May, 2006 at Guwahati - 781001.

*MA*  
3/5/06  
JUDICIAL MAGISTRATE  
(KAMRUP) GUWAHATI-1.  
Official Mag.  
1st Floor (2nd Floor).

BY REGISTERED POST

File by the  
review  
petitioner  
Bipul Ranjan Das  
Shillong  
through  
C/O

28/9/2005

Advocate  
for Review petition

Date :- 28/9/05

BEFORE HIS EXCELLENCY THE PRESIDENT OF INDIA AT RASTRAVATI BHAWAN AT NEW DELHI-110001.

Review Appln.No. of 2005.

An application for review under rule 29-A of the C.C.S. (C.C.A.) Rules, 1965 for review of the Appellate order dated 25.7.05 passed by the Appellate Authority viz; the Director of Postal Services (Headquarter) N.E.Circle, upholding the dismissal order dated 17.11.04 dismissing the services of the review petitioner as Postal Asstt. in Assam Rifles, Sub-Post Office, Shillong-11.

- And -

In the matter of :-

Violation of Article 14, 16, 20(3) and 21 of the Constitution of India and the other laws of the land.

- And -

In the matter of :-

Shri Bipul Ranjan Das (Dismissed) Postal Asstt. of the Assam Rifles Sub-Post Office, Shillong-11), a resident of - Quarter No. Type-11/3, Honamynsong Postal Quarter Complex, P.O. & P.S. Shillong, District: East Khasi Hills, Shillong, Meghalaya State.

.... REVIEW PETITIONER

-Versus -

I, The Union ...

Copies to  
Respondents No.1 to 7  
Sent by  
Post separately.

28/9/05  
(R.D.S)  
Adv.

O/C

auth. paid to be  
true copy.

29/5/06

Bipul Ranjan Das

INDIA POST  
POSTAL QUARTER COMPLEX  
HONAMYNSONG  
SHILLONG  
DISTRICT: EAST KHASI HILLS  
MEGHALAYA STATE



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- 2 -

1. The Union of India, being represented  
by the Secretary to the Govt. of India,  
Department of Posts, Central Sachivalaya,  
New Delhi - 110001.
2. The Chief Post Master General,  
North Eastern Circle,  
P.O.Shillong - 793001,  
District: East Khasi Hills,  
Meghalaya.
3. The Post Master General,  
North Eastern Circle,  
P.O.Shillong - 793001,  
District : East Khasi Hills,  
Meghalaya.
4. The Director(Headquarter),  
Office of the Chief Postmaster General,  
North Eastern Circle,  
P.O.Shillong - 793001,  
District : East Khasi Hills, Meghalaya.
5. The Senior Superintendent of Post Offices,  
Meghalaya Division, P.O.Shillong-793001,  
District: East Khasi Hills, Meghalaya.

6...

Bipw Rangan Das

6. The Sub-postmaster,  
Cherra Bazar Sub-Post Office,  
P.O. & P.S. Cherrapunji,  
District: East Khasi Hills, Meghalaya.

7. The Sub-Postmaster,  
Cherrapunji Post Office,  
P.O. & P.S. Cherrapunji,  
District: East Khasi Hills, Meghalaya.

...OPPOSITE PARTIES

The humble Review petition of the  
abovenamed Review Petitioner

Most Respectfully Sheweth :-

1. That the review petitioner comes of a very poor family. After the death of his father he has been compelled to take the job at a very tender age. The review petitioner was initially appointed in the P & T Department of the Govt. of India through the Shillong Employment Exchange as a Mail Peon on 4.4.67 and he joined the same on 1.5.67. He was declared quasi permanent and then permanent as Postman in Class IV staff.

2. That during the course of his service he underwent various trainings and served in various places of the then Assam and presently of the state of Meghalaya.

3. That in order of his service he was appointed as a Postal Assistant and was confirmed, by dint of his devotion to duty and sincere work.

4. That while the Review Petitioner was serving as Subpostmaster at Cherrapunjee Subpostoffice of East Khasi Hills...

Bipul Ranjan Das

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Returned under  
24/10/75

(72)

Khasi Hills District of the state of Meghalaya, suddenly on 18.3.2004 some officers (with Mr. A.R. Bhownick, Asstt. Post Master General (Vigilance) along with few others came to your Review Petitioner asking to admit alleged offence on the assurance of getting the matter compromised amicable and settle the same before taking any penal action. The Review Petitioner knew nothing about the matter and became perplexed.

Bipul Ranjan

5. That vide No. F4-5/03-04/Cherra Bazar dtd. 22.3.04 issued by Sr. Supdt. of Post Offices, Meghalaya Division, Shillong, the Review Petitioner was placed under suspension in contemplation of initiating a Departmental Proceeding against him under the Rules applicable and/or in force.

*Suspension*  
A copy of the aforesaid order dtd.

22.3.04 is enclosed herewith and marked as Annexure - 1. ✓

6. That thereafter on 25.3.2004 an F.I.R. was lodged in the Sohra P.S. against the Review petitioner alleging that the review petitioner had misappropriated Govt. money to the tune of Rs. 1,20,684/- (Rupees one lakh twenty thousand six hundred eight four only). Your review petitioner was arrested accordingly on 25.3.04 and was kept in police custody. A G.D. Entry was made vide G.D. Entry No. 383 dtd. 25.3.05 and Sohra P.S. Case No. 7(03)/04 under section 404 I.P.C. was registered against the review petitioner.

A copy of the aforesaid FIR dated...

dated 25.3.04 under section 409  
IPC in Sohra P.S. Case No. 7(03)/04  
is enclosed hereto and marked as  
Annexure - 2.

*Bupul Raychaudhary*

38

7. That on 29.3.04 a bail petition was moved in the learned S.D.M. Court, Sohra and your review petitioner/accused has been allowed bail on certain conditions. Accordingly bail bond was furnished and your accused/review petitioner is now on bail. But the learned Court on 29.3.04 ordered also that 30.3.04 has been fixed for the confessional statement of the accused/review petitioner.

Be that as it may, the learned counsel on behalf of the accused/review petitioner submitted before the learned S.D.M. Court Sohra that the accused person pleads not guilty and is prepared to stand trial.

8. That as usual on 30.3.04 when the accused review petitioner was asked to make confessional statement in pursuance of the order dated 29.3.04, the accused/review petitioner submitted a written statement before the learned Court stating that he declines to make a statement vide order dated 30.3.04 apparant on the face of records, which is well known to the opposite parties herein also.

9. That on 13.4.04 vide postal receipt UCR Receipt No. 3698, dated 28.4.04 it appears that by undue pressure/influence of the concerned opposite parties, the accused/review petitioner who was dictated and asked to sign various papers (after his release from police custody) a sum of Rs. 70,000/- (Rupees seventy thousand only) was

withdrawn ...

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- 6 -

withdrawn from the G.I. Fund Account of the accused/  
review petitioner (which account is lying with the  
concerned opposite parties and the same has been shown/  
despatched by the concerned Authority/opposities herein  
as Refund or defrauded amount (by showing the same  
having been deposited by the instant accused/review  
petitioner ) without proving the offence, fraudently  
using those signatures on occasions as and when arising  
to meet their ends of making the instant accused/review  
petitioner a scape-goat. It is therefore apparant and  
clear from the facts and circumstances that due to  
undue pressure and influence of the opposite parties  
exerted on the instant accused/review petitioner the  
opposite parties are trying to make out a false claim  
that the instant review petitioner/accused had admitted  
his guilt, which needs a through enquiry for the sake of  
justice.

10. That on 25.8.04 vide No. F 4-5/03-04/Cherra Bazar  
dated 25.8.04 issued by the Senior Superintendent of  
Post Offices, Meghalaya Division, Shillong-793001 (Oppo-  
site party no. 5 herein) the suspension order of the  
review petitioner was suddenly revoked without any rhyme  
and reason and your accused/review petitioner was trans-  
ferred and posted vide order No. B1-Rotational/PER/IV,  
dated 25.8.04 to Assam Rifles Sub Post Office as Postal  
Assistant at Shillong - 11.

Copies of the aforesaid orders  
of revocation and transfer dated  
25.8.04 and 25.8.04 are enclosed hereto  
and marked as Annexure - 3 and 4  
respectively.

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Bijul Ranjan Das

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Bipul Ranjanda

11. That vide Memo No. F-4-5/03-04/Cherra Bazar, dated 30.8.04, your review petitioner was served with the charge sheet in the Departmental Proceeding. But strangely it appears herein that although the basis of charge and the period of alleged misappropriation remaining the same as in the Criminal case stated above, the amount involved is less now than in the Criminal Case. In other words, in the Departmental Proceeding the amount misappropriated has been allegedly shown as Rs. 77,763/- (Rupees seventy seven thousand seven hundred sixty three only) whereas in the Criminal proceeding (FIR dtd. 25.8.04) the amount allegedly misappropriated has been shown as Rs. 1,20,684/- (Rupees one lakh twenty thousand six hundred eighty four only). And consequently in law it is not allowed to hold two simultaneously separate proceeding for the same and alleged the only offence by showing a slight different in the amount which too is contradictory and confusing.

A copy of the aforesaid Departmental Proceeding charge sheet dtd. 30.8.04 is enclosed hereto and marked as Annexure-5.

30. 12. That on 30.9.04 vide charge sheet No. 16/04 of Sohra P.S. the police submitted a charge sheet against the instant accused/review petitioner before the learned Court of S.D.M., Sohra on 30.9.04 for trial of the aforesaid Criminal Proceeding, just after 30 days of Deptl. charge sheet on 30.8.04.

A copy of the aforesaid Police charge sheet in Sohra P.S. Case 7(03)/04 dtd. 30.9.04 is enclosed hereto and marked as Annexure - 6.

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- 8 -

Bipul Bandyopadhyay

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13. That thereafter vide Memo No. F-4-5/03-04/Cherra Bazar, dated 17.11.04 under rule 14 of the C.C.S. (C.C.A.) Rules, 1965<sup>simply</sup> on the basis of statements of articles of charges which are same and similar in both the Departmental Proceeding and also in the Criminal Proceeding as stated above, without holding any enquiry (except the earlier Vigilance enquiry, which report copy of which has not been supplied to the instant review petitioner) and without following due procedures established by law and in complete violation of C.C.S. (C.C.A.) Rules, 1965 and also the principles of Natural Justice, the services of the instant accused/review petitioner has been dismissed with effect from receipt of the order. The dismissal order aforesaid has been received by the review petitioner on 18.11.04.

A copy of the aforesaid dismissal order dated 17.11.04 of the review petitioner's service is enclosed hereto and marked as Annexure - 7.

14. That the review petitioner being thus aggrieved by the aforesaid illegal and arbitrary dismissal order passed by the Disciplinary Authority without giving any opportunity of hearing and without following due process of law, preferred a Departmental Appeal on 2.12.2004 which was addressed to the Director(HQ) Office of the Chief Postmaster General, N.E.Circle, Shillong, Meghalaya, alleging that the alleged confession is not a confession but due to undue influence and threat by the concerned Authorities/opposite parties.

A copy of the aforesaid Departmental appeal dtd. 2.12.04 of the review petitioner is enclosed hereto and marked as Annexure - 8.

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Vakalatnama ...

15. That thereafter in complete violation of the procedure established by law the appellate authority too vide Memo No. Staff/109-21/2004, dated 25.7.05 rejected the Departmental appeal of the review petitioner and upheld illegally the dismissal order dated 17.11.04 most arbitrarily and unreasonably.

A copy of the aforesaid appellate order dated 25.7.05 is enclosed herewith and marked as Annexure - 9.

16. That meanwhile for the same alleged offence 2(two) proceedings were on against the instant accused/ review petitioner. The review petitioner as accused received the summons from the learned Court of Sub-divisional Magistrate, Sohra Court in G.R. Case No. 7/04 issued on 25.10.04 asking him to appear on 9.12.04. Accordingly the accused review petitioner is appearing in each and ever day.

A copy of the aforesaid summons dated 25.10.04 is enclosed herewith and marked as Annexure - 10.

17. That on 19.5.05 at the behest of police (unknown to the accused review petitioner) wrote a petition addressed to the learned Court of S.D.M. Sohra and the accused petitioner was asked to sign the same which appear to be an undertaking from the accused to the effect that he had deposited Rs. 70,000/- on 28.4.04 vide postal receipt thereon. The review petitioner not understanding the implications signed the same which has been due to undue influence and collusive act of the police as well as the opposite parties with threat and undue influence on the accused/ review petitioner.

Vakalatnama ...

Vakalatnama ...

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Bipul Ranjan



18. That on an off day i.e. on 5.9.05 the review petitioner/accused made a petition before the learned court of S.D.M. Sohrah and pleaded not guilty and prayed that he should be tried because that was his initial defence vide order dated 29.3.04 and 30.3.04 in the aforesaid criminal proceeding.

A copy of the aforesaid petition dated 5.9.05 is enclosed herewith and marked as Annexure - 11.

19. That on another off day the learned Court passed the order observing inter alia that the case against the accused to continue till further development occurs which was received by the accused/review petitioner on 15.9.05, although the said order is dated 5.9.05 but it does not mention about the said petition dtd. 5.9.05 except mentioning that the learned Court heard the counsels of the accused.

A copy of the aforesaid order dtd. 5.9.05 is enclosed herewith and marked as Annexure - 12.

20. That the next date fixed was 22.9.05 when the accused/review petitioner appeared with his learned Advocate. The Presiding Officer of the learned Court was not available and as such the Deskar gave another date which is fixed on 27/10/05. But the accused/review petitioner filed another petition <sup>on that day i.e. on 22.9.05</sup> praying for expediting the trial, which is pending.

20(a). That the review petitioner submits that non-furnishing of Vigilance Enquiry Report held on 18.3.04 to the instant review petitioner is arbitrary and violative of the principles of Natural Justice and hence impugned orders dtd. 17.11.04 and 25.7.05 are not sustainable in law.

21. That the review petitioner being thus aggrieved begs to prefer this Review Petition before your Excellency for redressal of his genuine and lawful grievances.

22. That the review petitioner submits most respectfully that he is highly aggrieved because there is 2 (two) simultaneously held proceedings for the same offence. No established procedure of law had been followed in both the proceedings. The defence of the accused/review petitioner had been adversely affected and he is highly prejudiced which is arbitrary and illegal and suffers from the vice of double jeopardy.

23. That the accused/review petitioner submits that as per provisions of clause (3) of Article 21 of the Constitution of India to the effect that "NO ONE SHOULD BE ASKED TO GIVE EVIDENCE AGAINST HIMSELF" Because of the threat and undue influence in a collusive manner with the police the instant accused/review petitioner has been compelled to act as per the dictate of the opposite parties and submit a statement, which has been termed as his written statement as well as confession and/or admission by the opposite parties unknown in law. This is because he was not allowed to plead in his written statement. The alleged document obtaining his signature (by dictating the same under threat and undue influence in a collusive manner with the help of the police) is not acceptable in law being violative of Article 20(3) of the Constitution of India, which is most arbitrary and illegal and thus not sustainable in law.

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Pipul Ranjendra

24. THAT the review petitioner submits that it is well established in law that in a criminal as well as in Departmental Proceedings forced confession and/or admission obtained by coercion, threat and undue influence cannot take the place of proof. But in this case the review petitioner was compelled to write out at the dictation of the opposite parties including the collusive police action that he admits that he has done the alleged offence and that he has deposited a sum of Rs.70,000/- towards the defrauded amount before proving the alleged offence of misappropriation and/or the offence under section 409 I.P.C. which were obtained by the opposite parties under undue influence and threat apparent on the face of records more so when the amount alleged is Rs.1,20,684/- in the criminal proceeding and the amount alleged in the Departmental proceeding is only Rs.77,763/- which are contradictory and confusing far away from truth.

25. That after the passing of the Appellate order dated 25.7.05, the review petitioner is passing days with great alarm and with sleepless nights with apprehension that at any moment the opposite parties may throw him out of the official quarter at Nongnyensong, Shillong 793011, as the review petitioner is having his wife (unemployed), 2(two) minor school going children in his family who are living in the aforesaid official quarter. It is therefore most respectfully submitted that your Excellency will be pleased to direct the opposite parties concerned as to not to evict the review petitioner from the aforesaid official quarter at Nongnyensong Shillong 11

Will disposal of this Review Petition. On 27-9-05 the Review Petitioner received memo no. Bldg/27/538/88-89/1, dt. 21-9-05 for vacating the quarter. A copy of vacating notice is enclosed. 13 (a), 13(b)

(81)

(46)

But Reviewer Dies

26. That the review petitioner submits that the review petitioner being an employee of the lower echelon of service has been treated shavely by the concerned opposite parties. As the review petitioner is not conversant with the procedures of a Departmental Enquiry the review petitioner should have been given the help of a Government Employee well conversant with the procedures of a Departmental Enquiry, but it was not so given to the review petitioner not even a whisper has been made in this regard. Thus instead of showing sympathy by both the disciplinary authority as well as the appellate authority (as required under the law) the concerned opposite parties are trying to take advantage of the ignorance of the review petitioner, The appellate authority had forgotten its duty to see if the punishment awarded is proportionate to the offence alleged, thus violating the law relating to defence and consequently great prejudice has been caused to the review petitioner also by violating the principles of Natural Justice, and administrative fair play, which are cardinal points of service jurisprudence. And in this view of the matter, the impugned action of dismissal dated 17.11. 2004 and the impugned appellate order dated 25.7.05 are arbitrary and not sustainable in law and thus liable to be set aside and quashed.

27. That the review petitioner submits that the impugned dismissal and appellate orders are most unreasonable, arbitrary and devoid of rule of law, having been

passed ...

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passed by the disciplinary authority as well as the appellate authority without following the due procedures established by law thus violating article 14 and 16 of the Constitution of India, as many other officials against whom departmental action is on but no criminal proceeding has been instituted simultaneously except the instant review petitioner, which are discriminatory and not sustainable, being violative of the rule of law.

28. That the instant review petition is made bonafide and for the ends of justice.

It is, therefore, most respectfully prayed that your Excellency would be pleased to redress the genuine and lawful grievances of the instant review petitioner by directing the opposite parties <sup>to show cause as to why directions should not be issued by the effect that (a) simultaneous proceedings were illegal (at a time) affecting the review petitioner's</sup> ~~to show cause as to why directions should not be issued by the effect that (a) simultaneous proceedings were illegal (at a time) affecting the review petitioner's~~ to proceed with the proceedings <sup>staying quantum vacated by 21-2-01</sup> ~~to proceed with the proceedings~~ (at a time) affecting the review petitioner's right to defence, (b) to keep the Departmental Proceeding in abeyance till the Criminal proceeding is over by staying the operation of the Appellate order date 25.7.05 (Annexure - 9) and dismissal order dated 17.11.04 (Annexure - 7) respectively ; (c) <sup>staying quantum vacated by 21-2-01</sup> directing not to evict the review petitioner and his family from the official quarter No. Type - II/3, at Hougmyngong Postal Quarter Complex, P.O. & P.S. Shillong, in the District of East Khasi Hills, Shillong in the state of Meghalaya <sup>all aspects of review petition</sup> and/or pass such further or other order/orders as to your Excellency may deem fit and proper.

and for this, the review petitioner, as in duty bound, shall ever pray.

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

I, Bipul Ranjan Das, son of Late Sachindran

Kr. Das, aged about 55 years, a resident of  
Quarter No. Type-II/3, Hongmynsong Postal  
quarter Complex, Shillong, P.O. & P.S. Shillong  
in the district of East Khasi Hills, Meghalaya  
State, do hereby solemnly affirm and verify  
that the statements made in paragraph 1 to 28  
are true to the best of my knowledge and  
belief.

And I sign this verification on this  
the 28th day of Sept / 2005 at Guwahati.

Bipul Ranjan Das

Signature of the

Review Petitioner

Date :- 28/9/05

Place :- Guwahati.

Annexure - 1.

49

DEPARTMENT OF POSTS  
OFFICE OF THE SR. SUPDT. OF POST OFFICES :: MEGHALAYA DIVISION  
SHILLONG - 793 001.

No. F4-5/03-04/Cherrabazar, Dated Shillong, the 22<sup>nd</sup> March 2004.

Whereas a disciplinary proceeding against Shri. Bipul Ranjan Das, P.A., Cherrapunjee S.O. is contemplated.

Now, therefore, the undersigned, in exercise of the powers conferred by Sub-rule(1) of Rule-10 of the CCS (CCA) Rule, 1965 hereby places the said Shri. Bipul Ranjan Das under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the headquarter of Shri. Das should be at Shillong and the said Shri. Das shall not leave the headquarter without obtaining the previous permission of the undersigned.

( J. Lalinsailova ),  
Sr. Supdt. of Post Offices,  
Meghalaya Division,  
Shillong -- 793 001.

Copy to:-

1. The Sr. Postmaster, Shillong G.P.O.
2. The SPM, Cherrapunjee S.O.
3. Shri. Bipul Ran. Das, P.A., Cherrapunjee S.O.
4. The Staff Branch, Divl. Office, Shillong.
5. O/c.

Sr. Supdt. of Post Offices,  
Meghalaya Division,  
Shillong - 793 001.

confined to  
be home  
copy.

24/3/04

Annexure-2.

50

DEPARTMENT OF POSTS: INDIA  
O/O THE SUB DIVISIONAL INSPECTOR OF POST OFFICES  
NORTH SUB DIVISION SHILLONG - 793001.

To,

The Office Incharge  
Sohra P.S. East Khasi Hills  
Meghalaya.

NO: A1/Cherrabazar/Fraud

Dated at Shillong the 25<sup>th</sup> March 2004.

Sub: Misappropriation of Govt. money by Sri Bipul Rn Das Ex. Sub Postmaster Cherrabazar Sub Post Office by non-crediting the amount of SB deposits in respect of Teacher Provident Fund account.

Sir,

This is for your kind information that Sri Bipul Rn Das while working as Sub Postmaster Cherrabazar Sub Post Office during the period from 23.02.2000 to 08.02.2004, he accepted the following lists of SB Deposit (Teacher Provident Fund account) with amount mentioned in each list on several dates as noted below duly entered in the relative Passbook of the schools noted against each, but he did not credit the amount to the Govt. account.

(1) List for March, April & May containing deposit of 13 SB Accounts	From St. John Bosco Boys Secondary School, Sohra	Rs 45886/-
(2) List for Dec 03 containing deposit of 18 SB Accounts	From Ramkrishna Mission higher Secondary School, Cherapunjee	Rs 19466/-
(3) List for Oct 03 containing deposit of 15 SB Accounts	From St. John Bosco Boys Secondary School, Sohra	Rs 16792/-
(4) List for Oct 03 containing 13 SB Accounts	From Ramkrishna Mission higher Secondary School, Cherapunjee	Rs 40644/- - 2104/- (Credited) = 38540/-
Total = :		Rs = 120684/-

(Rs One lac twenty thousand six hundred eighty four only)

Against item no.4 out of the total amount Rs 40644/-, and amount of Rs. 2104/- has been credited by the said Shri Bipul Rn Das. Thus total amount to be recovered from him is Rs. 120684/-.

You are therefore requested kindly to take necessary action to recovered the rest amount from the delinquent viz. Shri Bipul Rn Das who is now working as Postal Assistant Cherapunjee Sub Post Office.

If required relative documents may be taken /scized from the undersigned at Cherapunjee Sub Post Office and for this purpose you may kindly fix up a date and intimated before a week.

Thanking you

Encl.: As above.

Yours faithfully,

(Smt. F. Khongbri)

Sub-Divisional Inspector of Post Office  
North Sub-Division, Shillong-793001.

*all details*

Count 2



51

Received vide GINEN NO 383 Dated 25/03/04 and a Caglare  
has been registered vide Sahon PS Case No 7(03)04/MS 409  
I.P. and A.S. Roy has taken up the case and  
will continue the investigation.

*[Signature]*  
25/3/2004

Officer in Charge  
Sahon Police Station  
East Khasi Hill Dist. (Meghalaya)

Copy to:

The Sr. Supdt of Post Offices, Meghalaya Division Shillong - 793001 with reference to  
Divisional Office letter no F4-5/03-04/ Cherabazar dated 23.03.04 for favour of kind  
information.

*[Signature]*

Sub-Divisional Inspector of Post Offices  
North Sub-Division, Shillong-792001.

*[Signature]*  
7

(18)  
Annexure - 3 28  
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DEPARTMENT OF POSTS  
OFFICE OF THE SR. SUPDT. OF POST OFFICES: MEGHALAYA DIVISION  
SHILLONG - 793001.

NO: F4-5/03-04/Cherra Bazar Dated at Shillong the 25<sup>th</sup> August 2004.

ORDER

Whereas an order placing Shri Bipul Ranjan Das PA Cherrapunjee S.O under suspension was made by the Undersigned under this office memo of even No dated 22-3-2004.

Now, therefore, the Undersigned in exercise of the powers conferred by clause (c) of Sub Rule (5) of Rule 10 of the CCS (CCA) Rule, 1965 hereby revokes the said order of suspension with immediate effect.

*sd-*  
Sr. Supdt of Post offices  
Meghalaya Division  
Shillong - 793001.

Copy to :-

1. ☒ Shri Bipul Rn Das PA Cherrapunjee S.O.
2. The Sr. Postmaster Shillong G.P.O for information and necessary action.
3. P/F of the official.
4. CR file of the official.
5. ASP (HQ), Divisional Office.

*auth. send to be  
from copy*

*[Signature]*  
Sr. Supdt of Post offices  
Meghalaya Division  
Shillong - 793001.

Annexure - 4.

(19) (53)

**DEPARTMENT OF POSTS: INDIA**  
**O/O THE SR. SUPDT OF POST OFFICES:: MEGHALAYA DIVISION**  
**SHILLONG-793001**

NO-B1-Rotational/Tfr/IV

Dated at Shillong the 25<sup>th</sup> August'2004

The following transfer and posting order of the official is issued in the interest of service with immediate effect.

1. Shri Bipul Ranjan Das, P.A. Cherrapunjee SO (under suspension) is transferred and posted as P.A. Assam Rifles on revocation of suspended order issued vide this office letter No-F4-5/03-04/Cherra Bazar dated 25-08-2004 against the vacant post until further order.

Sc//  
Sr. Supdt of Post Offices  
Meghalaya Division  
Shillong - 793001.

Copy to: -

1. The ASPOs- Meghalaya Division, Shillong-1.
2. The Sr. Postmaster, Shillong GPO.
3. The Sub Postmaster, Assam Rifles SO, Shillong-11.
4. The Sub Postmaster, Cherrabazar SO.
5. The Sub Postmaster, Cherrapunjee SO.
6. The Accountant, Divisional Office, Shillong-1.
7. The Fraud Branch, Divisional Office, Shillong-1.
8. The SDIPOs, Central Sub Division, Shillong -1.
9. Sri Bipul Ranjan Das, Postal Quarter, Lalchand Basti, PO-Assam Rifles, Shillong-11.
10. O/C.

Sc//  
Sr. Supdt of Post Offices  
Meghalaya Division  
Shillong - 793001.

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true (pr.)  
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MEMORANDUM

The President/Undersigned proposed to hold an inquiry against Shri. Bipul Ranjan Das under Rule-14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. The substance of the imputations of mis-conduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure/I). A statement of the imputation of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure/II). A list of documents by which, and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexure/III & IV).

2. Shri. Bipul Ranjan Das is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri. Bipul Ranjan Das is further informed that if he does not submit his written statement of defence on or before the date specified in para-2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule-14 of the C.C.S. (C.C.A.) 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. Bipul Ranjan Das is invited to Rule-20 of the Central Civil Services (Conduct) Rules, 1964 under which no Govt. servant shall bring or attempt to bring any political or outsider influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Govt. 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. Bipul Ranjan Das 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 C.C.S. (Conduct) Rules, 1964.

6. The receipt of this Memorandum may be acknowledged.

Name & designation of the authority,  
Meghalaya Division  
Shillong-793001

Memo No. E4-S/03-04/Chandra Baxa dtd. 30-8-04

To,

Shri. Bipul Ranjan Das  
PA Assam Rifles  
Shillong

Recd AS

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from L. R.

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ANNEXURE - I

Statement of article of charge framed against Shri Bipul Ranjan Das the then SPM Cherra Bazar (now PA Assam Rifles) under Rule 14 of CCS (CCA) Rules 1965.

ARTICLE - I

Shri Bipul Rn Das while working as SPM Cherra Bazar during the period from 23-2-2000 to 8-2-2004 did not credit the amount of ~~Rs 77,637/-~~ (Rupees Seventy seven thousand seven hundred sixty three) only to Government account which were deposited by the head of Institutions of Ram Krishna Mission Higher Secondary School and St. John Bosco Boys/Girls Higher Secondary School Cherrapunjee in respect of various TPF accounts and SB accounts standing at Cherra Bazar S.O. on various dates.

By the above action said Shri Bipul Rn Das failed to maintained absolute integrity and devotion to duty and thus alleged to have violated the provisions of Rule 3 (1) (i) & (ii) of CCS (Conduct) Rules 1964.

ANNEXURE - II

Statement of imputation of misconduct or misbehaviour in support of the article of charge framed against Shri Bipul Ranjan Das the then SPM Cherra Bazar (now PA Assam Rifles).

ARTICLE - I

Said Shri Bipul Rn Das while working as SPM Cherra Bazar during the period from 23-2-00 to 8-2-04 misappropriated the amount of the TPF accounts and SB accounts as detailed below: -

	<u>A/C No.</u>	<u>Amt of fraud</u>	<u>Period of fraud</u>	<u>Remarks</u>
1.	830153	Rs 1052/-	30-3-01 to 26-12-03 :	
2.	830181	Rs 2688/-	30-3-01 to 16-9-03 :	
3.	830204	Rs 2960/-	22-4-02 to 29-9-03 :	
4.	830237	Rs 5392/-	30-3-01 to 13-12-03 :	
5.	830238	Rs 4532/-	30-3-01 to 13-12-03 :	
6.	830239	Rs 3362/-	26-9-01 to 13-12-03 :	TPF A/Cs
7.	830251	Rs 3450/-	30-3-01 to 13-12-03 :	
8.	380252	Rs 4472/-	30-3-01 to 13-12-03 :	
9.	380301	Rs 3624/-	12-8-02 to 18-12-03 :	
10.	830310	Rs 7992/-	30-3-01 to 17-12-03 :	
11.	830312	Rs 2117/-	3-3-01 to 26-12-03 :	
12.	830313	Rs 2948/-	30-3-01 to 13-12 -03 :	

13.	830324	Rs 6050/-	6-8-02 to 11-9-03	:	
14.	830335	Rs 3040/-	30-3-01 to 13-12-03	:	
15.	830336	Rs 1776/-	30-3-01 to 7-6-03	:	TPF A/Cs
16.	830358	Rs 7666/-	30-3-01 to 26-12-03	:	
17.	830359	Rs 2840/-	30-3-01 to 26-12-03	:	
18.	830388	Rs 7452/-	30-3-01 to 13-12-03	:	
19.	830339	Rs 4350/-	22-1-04	:	SB A/C
		Rs 77763/-			

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By the above action Shri Bipul Rn Das failed to maintained absolute integrity and devotion to duty and thus alleged to have infringed the provision of Rule 3 (1) (i) & (ii) of CCS (Conduct) Rules 1964.

### ANNEXURE - III

List of documents by which the article of charge framed against Shri Bipul Rn Das the then SPM Cherra Bazar (now PA Assam Rifles) are proposed to be sustained.

1. SB Long Books for the period from 31-7-99 to 18-3-2004 (5 Nos).
2. S.O A/C books from 31-11-00 to 1-2-04 (3 Nos).
3. Passbooks No. 830153, 830181, 830204, 830237, 830238, 830239, 830251, 380252, 380301, 830310, 830312, 830313, 830324, 830335, 830336, 830358, 830359, 830388, 830339.
4. H.O ledger of the above mentioned TPF accounts and SB accounts.
5. S.O daily accounts.
6. List of transaction of Cherra Bazar.

### ANNEXURE - IV

List of witness by whom the article of charge framed against Shri Bipul Rn Das the then SPM Cherra Bazar (now PA Assam Rifles) are proposed to be sustained.

1. Smti F. Khongbri, SDIPOs North Sub Division.
2. Smti Mukta Deb SPM Cherra Bazar.

**FINAL FORM/REPORT**  
(Under Section 173 Cr.P.C.)

IN THE COURT OF S.D. N. Saha

1. District P. Hill P.S. Behra Year 2004 FIR No. 7 Date 25.3.04
2. Final Report / Charge Sheet No. 16/04 3. Date 30.7.2004
4. (i) Act 44 Sections 409. I.P.C.  
(ii) Act \_\_\_\_\_ Sections \_\_\_\_\_  
(iii) Act \_\_\_\_\_ Sections \_\_\_\_\_  
(iv) Other Acts & Sections \_\_\_\_\_
5. Type of Final Form/Report: Charge Sheet / Not charge sheeted for want of evidence / FR True, Undetected / FR True, Untraced / FR True, offence abated / FR Unoccurred, (tick ✓ applicable portion).
6. If FR Unoccurred: False/Mistake of Fact/Mistake of law/Non cognisable /Civil nature. (tick ✓ applicable portion).
7. If Charge sheet: Original / Supplementary. (tick ✓ applicable portion).
8. Name of I.O. S. Kana Rank S.I. No. \_\_\_\_\_  
(at the time of charge sheet)
9. (a) Name of complainant / informant Shri. F. Khongtin  
(b) Father's / Husband's name Mrs. Shri. Jonathan Surr.
10. Details of Properties/Articles/Documents recovered/seized during investigation and relied upon (separate list can be attached, if necessary).

Sl. No.	Property description	Estimated value (Rs.)	P.S. Property Register No.	From whom/ where recovered or seized	Disposal
1	2	3	4	5	6

11. Particulars of accused persons charge-sheeted: (Use separate sheet for each accused)  
Sl. No. \_\_\_\_\_  
(i) Name Shri. Rajul Rajan. Das Whether verified yes  
(ii) Father's/Husband's name Shri. Rajul Rajan. Das (iii) Date/Year of birth \_\_\_\_\_  
(iv) Sex M (v) Nationality Indian (vi) Passport No. \_\_\_\_\_  
Date of Issue \_\_\_\_\_ Place of Issue \_\_\_\_\_  
(vii) Religion Hindu (viii) Whether SC/ST/OBC SC (ix) Occupation Govt. employee

Annexure - 6.

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Added to S.D. N. Saha through PSI Saha Court

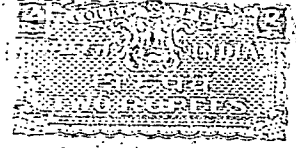
Done 30/9/04

Enclosure Seize list 7  
MR No - 24/64

MR No - 25/64  
with all the exhibit  
20 for exhibit civil

Done 30/9/04

- (x) Address P. T. Quarter, Nongma, Nag  
Mahakya, Phitong Whether verified yes
- (xi) Provisional criminal No. \_\_\_\_\_
- (xii) Regular criminal No. (if known) \_\_\_\_\_ (xiii) Date of arrest \_\_\_\_\_
- (xiv) Date of release on bail \_\_\_\_\_ (xv) Date on which forwarded to court \_\_\_\_\_
- (xvi) Under Acts & Sections \_\_\_\_\_
- (xvii) Details of bailers / sureties:  
Name \_\_\_\_\_ Father's/Husband's name \_\_\_\_\_  
Occupation \_\_\_\_\_ Address \_\_\_\_\_  
Identification \_\_\_\_\_
- (xviii) Previous convictions with case references \_\_\_\_\_
- (xix) Status of the accused:  
Forwarded / Bailed by police / Bailed by court / Judicial custody / Absconding / Proclaimed offender (tick ✓ applicable portion).
- Particulars of accused persons - not charge sheeted (suspect): (Use separate sheet for each suspect)  
Sl. No. \_\_\_\_\_  
(i) Name \_\_\_\_\_ Whether verified \_\_\_\_\_  
(ii) Father's/Husband's Name \_\_\_\_\_ (iii) Date/Year of birth \_\_\_\_\_  
(iv) Sex \_\_\_\_\_ (v) Nationality \_\_\_\_\_ (vi) Passport No. \_\_\_\_\_  
Date of Issue \_\_\_\_\_ Place of Issue \_\_\_\_\_  
(vii) Religion \_\_\_\_\_ (viii) Whether SC/ST/OBC \_\_\_\_\_ (ix) Occupation \_\_\_\_\_  
(x) Address \_\_\_\_\_ Whether verified \_\_\_\_\_
- (xi) Provisional criminal No. \_\_\_\_\_
- (xii) Suspicion approved: Yes/No \_\_\_\_\_
- (xiii) Status of the accused (suspect):  
Bailed by police/Bailed by court/ Judicial custody/Not arrested (tick ✓ applicable portion).
- (xiv) Under Acts & Sections \_\_\_\_\_
- (xv) Any Special remarks including reasons for not charge sheeting \_\_\_\_\_



Auth. filed to  
home no.

Paula

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N.C.R.B.  
I.I.F.-V

13. Particulars of witnesses to be examined:

Sl. No.	Name	Father's/Husband's name	Date/Year of birth	Occupation	Address	Type of evidence to be tendered
1	2	3	4	5	6	7
Separate sheet enclosed herewith						

14. If FR else, indicate action taken or proposed to be taken u/s 182/211 I.P.C. ....

15. Result laboratory analysis : .....

16. Brief of the case (Add separate sheet, if necessary) *On the reverse.*

17. Refer No served : Yes/No Date: .....

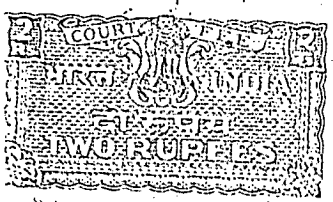
18. Despatch on .....

19. No. of osures : .....

20. List of osures : As annexed

Forwarded by Officer in Charge  
Name *Officer in Charge*  
Rank *Sub-Inspector* District: *(Meynagor)*

Signature of Investigating Officer  
submitting Final report/Charge sheet  
Name *S. K. Sen*  
Rank *S.I.* No. ....



*Challos*



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The present case is that on 25-3-2004 a written complaint was received from Sub. Divisional Inspector of Police, District of Jalandhar, Punjab, that Shri Bipul Ranjan Das, Sub. postmaster, Chana, Jalandhar, Punjab, during the period of 25-2-2000 to 2-2-2004 has misappropriated govt. money by not crediting the S.D. deposit of Teachers' Provident Fund to the tune of Rs. 1,20,684/- (one lakh twenty thousand six hundred and eighty four) only. On receipt of this the case has been registered and investigated into. During the course of investigation, the said has been arrested and examined who has confessed his guilt of misappropriating the govt. money as he is having bad habit of gambling the money in archery, the pass book ledger and other document has been seized as per the M. 24/04 and M.R. 25/04. As such a joining four case up 409 IPC is found well established against the accused Shri Bipul Ranjan Das. I am therefore sending him up to face his trial and the witnesses noted on the separate list enclosed here with will prove the case who may kindly be summoned by fixing a date.

Ranjan  
30/9/04

S. S. Rana

S/o of the C.O.

Chatter  
20/9/04

Contd. Memo 6

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The prosecuting story of the C/R is that on 25.3.2004 received a written complaint from one Smti F.Khongbri, Sub-Division/Inspector of PostOffice, North Subdivision Shillong to the effect that Shri Bipul Ranjan Das, Ex-sub postmaster Cherra Bazaar Sub post office during the period of 23.2.2000 to 8.2.2004 has misappropriated govt money by not credit the S.B. deposit of Teachers provident Fund to the tune of Rs.1,20,684/- (Rupees one lakh twenty thousand six hundred and eighty four only). On receiving of this the case has been registered and investigated into. During the course of investigation, the accused has been arrested and examined who has confessed his guilt of misappropriating the Govt. money. As he is having bad habit of gambling the money in Archery, the pass book/ledger and other document has been seized as per the M/R 24/04 and M.R.25/04 as such a prima facie case u/s 409 I.P.C. is found well established against the accused Shri Bipul Ranjan Das. I am therefore sending him up to face his trial and the witnesses noted on the separate sheet enclosed herewith will prove the case who may kindly be summoned by fixing a date.

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to be true  
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page 59.

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Sd/- Illegible, 30.9.04  
S.I. , S.Rana

I/O of the case.

CERTIFIED TO BE TRUE COPY.

Sd/- Illegible  
SEALED

18.11.04

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DEPARTMENT OF POSTS  
OFFICE OF THE SR. SUPDT. OF POST OFFICES: MEGHALAYA DIVISION  
SHILLONG - 793001.

Memo No F4-5/03-04/Cherra Bazar Dated at Shillong the 17<sup>th</sup> Nov 2004

In this memo No F4-5/03-04/Cherra Bazar dtd 30-8-04 it was proposed to take action against Shri Bipul Ranjan Das the then SPM Cherra Bazar now PA Assam Rifles S.O under Rule 14 of CCS (CCA) Rules 1965 on the basis of statement of articles of charges as detail below :-

ANNEXURE - I

Statement of article of charge framed against Shri Bipul Ranjan Das the then SPM Cherra Bazar (now PA Assam Rifles) under Rule 14 of CCS (CCA) Rules 1965.

ARTICLE - I

Shri Bipul Rn Das while working as SPM Cherra Bazar during the period from 23-2-2000 to 8-2-2004 did not credit the amount of Rs 77763/- (Rupees Seventy seven thousand seven hundred sixty three) only to Government account which were deposited by the head of Institutions of Ram Krishna Mission Higher Secondary School and St. John Bosco Boys/Girls Higher Secondary School Cherrapunjee in respect of various TPI accounts and SB accounts standing at Cherra Bazar S.O. on various dates.

By the above action said Shri Bipul Rn Das failed to maintained absolute integrity and devotion to duty and thus alleged to have violated the provisions of Rule 3 (1) (i) & (ii) of CCS (Conduct) Rules 1964.

ANNEXURE - II

Statement of Confirmation of misconduct or misbehaviour in support of the article of charge framed against Shri Bipul Ranjan Das the then SPM Cherra Bazar (now PA Assam Rifles).

Observation are thereby denying the or citability of placed the grievances on the points of observation before the appellate authority.

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be true copy.  
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ARTICLE - I

Said Shri Bipul Rn Das while working as SPM Cherra Bazar during the period from 23-2-00 to 8-2-04 misappropriated the amount of the TPF accounts and SB accounts as detailed below: -

<u>A/C No.</u>	<u>Amt of fraud</u>	<u>Period of fraud</u>	<u>Remarks</u>
1. 830153	Rs 1052/-	30-3-01 to 26-12-03 :	
2. 830181	Rs 2688/-	30-3-01 to 16-9-03 :	
3. 830204	Rs 2960/-	22-4-02 to 29-9-03 :	
4. 830237	Rs 5392/-	30-3-01 to 13-12-03 :	
5. 830238	Rs 4532/-	30-3-01 to 13-12-03 :	
6. 830239	Rs 3362/-	26-9-01 to 13-12-03 :	TPF A/Cs
7. 830251	Rs 3450/-	30-3-01 to 13-12-03 :	
8. 380252	Rs 4472/-	30-3-01 to 13-12-03 :	
9. 380301	Rs 3624/-	12-8-02 to 18-12-03 :	
10. 830310	Rs 7992/-	30-3-01 to 17-12-03 :	
11. 830312	Rs 2117/-	3-3-01 to 26-12-03 :	
12. 830313	Rs 2948/-	30-3-01 to 13-12-03 :	
13. 830324	Rs 6050/-	6-8-02 to 11-9-03 :	
14. 830335	Rs 3040/-	30-3-01 to 13-12-03 :	
15. 830336	Rs 1776/-	30-3-01 to 7-6-03 :	TPF A/Cs
16. 830358	Rs 7666/-	30-3-01 to 26-12-03 :	
17. 830359	Rs 2840/-	30-3-01 to 26-12-03 :	
18. 830388	Rs 7452/-	30-3-01 to 13-12-03 :	
19. 830339	Rs 4350/-	22-1-04 :	SB A/C
	Rs 77763/-		

By the above action Shri Bipul Rn Das failed to maintained absolute integrity and devotion to duty and thus alleged to have infringed the provision of Rule 3 (1) (i) & (ii) of CCS (Conduct) Rules 1964.

ANNEXURE - III

List of documents by which the article of charge framed against Shri Bipul Rn Das the then SPM Cherra Bazar (now PA Assam Rifles) are proposed to be sustained.

1. SB Long Books for the period from 31-7-99 to 18-3-2004 (5 Nos).
2. S.O A/C books from 31-11-00 to 1-2-04 (3 Nos).

Passbooks No. 830153, 830181, 830204, 830237, 830238, 830239, 830251, 830252, 830301, 830310, 830312, 830313, 830324, 830335, 830336, 830358, 830359, 830388, 830339.

4. H.O lodger of the above mentioned TPF accounts and SB accounts.
5. S.O daily accounts.
6. List of transaction of Cherra Bazar.

#### ANNEXURE - IV

List of witnesses by whom the article of charge framed against Shri Bipul Ran Das the then SPM Cherra Bazar (now PA Assam Rifles) are proposed to be sustained.

1. Smti E. Khongbri, SDIPOs North Sub Division.
2. Smti Mukta Deb SPM Cherra Bazar.

In the said-memo Shri Bipul Ranjan Das was directed to submit a written statement of defence and also to state whether he desired to be heard in person within 10 (ten) days of receipt of the said memo. In reply Shri Bipul Ranjan Das submitted his statement dated 10-9-04 which read as follows :-

" With due respect and humble submission, I beg to state that I admit all the charges levelled against me in the memorandum in annexure I & II.

That Sir due to various personal problem which was beyond my control, I had committed the misdeed.

I sincerely regret the misdeed and mistake committed by me.

That Sir I assume you with all my sincerity that this misdeed will never be repeated by me. I promise you again that I shall remain duty bound to be sincere and faithfully in future.

I also promise you that I will credit the amount of loss sustained by the Department from my salary and pension etc.

Sir I pray to your learned self to kindly pardon me for the great mistake committed by me and save the life and existence of my family "

As the charge official has admitted his lapse as per his written statement above, enquiry is considered not necessary in this case.

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(29)  
(53)  
(64)

### OBSERVATION

The charges against the official are of very serious nature. Shri B.R. Das has misused his official position and defrauded the public of their savings. The act has clearly displayed the official's lack of integrity and devotion to service. Shri B.R. Das has clearly betrayed the trust and abused the good will of the public. By this act of defrauding public money, Shri B.R. Das has also subjected the officers of the Department to additional labour and also caused embarrassment to the Department which cannot be condoned.

The official, Shri Bipul Ranjan Das in his statement submitted on 10<sup>th</sup> September 2004 has admitted to all the charges raised against him and thus no further inquiry has been made into the case.

### ORDER

Considering the gravity of the case, I, Shri Joseph Lalrinsailova, Senior Superintendent of Post Offices, Meghalaya Division taking a serious view of the acts of misconduct of the official, hereby order that the penalty of Dismissal from service be awarded to Shri Bipul Ranjan Das, now Postal Assistant, Assam Rifles. The order of Dismissal will be effective from the date of receipt of this order by the charged official.

Sd/-  
(J. Lalrinsailova)  
Sr. Supdt of Post Offices  
Meghalaya Division  
Shillong - 793001

Copy to :-

1. ✓ Shri Bipul Rn Das PA Assam Rifles S.O.
2. The Sr. Postmaster Shillong G.P.O.
3. CR file of the official.
4. ASPOs (HQ) Divisional office Shillong.
5. Staff branch Divisional office.
6. O/C.

Sr. Supdt of Post Offices  
Meghalaya Division  
Shillong - 793001

To

The Director (HQ),  
Office of the Chief Post Master General,  
N.E. Circle, Shillong.

Through : Sr. Superintendent of Post Offices, Meghalaya  
Division, Shillong.

(THROUGH PROPER CHANNEL )

Sub:- An humble appeal against the arbitrary order of  
dismissal from service issued vide SSPO's Memo  
No. F4-5/03-04/Cherra bazar dated 17.11.04 - case  
of Sri Bipul Ranjan Das, P.A., Assam Rifles, S.O.

Respected Sir,

1. The appellant is your humble subordinate who has been working as Postal Assistant Assam Rifles S.O. till he arbitrarily dismissed from service by a whimsical order of penalty issued vide SSPO's Meghalaya, Shillong Memo No. F 4-55/03-04/Cherrabazar dated 17.11.2004.
2. The appellant has been charge sheeted by the Sr. Superintendent of Post Offices, Meghalaya, Shillong under Rule -14 of CCS(CCA) Rules, 1965 under SSPO'S Memo No. F4-5/03-04/Cherrabazar dated 30.8.2004 with mala fide intention and ulterior motive to harm the service career of the appellant as means manner in which the alleged was committed has not been enumerated in the statement of imputation of charge sheet results the appellant failed to defend no to speak of effectively thereby violated the provision of natural justice.
3. After issuance of charge sheet some emissary of the Disciplinary Authority had met the appellant who asked me to admit the charge and the authority would consider the case favourably. I accepted the proposal and accordingly admitted stating my willingness to repay the involved amount in instalments from my pay, lumpsum withdrawal from GPF and the rest from DCRG but punishment order came as a bolt from the blue and contrary to the assurance given by the emissary. Further, the Disciplinary authority, who was predetermined to make the applicant a scapegoat to attain his admittance of the charge by sending emissary passed the arbitrary, illegal and whimsical order of penalty vide SSPO's Memo No. F4-5/03-04/Cherrabazar dated 17th Nov'2004.
4. As I am at the verge of retirement rendering unblemish service for the last 56 years, I am not deserved to be punished with such extreme punishment dismissing me from service dragging the family towards extermination.

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5. The punishment has been imposed without holding formal inquiry as emphasised in Rule 14 of the CCS(CCA) Rules, 1965 and thereby deceived me from the principal or natural justice. As the punishment is extreme one, the punishment itself deserves detail inquiry as enjoined in Rule 14 of CCS(CCA) Rules, 1965 irrespective of what has stated by the charged official. Further the observation made in the punishment order is nothing but perfunctory and sketchy. Mere admittance under no law empowered any authority to shirk out his responsibility or recording observation are thereby denying the opportunity of placing the grievances on the point of observation held by the appellate authority.
6. The charge sheet, as it were was for misappropriation of certain amount for which resorting of criminal act is emphasised not the disciplinary case. The misconduct and misbehaviour is resorted when there is a violation of Departmental rules. In this instant case there was no allegation of violation of Departmental rules and thereby the charge sheet deserves to be abinitio void.
7. The punishment is arbitrary and harsh. Justice should only be done but should appeared to be done. The principle is absent in this punishment order.
8. That Sir, presently I am left with only few years of my service career as I am due for retirement on 30.11.2008. The harsh and disproportionate punishment awarded me has put me in tremendous financial hardship and I am now left with no option than to pray your honour for sympathetic consideration of the matter.
9. I hope and trust your honour would graciously be pleased to pass an appropriate order setting aside the order dated 17th November, 2004 and oblige thereby.

Yours faithfully,

Sd/- Bipul Ra. Das  
2.12.2004.

(Bipul Ranjan Das)  
Nongmynsong Postal Colony, Shillong  
793011

Dated at Shillong  
The 2nd Dec' 2004.

...



Annexure 9.

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DEPARTMENT OF POSTS: INDIA  
OFFICE OF THE CHIEF POSTMASTER GENERAL N. E. CIRCLE: SHILLONG-793 001.

Memo No.Staff/109-21/2004

Dated at Shillong, the 25-7-2005.

This is regarding the appeal dated 2-12-2004 preferred by Shri Bipul Ranjan Das, the then SPM, Cherra Bazar SO against the order of Sr. Supdt. of POs, Meghalaya Division issued vide letter No.F4-5/03-04/Cherra Bazar dated 17-11-2004, vide which the punishment of "dismissal from service" was imposed on the official.

2. The Chronology of events in the case in brief is as follows:-

- (i) The official was charge sheeted under Rule-14 of CCS (CCA) Rules, 1965, on 30-8-04 vide memo no.F4-5/03-04/Cherra Bazar
- (ii) The Disciplinary authority issued the punishment orders of dismissal from service on 17-11-2004.

3. The case in brief is that, Shri Bipul Ranjan Das, while working as SPM, Cherra Bazar SO during the period from 23-2-2000 to 8-2-2004 accepted deposit from Ram Krishna Mission Higher Secondary School and St. John Bosco Boys/Girls Higher Secondary School authorities/depositors of TPF accounts which were tendered in LOTs on different dates, but he did not credit the amount to Government account.

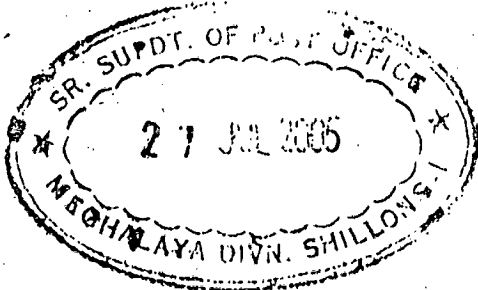
Thus, Shri Bipul Ranjan Das, ex-SPM Cherra Bazar S.O. was charged with non-credit of Government money amounting to Rs.77,763/-(Rs. seventy seven thousand seven hundred and sixty-three) only.

4. I have gone through the appeal alongwith all related documents and observe that in para-3 of the appeal, Sri Bipul Rn. Das had stated that 'some emissary of the disciplinary authority' met him and asked him to 'admit the charge and the authority would consider the case favourably' remain unsubstantiated. As such, it warrants no further enquiry for which name of the official (if any) should have been explicitly stated. Moreover, Sri B. R. Das also stated in his defence statement that he would 'credit the amount of loss sustained by the department.' There seems no reason why any person not involved in the case would be willing to pay such a huge amount; yet, B.R. Das promised to do so ! Additionally, he also admitted his 'misdeed' in misappropriating the amount.

On these counts, the arguments in the appeal seem to be a case of after-thought which, in any case, lacks any basis. As such, the appeal is rejected and the order of the SSPOs, Meghalaya Division vide his Order No.F4-1/03-04/Cherra Bazar dated 17-11-2004 shall continue to hold.

*ABHINAV WALIA*

(ABHINAV WALIA)  
Director of Postal Services (HQ)



Copy to:-

68

94

- 1) Shri Bipul Ranjan Das, Ex-PA, Assam Rifles, S.O. Shillong-793 011 (through SSPOs, Shillong).
- 2) The Sr. Supdt of POs, Meghalaya Division, Shillong. He will kindly arrange delivery of one copy to the appellant.
- 3) Office copy

the court of Shri. B. S. Sahliya Sam  
Sahra

in Schedule VIII, Form No. 149

Court Criminal Process No. 1

Annexure - 10. as

GR. NO. 7/04

as per certificate number no

(69)

# SUMMONS TO ACCUSED PERSONS

(No. 1, Schedule V Act V, 1898)

Forwarded to — Incharge of Nongmynsong  
Out Post  
for service and return

To Shri. Bipul Ranjan Das  
S/o (L) Sachindra Das  
of P & T. Quarter  
Nongmynsong Shillong

Whereas your attendance is necessary to answer to a charge of

U/s. 1409 IPC

State the  
offence  
charged.

you are hereby required to appear in person/by pleader before the

court of Sam. Sahra

As the  
case may

on the 9<sup>th</sup> day of Dec 2004, at ten O'clock in the forenoon.

Herein fail not,

Given under my hand and the seal of the Court this

25<sup>th</sup> day of Oct 2004



Ref. 22/09/05

auth. 22/09/05  
be true copy.  
H

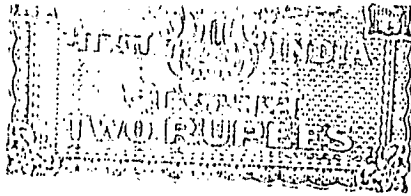
16/1/04

Ref. B.2.2005

Ref. - 3/3/05

Ref. 7/4/05

Ref. - 19/5/05



filed  
5/9/05  
moved  
self  
H.H.

DISTRICT : EAST KHASI HILLS

IN THE COURT OF SHRI B.S.SOHLIYA, M.C.S., SUBDIVISIONAL  
MAGISTRATE, SOHRA CIVIL SUBDIVISION, SOHRAH.

....

Annexure - 11

Sohra P.S. Case No. 7(3)04 u/s 409 IPC.

( G.R. Case No. 7(3)2004)

State of Meghalaya

- Versus -

Sri Bipul Ranjan Das ...Accused

The petition of the abovenamed  
accused person

Most Respectfully Sheweth :-

1. That the present case has been next fixed for hearing on 22.9.2005.
2. That while your accused petitioner was serving as Subpostmaster at Cherra Bazar S.O. suddenly on 18.3.04 some officers (with Mr. A.R. Bhowmick, Asstt. Post Master General (Vigilance) along with few others came to your petitioner's office and pressurised your accused petitioner to admit the alleged offence on the assurance to get the matter compromised amicably and settle the issue before taking any penal action against your accused petitioner.
3. That your accused petitioner was quite ignorant about the offence as alleged till then as there was no formal case against your accused petitioner. So the offence as alleged was found to be superfluous, baseless without having any truth in it as such question of admission or allegation did not arise at that point of time, as your petitioner was quite an innocent person having no such involvement in such offence.

N/D  
15/9/05  
for order

Pls to expedite  
filed - order next.

contd. to be  
true copy  
H.H.

35  
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71

97

4. That it is submitted that the persons from the Vigilance Cell repeatedly visited the office of your petitioner thereafter also and applying coercive method by interrogating your accused petitioner about the alleged offence without showing me copy of the F.I.R./Ezahar or nature of offence alleged, which has had embarrassed your accused petitioner without having any ground for such interrogation.

5. That however, though the persons from the Vigilance were trying their level best to extract from your accused petitioner to get some extra-gratification to get the matter compromised. But when that design was failed surprisingly on 22.3.04 he was suspended and thereafter on 25.3.04 it came to the accused petitioner's knowledge that an F.I.R./Ezahar was filed by Smti F.Khongbri, Sub-divisional Inspector of Post Offices, North Subdivision, Shillong - 793001 at Sohra Police Station. Accordingly in pursuance of the said FIR/Ezahar your petitioner was arrested on 25.3.2004 itself and kept in custody till 29.3.2004 and then released on bail on that day i.e. on 29.3.2004.

6. That it is submitted that during the course of custody from 25.3.2004 to 29.3.2004 your accused petitioner was grilled by the Investigation Officer

and ...

(37)  
(61)  
(72)

- 3 -

and was forced to give confessional statement in respect of the alleged offence.

7. That your petitioner wants to bring to the knowledge of your Honour that on 26.3.2004 the learned Counsel of the accused petitioner submitted before this Hon'ble Court that the accused petitioner was not guilty and was prepared to stand trial of the offence. So also on 30.03.2004 your petitioner (accused) submitted a written statement stating that he declined to make a confessional statement. And as such, it is amply clear that inspite of threat, coercion etc. your petitioner till then did not admit the guilty of the offence as being an innocent man, who has been made a scape-goat in the said case.

8. That thereafter the prosecution inspite of filing of charge-sheet and on appearance of the accused petitioner before this Hon'ble Court, no copies of any of the documents relating to the said case have been served on the accused petitioner till date so as to know about the nature of offence and to take appropriate defence in the said case.

9. That it is submitted that simultaneously a Departmental Proceeding was instituted against your accused petitioner for the alleged offence and the same was proceeded against not in accordance with law, ...

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- 4 -

law, and as such the finding of your accused petitioner guilty of the offence without exhausting of all the procedural requirements for the same is illegal, unjust and quite contrary to law.

Taking the piquant mental condition of your accused petitioner some emissary promised to drop the proceedings if your accused petitioner admits the guilty and deposit the amount according to their own demand and dictate. Your accused petitioner on good faith and on considering his service career and also being the only bread-earner of his family believed in it that the case would be dropped as promised and had to part with a sum of Rs.70,000/- (Rupees seventy thousand only) from the G.P.Fund Account of the accused petitioner lying with the Authority without proving the guilty of the offence.

10. That it is submitted that the said Authority in collusion with the Police again on false promise to get the criminal case also withdrawn on compromise wanted the accused petitioner to give an undertaking before this Hon'ble Court to pay the balance amount from the pay and gratuity of your accused petitioner, which ~~xxxxxx~~

are all ...

are all making, got-managed by undue-influence and in exercise of extra-judicial power most unfairly, depriving your accused petitioner to face trial in the offence and take defence in accordance with law to prove innocence of your accused petitioner, which has jeopardised and prejudicially affected the interest of your petitioner to defend himself as the right guaranteed under the law of the land but has been trying to victimise in the manner and fashion in a most cunning way.

11. That in the aforesaid facts and circumstances of the case when it is a clear cut case of denial of guilty and denial of confession, the case should have been formally tried in accordance with law without putting your petitioner in jeopardy by undue pressure/ influence and trying to victimise thereby to suppress ~~the case~~ <sup>to prove</sup> the case and to find out the actual truth.

12. That your accused petitioner on receipt of summon duly appeared before your Honour's Court on 03.02.2005 filing necessary Hazira and your Honour was pleased to fix 03.03.2005 being the next date for next appearance of the accused petitioner without passing any order showing the purpose for which the next date is fixed. However, on that day your petitioner could not appear due to some unavoidable circumstances.

13. That your petitioner on the next date fixed on 7.4.2005 appeared...



~~40~~  
~~64~~  
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101

on 7.4.2005 appeared before your Honour's Court by filing necessary Nazira, but again the next date i.e. on 19.5.05 was fixed without showing any purpose for which the date has been fixed.

14. That the undertaking to pay the balance and the money receipt showing the payment of Rs.70,000/- is nothing but under coercion and undue influence has been so recovered before proving the guilty of the offence which cannot be proved without trial as admission or proof of the guilt of the offence and punish your accused petitioner.

15. That mere recovery of some amount and an undertaking to pay the balance if treated against your accused petitioner of admission of the guilty of the offence, it will amount to a gross irregularity, illegality and total denial of justice without being tried formally after exhausting all the legal requirements and findings arrived at after formal trial of the offence.

16. That it is most respectfully submitted therefore that by taking by force and/or by coercion, a money receipt of Rs.70,000/- as recovery and taking an undertaking to recover the balance amount from salary and

gratuity etc...

100  
~~47~~  
~~65~~  
76

gratuity etc. are all have been taken not as a matter of fact that the accused petitioner have voluntarily admitted the guilty of the offence. Mere money receipt does not make confessional statement of admission of the offence since these money receipts were obtained under coercion and misusing them and thereby try to betray the cause of justice.

It is, therefore, prayed that your Honour would be kind enough to ignore the money receipt and the undertaking as confessional statements and in exercise of your Honour's discretionery powers may kindly give your accused petitioner an opportunity to face the trial of the offence directing the opposite parties to supply the copies of the documents etc. immediately to the accused petitioner and fix a next date for copy and thereafter framing of charges and proceed in accordance with law for the trial of the offence, to meet the ends of justice.

And for this the accused petitioner, as in duty bound shall ever remain grateful to you.

( SRI BIPUL RANJAN DAS )  
ACCUSED PETITIONER

Date:- 05.09.2005.

Place:- Cherapunji.

Vakalatnama enclosed afresh.

IN THE COURT OF SHRI. B.S. SOHLIYA : SUB DIVISIONAL MAGISTRATE :  
S O H R A :

G.R. Case No. 7(3)04  
 U/S 409 I.P.C.

77

S T A T E

VERSUS

Shri. Dipul Ranjan Das of  
 P & T Quarter, Nongmynsong,  
 Shillong.

/ O R D E R /

5.9.2005.

C.R. put up on call today. Accused present in court alongwith his Ld. Counsels. Seen the order dt: 30.3.04 wherein he declines to make a statement. Also seen the order dt: 19.5.2005 wherein the accused person undertakes to repay a balance amount of Rs. 50,684/- As per the contention of his Ld. Counsel this tantamounts to having made a confession whereby money has been misappropriated. Therefore this court orders that the case against the accused person to continue till further developments occur where orders shall be passed as per the findings.

Inform all concerned accordingly.

Sd/-Shri. B.S. Sohliya, MCS),  
 Sub Divisional Magistrate,  
 Sohra Civil Sub Division,  
 Sohra.

Copy to :-

1. The Senior Superintendent of Post Office, Meghalaya Division, Shillong, for information and necessary action.
2. Shri. Dipul Ranjan Das (Accused person) resident of P & T Quarter, Nongmynsong, Shillong.

*auth. hand to be from copy*

*[Signature]*

*[Signature]*  
 Sub Divisional Magistrate,  
 Sohra Civil Sub Division,  
 Sohra.

....

Process No. 131/05

Annexure - 12(9)

13

104

78

DEPARTMENT OF POSTS: INDIA  
O/O THE CHIEF POSTMASTER GENERAL, NE CIRCLE, SHILLONG-793001

No: Bldg/27-38/88-89A

Dated at Shillong the 21.09.05

To

✓ Shri. Bipul Ranjan Das,  
Occupants of Qtr.No.Ty-II/3  
Postal Staff Qtrs. Complex  
Nongmensong, Shillong.

REGD. POST /A.D

Subject: Vacation of departmental quarter No.Ty-II/3 at Nongmensong.

1: Reference :- There is no previous reference.

2. On the captioned subject, it is intimated that you have not vacated the aforesaid quarter in spite of the fact that you had been terminated from services w.e.f from 18.11.2004.

3. Kindly vacate the said quarter within 7 days from the date of receipt of this letter with intimation to this office, failing which eviction will liable to be taken without further notice.

*[Signature]*

Asst. Director (Bldg),  
O/O The Chief Postmaster General,  
NE Circle, Shillong-793001

Copy to :-

1) The SSPOs, Meghalaya Division, Shillong, for information and necessary action.

*auth. prod to be  
done copy.  
[Signature]*

*[Signature]*

Asst. Director (Bldg),  
O/O The Chief Postmaster General,  
NE Circle, Shillong-793001

K 80/c

Annexure - 12(b)

79 44 78

DEPARTMENT OF POSTS: INDIA  
O/O THE SR. SUPDT. OF POST OFFICES  
MEGHALAYA DIVISION SHILLONG - 793001

REGISTERED /AD

NO: DI/Qtr/Allot/98-99/II

Dated at Shillong the 22<sup>nd</sup> Sept '05

Shri Bipul Ranjan Das  
Occupants of Qtr No. Ty-II/3  
Postal Staff Qtrs. Complex  
Nongmensong, Shillong

Sub: Vacation of departmental quarter no. Ty-II/3 at Nongmensong Postal colony

A reference is invited to C.O. letter No. Bldg/27-38/887-89/I dated 21/09/05 concerning vacation of departmental quarter No. Ty-II/3 at Nongmensong occupied by you. Therefore, you are requested to follow the instruction as desired by C.O., failing which eviction will liable to be taken without further notice.

Moreover, it is also directed to make payment of penal charges since your termination from service i.e. w.e.f. 18/11/2004. The penal charges are as follows.

- For 1 month from the date of termination i.e. from 18/11/2004 to 18/12/2004 as normal license fee.
- From 19/12/2004 till date of vacation, the rate shall be at damage rate which is Rs. 75/- Sq.m of living area per month or Rs. 2736.75 per month.

This is for your information and immediate compliance.

Sr. Supdt of Post Offices  
Meghalaya Division  
Shillong 793001

Copy to:

The Chief Postmaster General (Bldg) N.E. Circle, Shillong for information w.r.t. letter cited above.

auth. hand to be  
true copy.

Sr. Supdt of Post Offices  
Meghalaya Division  
Shillong 793001

under critical of Post  
 dtd. 1-10-05 from 4-7-0

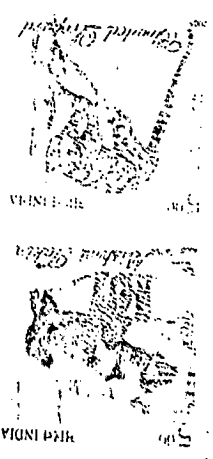
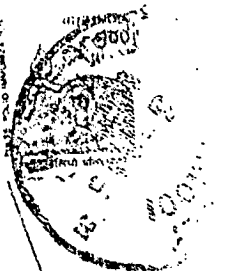
80

1. The Union of India, being represented  
 by the Secretary to the Govt of India,  
 Department of Posts,  
 Central Secretariat,  
 New Delhi 110001.
2. The Chief Post Master General,  
 North Eastern Circle,  
 P.O. Shillong - 793001,  
 Dist - East Khasi Hills, Meghalaya.
3. The Post Master General,  
 North Eastern Circle, P.O. Shillong. 793001,  
 Dist - East Khasi Hills, Meghalaya.
4. The Director (Headquarter),  
 Office of the Chief Post Master General,  
 North Eastern Circle, P.O. Shillong - 793001,  
 Dist - East Khasi Hills, Meghalaya.
5. The Sr. Supt. of Post Offices,  
 Meghalaya Division,  
 P.O. Shillong - 793001,  
 Dist - East Khasi Hills, Meghalaya.

6. The Sub-Postmaster,  
 Cherra Bagan Sub Post Office,  
 P.O. & P.S. Cherrapunji,  
 Dist - East Khasi Hills, Meghalaya.

7. The Sub-Postmaster,  
~~Cherra Bagan~~ Cherrapunji Sub Post Office,  
 P.O. & P.S. Cherrapunji,  
 Dist - East Khasi Hills, Meghalaya.

attached  
 to be  
 true (10/11)



ORDER-SHEET FOR MAGISTRATES RECORDS

81

82

DISTRICT East Khasi Hills

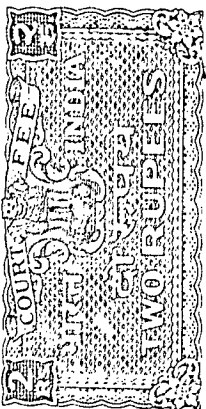
IN THE COURT OF Shree - B. S. Solhin M.C.S. S.D.M Solon

Solon P.S. Case No 7(3)04 U/S - 409 IPC of 200

State Versus Bipul Ranjan Das

Serial No. of Order	Date	Order	Signature
	26 <sup>3</sup> / <sub>2004</sub>	<p>C.R. put up today. Seen and perused the FIR filed by the Sub-Divisional Inspector of Post offices North Sub Division Shillong against accused person Sh. Bipul R. Das. Case registered U/S 409 IPC. Heard the submission of the ld. defence counsel where he prays that the accused person may be enlarged on bail U/S 437 Cr.P.C. He cited various reasons as contained in the B/P. Heard the prosecution side also as represented by the o/c Solon P.S. acting as PSI to the ld. court. He stated that bail should not be granted at this juncture as more evidences have to be unearthed in the interest of the case. The forwarding report and the arrest</p>	

attached to the copy



NOTE - This form should be written up in English, whenever possible (See Vol. I, Chapter III Rule 22)

PDFS (From Wls) VIII F.7/2003-(Addl)-25,000-24-9-2003,

all charges  
7

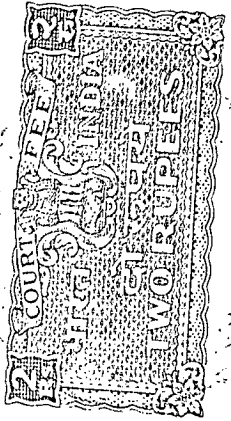
18

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82

challan were perused judiciously.  
I am therefore of the opinion that  
the accused person shall be  
in Police custody for a period of  
5 (five) days. The confessional  
statement u/s 164 Crpc to be  
recorded by Sh. D. Hymienta  
1st class Magistrate after expiry  
of the remand period. L.R. to  
be put up again on the  
31st March 2004 for further  
necessary action by the court.  
The accused person shall be  
kept in clean and hygienic conditions  
and no physical harm should be  
inflicted upon his person.



26/03/04

Court of M. Challa



## ORDER-SHEET FOR MAGISTRATES RECORDS

DISTRICT: East Khamti Hills

IN THE COURT OF

No

of 200

of

Versus

Serial No. of Order	Date	Order	Signature
29 <sup>3</sup> / <sub>2003</sub>		<p>C.R. put up today.</p> <p>Seen the reforwarding report of the I/O, forwarding the said Shri Bipul Raijan Das praying as usual for 14 (fourteen) days Judicial custody.</p> <p>The prayer of the I/O for judicial custody is allowed.</p> <p>Seen, order, dated, 26<sup>03</sup>/<sub>04</sub> of the hd SDM (I) for recording of c/s u/s 164 Crpc of the said person.</p> <p>Fix 30/03/04 for recording of c/s</p> <p>Later, seen bail petition filed by one Debarshish Das on behalf</p>	<p>29/03</p> <p>29/03</p>

NOTE—This form should be written up in English, whenever possible (See Vol. I, Chapter III Rule 22)

DPB (P) (V) (M) VIII F.7/2003—(Addl)—25.060—24-9-2:18.

85  
84

68

COURT FEES  
IN INDIA  
ENTRANCE  
TWO RUPIES

Challan

(S) (C) (U) (P) (M) (A) (N) (D) (E) (F) (G) (H) (I) (J) (K) (L) (M) (N) (O) (P) (Q) (R) (S) (T) (U) (V) (W) (X) (Y) (Z)

ORDER-SHEET FOR MAGISTRATE'S RECORDS

DISTRICT

IN THE COURT OF

No

of 200

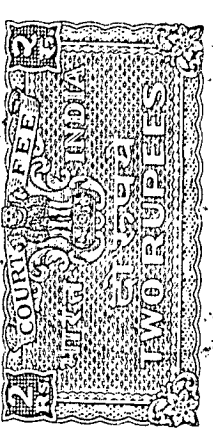
of

Versus

85

85

Serial No. of Order	Date	Order	Signature
	29 03 04.	<p>Perused the bail application and the records. Having heard both sides, this court is of the view that since the police custody as prayed for by the I/o is completed and considering the submission of the defence counsel, and also the age of the a/cd. person, the a/cd person is hereby allowed to go on bail of Rs 20,000/- with one surety of the like amt. subject to the following conditions:-</p> <p>(1) To appear before my court for recording of c/s on the 30<sup>th</sup> Mar '04.</p> <p>(2) To appear before the I/o twice a week for</p>	



*Chatterjee*

NOTE—This form should be written up in English, whenever possible (See Vol. I, Chapter III Rule 22)

DPS (Proc W/3) VII P.7/2003—(Addl)—25.060—24-9-2003.

11

28 one month.

87  
86

(3) not to tamper the evidence  
or hamper investigation.

88  
86

the  
29/03

Later S/B furnished and

accepted.

the  
29/03

Annexure-II (b)

30 03  
04.

C.R. put up today.

The accused gave a  
written statement stating  
that he decline to make a  
statement.  
prayer accepted.

the  
30/03

M. Chakraborty  
Court of Sessions  
District

- Typed Copy -

~~88~~  
87

Assam Schedule VIII, Form No. 127

High Court Criminal Form No. (M) 106

ORDER-SHEET FOR MAGISTRATE RECORDS

DISTRICT EAST KHASI HILLS

IN THE COURT OF SHREE B.S.SOHLIA ,M.C.S.,S.D.M.SOHRA

Sohra P.S.Case No. 7(3)04 u/s 409 I.P.C.

State - Versus - Bipul Ranjan Das

Date

Order

26.3.2004. C.R.put up today.

Seen and perused the FIR filed by the

Sub-divisional Inspector of Post Offices, North Sub-Division Shillong against accused person Shri Bipul Rn. Das. Case registered u/s 409 I.P.C. Heard the submissions of the learned defence counsel where he prays that the accused person may be enlarged on bail u/s 437 Cr.P.C. He cited various reasons as contained in the B/P. Heard the prosecution side also as represented by the O/C Sohra P.S. acting as P.S.I. to the learned Court. He stated that bail should not be granted at this juncture as more evidences have to be unearthed in the interest of the case. The forwarding report and the arrest challan were perused judiciously. I am therefore of the opinion that the

accused person ...

attached to be  
from B.M. (9  
pgs 81 to  
86) which are  
typed copies.  
24

(88) 113  
88

accused person shall be remanded in police custody.  
for a period of 5(five) days. The confessional  
statement u/s 164 Cr.P.C. to be recorded by Shri  
D.Hynrien Ita, 1st class Magistrate after expiry  
of the remand period. C.R. to be put up again in  
the 31st March, 2004 for further necessary action  
by the Court. The accused person shall be kept in  
clean and hygenic conditions and no physical harm  
should be inflicted upon his person.

Sd/- Illegible,

26.03.04

CERTIFIED TO BE TRUE COPY

Sd/- Illegible,

SEALED

29.3.2003

C.R. Put up today seen the reforwarding  
report of the I/O, forwarding the accused  
Shri Bipul Ranjan Das praying as usual  
for 14(fourteen) days judicial custody.

The prayer of the I/O for judicial  
custody is allowed.

Sd/-  
Illeg-  
ible.

Seen order dated 26.03.04 of  
the ld. S.D.M.(J) for recording of  
C/S u/s 164 Cr.P.C. of the accused  
person.

Fix 30.03.04 for recording  
of C/S .

Later seen .!..

Sd/- Ill-  
egible.

(89)

(89) 144  
(90)

CERTIFIED TO BE  
TRUE COPY.

Sd/-Illegible,  
SEALED.

Later seen bail petition filed by  
one Debashish Das on behalf of  
the accused person. Since the S.D.M. (J)  
is out of station on official duty, the  
instant matter is taken up by me.

Heard Mr. V. I. K. Kynta, Id. Counsel  
for the accused person who in his  
submission stated that the accused per-  
son pleads not guilty and is prepared to  
stand trial. He further submitted that  
further detention in custody do not  
serve any purpose, since the I/O has  
already forwarded him today after comple-  
tion of preventive investigation. He also  
submitted that the accused is a middle  
aged man and ailing at the same time,  
and since he is a Govt. servant he will  
cooperate with the investigation and  
will abide by any condition the Court  
may impose, and prays for bail.

Heard the submissions of the O/C,  
Sohra P.S. in absence of P.S.I. The I/O  
in his submission submitted that

the prelim..

45  
~~(90)~~  
(90)

the prelim. investigation is completed hence his forwarding to Court today. He further submitted that the prayer of the I/O for 14(fourteen) days judicial custody be allowed and not to consider certified to bail at this stage.

be true copy.

Sd/-Illegible,

SEALED.

29.03.04. Perused the bail application and the records.

Having heard both sides, this court is of the view that since the police custody as prayed for by the I/O is completed and considering the submission of the defence counsel; and also the age of the accused person, the accused person is hereby allowed to go on bail of Rs.20,000/- with one surety of the like amount subject to the following conditions :-

(1) To appear before my Court for recording of C/S on the 30th March, 04.

(2) To appear before the I/O twice a week for one month.

(3) Not to temper the evidence or hamper investigation.

Sd/-Illegible,

29.03

Later ...



- 5 -

Later B/S furnished and accepted.

Sd/Illegible,

20/03

30.03.04. C.R. put up today.

The accused gave a written statement,  
stating that he declines to make a  
statement.

Prayer accepted.

Sd/- Illegible

30.03

# Annexure - III

## CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

Original Application No. 4 of 2006.

Date of Order : This the 9<sup>th</sup> January 2006.

The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

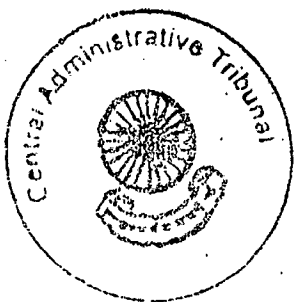
Sri Bipul Ranjan Das (Dismissed Postal  
Assistant in the Assam Rifles Sub Office  
At Shillong - 793 011), a resident of  
Quarter No. Type - II/3, Nongmynsong Postal Quarter  
Complex, P.O. - Shillong - 793 011.  
District - East Khasi Hills, Meghalaya.

... Applicant.

By Advocates Mr. M. Chanda, Mr. R. Das.

- Versus -

- attached to  
the  
24*
1. The Union of India, being represented by the  
Secretary to the Government of India,  
Ministry of Communications and Information Technology,  
108-E, G.A. Section, Dak Bhawan, Sansad Marg,  
New Delhi - 110 001.
  2. The Under Secretary to the Government of India,  
President's Secretariat, Public - '1' Section,  
Rastrapati Bhawan, New Delhi - 110 004.
  3. The Chief Post Master General  
North Eastern Circle,  
P.O. - Shillong - 793 001.  
District - East Khasi Hills, Meghalaya.
  4. The Post Master General,  
North Eastern Circle,  
P.O. - Shillong - 793 001.  
District : East Khasi Hills, Meghalaya.
  5. The Director (Headquarter),  
Office of the Chief Postmaster General  
North Eastern Circle  
P.O. - Shillong - 793 001.  
District : East Khasi Hills, Meghalaya.



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6. The Senior Superintendent of Post Offices  
Meghalaya Division,  
P.O. - Shillong - 793 001.  
District : East Khasi Hills, Meghalaya.

7. The Sub Post Master  
Cherrabazar Sub Office  
Upper Cherra (Near Ramakrishna Mission)  
District : East Khasi Hills, Meghalaya.

8. The Post Master  
Cherrapunjee Post Office  
Lower Cherra (Near Cherrapunjee Police Station)  
Cherrapunjee, District : East Khasi Hills, Meghalaya.

Respondents

By Mr. A.K. Choudhury, Addl. C.G.S.C.

ORDER (ORAL)

SIVARAJAN. J. (V.C.)

The applicant, a Postal Assistant in the Assam Hills Sub Office at Shillong, was dismissed from service in a disciplinary proceeding initiated against him by order dated 17.11.2004 (Annexure - d). An appeal filed against the said order was also dismissed by order dated 25.07.2005 (Annexure - e). The applicant then filed a Review Petition dated 28.09.2005 (Annexure - f) before the President of India. The applicant received a communication dated 14.10.2005 (Annexure - R) stating that the said application was forwarded to the Secretary to the Government of India, Ministry of Communication and Information Technology (1st Respondent herein). The grievance of the applicant is that though the applicant's Review Petition was forwarded to the 1st Respondent on 14.10.2005 for appropriate action nothing is heard

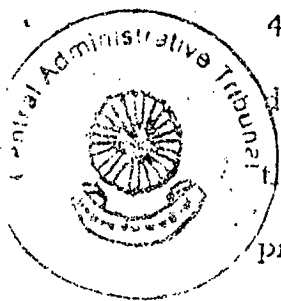
lps

from the said respondent and that the applicant is still out of employment.

2. Mr. R. Das, learned counsel for the applicant wanted to argue the matter on merits about the innocence of the applicant. Mr. A.K. Chaudhuri, learned Addl. C.G.S.C., for the respondents then submits that since the Review Application is stated to be pending before the 1st Respondent it is for the said authority to consider the matter and pass appropriate order in the matter at present.

3. I find merit in the said submission made by the standing counsel. In the circumstances, I am of the view that this application can be disposed of at the admission stage itself with direction. Accordingly, there will be a direction to the 1st Respondent to consider the Review Application (Annexure - Q) forwarded to him from the Office of the President of India evidenced by annexure - R and to dispose of the same in accordance with law by a speaking order within a period of three months from the date of receipt of this order.

4. Mr. R. Das, counsel for the applicant then submits that a direction may be issued in regard to the continued occupation of the quarter. I do not think any such direction can be issued in the proceedings. The applicant is free to approach the appropriate forum for the said relief.



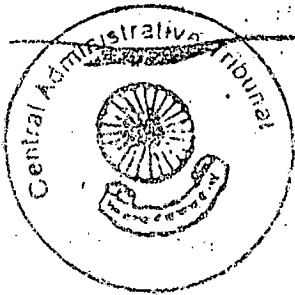
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The O.A. is disposed of as above at the admission stage itself. The applicant will produce a copy of this order to the 1st Respondent for compliance.



Secy/ VICE CHAIRMAN

Date of Application : 9-1-06  
Date on which copy is ready : 10-1-06  
Date on which copy is delivered : 10-1-06  
certifies to be true copy

Section Officer (Judl) 10-1-06  
C. A. T. Guwahati Bench  
Guwahati 5

FORM NO. 10  
(See Rule 42)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUJARATI DESIGN.

ORDER SHEET

Original Application No. \_\_\_\_\_  
Misc. Petition No. 2/2006 uoA 4/2006  
Contempt Petition No. \_\_\_\_\_  
Review Application No. \_\_\_\_\_

Applicant(s) Shri Bipul Ranjan Das

Respondent(s) W. O. T. 908

Advocate for the Applicants Mr. M. Chanda, Mr. R. Das

Advocate for the Respondent(s) \_\_\_\_\_

CGSC

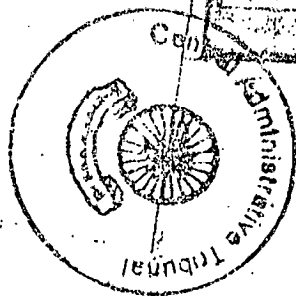
Wly. Secy, Counsel

Notes of the Registry Date \_\_\_\_\_

Order of the Tribunal \_\_\_\_\_

9.1.2006

In view of the order passed in  
O.A. no order is required to be passed  
in this M.P. Accordingly, the M.P. is  
disposed of.



SI/ VICE CHAIRMAN

Date of Application : \_\_\_\_\_  
Date on which copy is ready : \_\_\_\_\_  
Date on which copy is delivered : \_\_\_\_\_  
Certified to be true copy

Section Officer (D.D.)  
C. A. T. Gujarati Design  
Gujarat

Annexure - IV

06/3/06 | 06/3/06 | 06/3/06 | 10/3/06 | 10/3/06

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IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from W.P.(C)  
Civil Rule

No. 406 of 2006

antipathetic  
true copy  
A

Appellant  
Petitioner

Sri Bipul Ranjan Das

Versus

The Union of India & ors.

Respondent  
Opposite Party

Appellant Mr. H. Rahman  
Petitioner Mr. R. Das

Respondent O Asst SGL  
Opposite Party G. A. Meghalaya

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	1	3	4

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(98)

(98)

(99)

In the matter of :-

Shri Bipul Ranjan Das,

(Dismissed Postal Assistant),

(Assam Rifles Sub Office, Shillong -11),

a resident of -

Quarter No. Type-II/3, Nongmynsang

Postal Quarter Complex, P.O. & P.S. Shillong

District: East Khasi Hills, Meghalaya.

... PETITIONER

- Versus -

1. The Union of India, being represented  
by the Secretary to the Govt. of India,

Ministry of ...

Commissioner of Affidavit  
Gauhati High Court  
Gauhati



(99)

(11)

(92)

(100)

Ministry of Communications and Informa-  
tion Technology, 108-E, G.A. Section,  
Dak Bhawan, Sansad Marg, New Delhi-  
PIN-110001.

2. The Meghalaya Board of Revenue,  
being represented by its Chairman,  
at Room No. 105, of the Additional  
Secretariat Building, Meghalaya,  
P.O. & P.S. Shillong PIN-793001,  
District: East Khasi Hills, Meghalaya.
3. The Chief Post Master General, North  
Eastern Circle, P.O. Shillong-793001,  
District: East Khasi Hills, Meghalaya.
4. The Post Master General,  
North Eastern Circle, P.O. Shillong-793001,  
District: East Khasi Hills, Meghalaya.
5. The Director (Headquarter), Office of  
the Chief Postmaster General North  
Eastern Circle, P.O. Shillong-793001,  
District: East Khasi Hills, Meghalaya.
6. The Senior Superintendent of Post Offices,  
Meghalaya Division, P.O. Shillong-793001,  
District: East Khasi Hills, Meghalaya.

Commissioner of Affidavits  
- Gauhati High Court.  
Gauhati

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- 4 -

7. The Additional Deputy Commissioner,  
East Khasi Hills District, Shillong,  
Meghalaya.

8. The Asstt. Director (Building),  
Office of the Chief Postmaster, General  
N.E. Circle, Shillong - 793001,  
Meghalaya.

... RESPONDENTS

Commissioner  
Shillong  
Meghalaya

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Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
WP(C) No. 496 of 2005			
BEFORE THE HONBLE MR. JUSTICE I.A. ANSARI			
06.02.2006			
Heard Mr. P. Das, learned counsel for the petitioner, and Mr. N Barua, learned Assistant Solicitor General of India, appearing on behalf of the respondents.			
Upon hearing the learned counsel for the parties and on perusal of the materials available on record, I am, as agreed to by the learned counsel for the parties, appearing before me, inclined to dispose of this Writ petition at this stage itself, with the following directions:			
The present writ petitioner shall be allowed by the respondents/authorities concerned to retain the residential quarter, in question, until the time his review application is disposed of in terms of the directions contained in the order, dated 09-01-2006, passed by the learned Central Administrative Tribunal in O.A. No. 04/2005, within a period of 3 months from the date of filing of this writ petition, i.e., on 09-01-2006, whichever is earlier. Any penal charge, which may be paid by the petitioner pursuant to the order, dated 22-09-2005 (Annexure 2a to the writ petition) shall be subject to, and be governed by, the out-come of the review application aforementioned.			

P/No- 49401

Sd/- I.A. Ansari  
Judge

did 06/3/06

CERTIFIED TO BE TRUE COPY  
Atk on Barua's. 6/2/06  
Date 10/3/06  
Superintendent (Copying Section)  
Gauhati High Court  
Authorised U/S 76 Act 1 1872

10/3

Dak Bhawan, Sansad Marg,  
New Delhi-110001

Dated : 23.03.2006

ORDER

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Shri Bipul Ranjan Das, ex-Postal Assistant, Meghalaya Division, North East Circle has submitted a review petition dated 28.09.2005 addressed to the President of India against the appellate order of DPS (HQ), Shillong vide memo No. Staff/109-21/2004 dated 25.07.2005, upholding the order of dismissal from service issued by the disciplinary authority, viz. Senior Superintendent of Post Offices, Meghalaya Division vide memo No. F4-5/03-04/Cherra Bazar dated 17.11.2004. The petitioner did not prefer any revision petition to the revisionary authority, viz. the CPMG, North East Circle.

2. Disciplinary proceedings under Rule 14 of CCS (CCA) Rules, 1965 were initiated against the petitioner by Senior Superintendent of Post Offices, Meghalaya Division vide memo No. F4-5/03-04/Cherra Bazar dated 30.08.2004 on the following imputations of misconduct/misbehaviour :-

"Shri Bipul Rn Das while working as SPM, Cherra Bazar during the period from 23.02.2000 to 08.02.2004 did not credit the amount of Rs. 77,763/- (Rupees seventy seven thousand seven hundred and sixty three only) to Government account which were deposited by the Head of Institutions of Ram Krishna Mission Higher Secondary School and St. John Bosco Boys/Girls Higher Secondary School, Cherrapunjee in respect of various TPF accounts and SB accounts standing at Cherra Bazar SO on various dates.

By the above action, said Shri Bipul Rn Das failed to maintain absolute integrity and devotion to duty and thus alleged to have violated the provisions of Rule 3(1)(i) & (ii) of CCS (Conduct) Rule, 1964."

3. On receipt of the charge sheet memo, the petitioner submitted his written statement of defence dated 10.09.2004 in which he admitted the charge unequivocally, and prayed for forgiveness. As such no statutory inquiry in the case was considered necessary and the disciplinary proceedings concluded with penalty of dismissal of the petitioner from service vide memo dated 17.11.2004. The punishment was upheld by the appellate authority vide memo dated 25.07.2005.

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In OA No. 4 of 2006 filed by the petitioner, the Hon'ble CAT, Guwahati Bench vide order dated 09.01.2006 has directed to consider the review application forwarded by the petitioner through the O/o the President of India and to dispose it of in accordance with law by a speaking order within a period of three months from the date of receipt of the order. The order of the Hon'ble CAT was received in the Directorate on 01.02.2006 alongwith petitioner's letter dated 19.01.2006.

5. In the review petition, the petitioner has, however, made the following submissions :-

(i) On 18.03.2004, the petitioner was forced to admit the alleged offence by the APMG (Vigilance) alongwith few other officials on the assurance of getting the matter compromised and settled amicably.

(ii) On 25.03.2004, an FIR was lodged in the Sohra Police Station against the petitioner alleging misappropriation of government money to the tune of Rs. 1,20,684/-. He was arrested on 25.03.2004 and was kept in police custody.

(iii) On 18.04.2004, the petitioner was pressurised to sign various dictated papers and a sum of Rs. 70,000/- was withdrawn from his General Provident Fund account as refund for defrauded amount. As such a false claim of admitting the guilt has been made against him.

(iv) Vide order dated 25.08.2004, the SSPOs, Meghalaya Division revoked his suspension order without any reason.

(v) Vide order dated 17.11.2004, he has been dismissed from service without following the prescribed procedure of holding an inquiry and supplying him the copy of inquiry report.

(vi) In the criminal proceedings, the alleged amount of misappropriation is mentioned as Rs. 1,20,684/-, but the amount alleged in the departmental proceedings is only Rs. 70,763/-, which is contradictory and confusing.

The petitioner has prayed to set aside the order of dismissal and to direct the Circle authorities not to evict him from the official accommodation till disposal of the review petition and to stay the operation of the appellate order dated 25.07.2005 and the dismissal order dated 17.11.2004 till the criminal proceedings are over.

6. Rule 29 A of the CCS (CCA) Rules, 1965 provides that the President may, at any time, either on his own motion or otherwise review any order passed under these rules, when any new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case, has come, or has been brought, to his notice.

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104 2A

7. The petition has been carefully considered along with the available records of the case. It is found that on receipt of information from succeeding SPM, Cherra Bazar PO on 16.03.2004 regarding non-credit of amount of some deposits in several Teachers Provident Fund accounts operated by different schools during the tenure of the petitioner, the departmental investigation was started. In the course of investigation, the petitioner admitted that he did not credit the amounts to government account but spend them for his personal use. Keeping in view the gravity of offence committed, he was placed under suspension with effect from 25.03.2000.

An FIR was lodged at Sohra Police Station on 25.03.2004 by the Department. Since the defrauded amount was found to be Rs. 1,20,684/- at that point of time, the same was reflected in the FIR. On completion of the enquiry, the total defrauded amount was found to be Rs. 3,55,592/-. The cases detected before filing the FIR were reported to the Police, while the cases detected subsequently were included in the departmental proceedings. Thus there is the variation of amount mentioned in the charge sheet and the FIR. As such, also the departmental proceedings are not at all dependent on the outcome of the criminal proceedings which is yet to be finalised by the court.

An amount of Rs. 70,000 was credited by the petitioner voluntarily towards adjustment of the amount defrauded by him. The allegation that he was pressurised to credit the amount is not correct. While refunding this amount, he had given a written statement stating that he had withdrawn the amount from his GPF account.

The order of suspension of the petitioner was revoked on 25.08.2004 as per departmental rules and he was posted as PA, Assam Rifles SO.

In the charge sheet memo it was made clear that an inquiry will be held against him in respect of only those articles of charges as are not admitted by him. In his written statement dated 10.09.2004, the petitioner clearly admitted the charges and hence no inquiry was held and the case was concluded with the penalty of dismissal of the petitioner from service. As such he was given due opportunity as prescribed in the CCS (CCA) Rules, 1965

The departmental proceedings were initiated against him for violation of departmental rules and procedures as well as CCS (Conduct) Rules, 1964, while the police case is for criminal aspects. Hence the allegation of the petitioner is incorrect that two cases on similar allegations have been initiated against him. The allegation that he was forced to give statement in reply to the charge sheet is not supported by any document. And hence appears to be totally baseless. So far as the government quarter occupied by the petitioner is concerned, as per departmental rules the person dismissed from service cannot occupy the government quarter after the permissible period of retention of one month.

8. In his review petition, the petitioner has not put forth any valid point to disapprove the charges levelled against him. He has also not adduced any new material or evidence, which may have the effect of changing the nature of the case as required under Rule 29-A ibid, justifying review of the impugned punishment order by the President. In view of the above stated facts, there is no merit in the petition and it does not call for any review by the President. The punishment awarded is commensurate with the gravity of misconduct committed by him. Therefore, the review petition is rejected.

9. In view of the above stated facts, the President, in exercise of the powers conferred by Rule 29-A of the CCS (CCA) Rules, 1965, hereby rejects the same.

10. This issues in compliance with the order dated 09.01.2006 passed by the Hon'ble CAT, Guwahati Bench in OA No. 4 of 2006.

BY ORDER AND IN THE NAME OF THE PRESIDENT

*Sushma Chauhan*

(Sushma Chauhan)

Desk Officer (Vigilance Petition)

✓ Shri Bipul Ranjan Das  
Ex-Postal Assistant  
Meghalaya Division

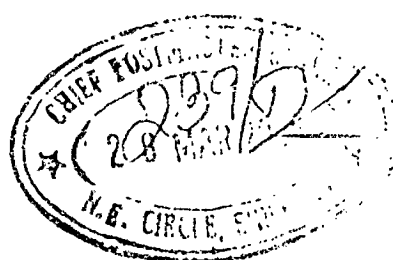
(Through the Chief Postmaster General, North East Circle, Shillong-793 001)

*APR 2*

*SP*

*28/1/06*

*Recd on  
8/4/06*



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ADDITIONAL SECRETARY

PRESIDENT'S SECRETARIAT  
PUBLIC - 1 SECTION

Rashtrapati Bhavan  
NEW DELHI-110004

No : PI/D-87268  
Date: 14-Oct-2005

Dear Sir/Madam,

I am to acknowledge receipt of your communication dated 28-Sept-2005 which has been forwarded to SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF COMMUNICATION AND INFORMATION TECHNOLOGY (DEPT OF POSTS ..... FOR F, GA SECTION, DAK BHAVAN, SANJAD MARG, NEW DELHI for appropriate action.

*certified to be true copy and typed copy.*  
*gt*

Yours faithfully,

Sd/- A. Kalia,  
(Ashish Kalia)

Under Secretary (P)

PI/D-B724B

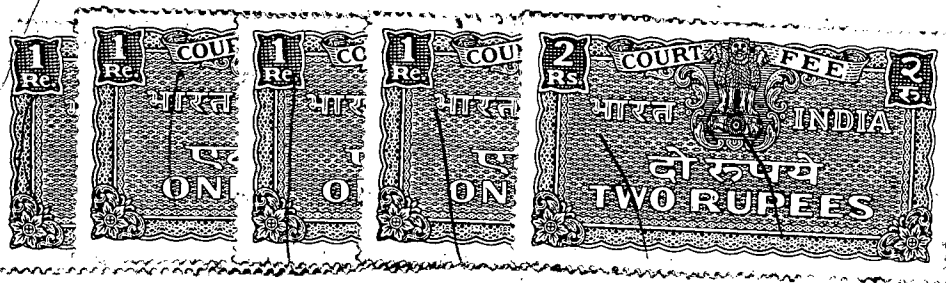
ON INDIA GOVERNMENT SERVICE

TO  
SHRI BIPUL RANJAN DAS,  
QTR. NO. TYPE 11/3 NONGMYNSONG  
POSTAL QUARTER COMPLEX  
KHASI HILLS MEGHALAYA.

FROM : President's Secretariat,  
Rashtrapati Bhavan,  
New Delhi - 110004.

...





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DISTRICT: ~~KAMRUP~~ EAST KHASI HILLS : MEGHALAYA

## VAKALATNAMA

~~IN THE GAUHATI HIGH COURT~~

~~(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA,  
MIZORAM AND ARUNACHAL PRADESH)~~

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

GUWAHATI - 5.

ORGNL. APPLN. NO. 123 OF 2006

Sri Bipul Ranjan Das ...

PLAINTIFF  
APPELLANT  
PETITIONER

- VERSUS -

The Union of India & others ...

DEFENDANT  
RESPONDENT  
OPP. PARTY

Bipul Ranjan Das

Know all men by these presents that the abovenamed Applicant (Sri Bipul Ranjan Das) do hereby nominate, constitute, and appoint Sri. H. Rahman, R. Das, M. Chanda, Advocates, Advocate and such of the undermentioned Advocates as shall accept this Vakalatnama to be my/our true and lawful Advocate to appear and act for me/us in the matter noted above and in connection therewith and for that purpose to do all acts whatsoever in that connection including depositing or drawing money filing in or taking out papers, deeds of composition etc. for me/us and on my /our behalf and I/we agree ratify and confirm all acts to be done by the said Advocates as mine/ours to all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate will be bound to appear and act on my/our behalf.

In witnesses whereof I/we hereunto set my/our hand on this 3rd day of May, 2006.

J. M. Choudhury  
S. R. Bhattacharjee  
C. K. Sarmah Baruah  
Girish Mishra  
A. Sherif  
✓ Hamidur Rahman  
Kamal Kr. Nandi  
✓ Ranjit Das

Subrata Nath  
S. P. Das Choudhury  
S. D. Deb Roy  
Sumoti Chakraborty  
Ranjit Kr. Baruah  
Nabasmita Gogoi  
Lalit Kr. Minda  
Rakhee Bhattacharjee  
M. Chanda

Received from the  
Executant, satisfied  
And accepted

Mr. .... Sr. Advocate  
will lead me/us in this case

Accepted.

Advocate 03/05/2006  
(RANJIT DAS)  
Advocate for  
the Applicant.

Advocate

Advocate

NOTICE

Date :- ~~03.05.06~~

24/5/06.

From :- Mr. Ranjit Das,  
Advocate,  
Gauhati High Court, Ghy-1.

To

The Central Govt. Standing Counsel,  
C.A.T., Guwahati Bench,  
Ghy-1.

Sub:- Filing of an application before the C.A.T., Ghy. Bench  
in O.A.No. \_\_\_\_\_ of 2006, in  
Shri Bipul Ranjan Das... Applicant

-Versus -

The Union of India & ors ... Respondents

Dear Sir,

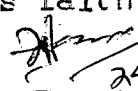
Please take notice than an application on behalf  
of the abovenamed applicant is being filed by me today  
before the Hon'ble C.A.T., Guwahati Bench.

A copy of the same is enclosed herewith for  
your use.

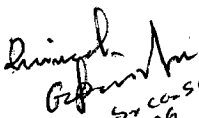
Kindly acknowledge receipt of the same.

Thanking you,

Yours faithfully,

  
(RANJIT DAS)  
Advocate

24/5/06

  
24-5-06  
Date:- ~~03.05.06~~

Place:- Guwahati-5.

...

17-11-06  
2-12-06  
25-12-05  
23/3/06

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# MEMORANDUM OF APPEARANCE

Date : 6/6/06

To,

**The Registrar**  
Central Administrative Tribunal  
Bhangagarh, Rajgarh Road,  
Guwahati.

**IN THE MATTER OF :**

O.A. No. 123 of 2006

Sri Bipul Ranjan Das


----- Applicant

- Vs -

**Union of India & Others**

----- Respondents

I, M. U. Ahmed, Addl. Central Govt. Standing Counsel, Central Administrative Tribunal, Guwahati, hereby enter appearance on behalf of the Union of India & Respondents Nos. etc in the above case. My name may kindly be noted as Counsel and shown as Counsel for the Respondent/s.

  
(Motin Ud-Din Ahmed)  
Addl. C.G.S.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.  
GUWAHATI BENCH

IN THE MATTER OF:

O.A.No. 123/2006

Shri Bipul Ranjan Das

..... Applicant

Versus -

Union of India & Others.

..... Respondents

- AND -

IN THE MATTER OF:

Written statement submitted by  
the Respondents No. 1 to 7.

WRITTEN STATEMENT

The humble answering  
respondents submit their written  
statements as follows :

1.(a) That I am the Sr Superintendent of Post-offices  
Meghalaya Shillong

and Respondents No. 3 in the case. I have gone through a copy of the  
application served on me and have understood the contents thereof. Save  
and except whatever is specifically admitted in the written statement, the  
contentions and statements made in the application may be deemed to  
have been denied. I am competent and authorized to file the statement  
on behalf of all the respondents.

(b) The application is filed unjust and unsustainable both on facts and in law.

© That the application is bad for non joinder of necessary parties and misjoinder of unnecessary parties.

(d) That the application is also hit by the principles of waiver estoppel and acquiescence and liable to be dismissed.

(e) That any action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the Respondents, against the applicant had suffered from vice of illegality.

## **2. BRIEF HISTORY OF THE CASE OF THE APPLICANT/PETITIONER**

which may be treated as the integral part of this written statement.

i) This is regarding misappropriation of Rs. 3,55,952/- (Rupees Three lakhs fifty five thousand nine hundred fifty two) only by Shri Bipul Ranjan Das, the applicant while working as SPM Cherra bazar P.O. The amount was misappropriated by him from several Saving account (TPF) standing at Cherra Bazar S.O.

ii) Shri Bipul Ranjan Das while working as SPM Cherra Bazar P.O during the period from 23.2.2000 to 8.2.2004 accepted deposit in TPF accounts tendered in lots on different dates by various school authorities, but he did not credit the amount to Government account, except in few accounts and that also in almost all cases belated.

iii) A Disciplinary proceeding was initiated against him vide this office memo No.F4-5/03-04/Cherra Bazar dated 30.8.2004, under Rule 14 of CCS (CCA) Rules 1965, for failure to maintain absolute

integrity and devotion to duty violating the provision of Rule 3(1)(i) and Rule 3(1) (ii) of CCS (Conduct) Rules 1964.

(iv) The official has been awarded an opportunity to submit his representation against the charges framed against him. Shri Bipul Ranjan Das submitted his written statement of defence dated 10.9.04 (copy enclosed) in which, he admitted all the charges unequivocally and prayed for forgiveness.

(v) As the charged official had admitted the charge unequivocally, no enquiry into the case was considered necessary. Hence the disciplinary proceeding was finalized vide SSPOs, Shillong memo No.F4-5/03-04/Cherra Bazar dated 17.11.04 with penalty for dismissal from service.

(vi) The charge official submitted an appeal to the appellate authority against the punishment awarded by Disciplinary authority. The appellate authority finalized the case vide memo No. Staff/109-21/2004 dated 27.5.05 with holding the punishment awarded by the Disciplinary authority.

(vii) Thereafter, he submitted a revision petition dated 28.9.05 addressed to the President of India and the same was rejected vide memo No. C - 17015/38/2005-VP dated 23.3.2006.

The photo copy of the Order dated 23.3.06 is annexed herewith and marked as Annexure R-I which is self explanatory.

3. That with regard to the statement made in paragraphs 1(A), (B), (C) 2 and 3 of the application, the answering respondents do

not admit anything except those are in records and based on rational foundation and established laws.

4. That with regard to the statement made in paragraphs 4(A), (B), (C) & (D) of the application, the answering respondents beg to submit that the official in due course held the assignments as per the terms and conditions of his services and no one allowed to adopt pick and choose method of the conditions of service unilaterally once agreed upon mutually and accepted the same.

5. That with regard to the statement made in paragraph 4(E) of the application, the answering respondents beg to submit that the post of Postal Assistants and Sub Postmasters except in selection grade are equivalent and the contention that these are interchangeable as per seniority is not true. The applicant after having completed 19 years of continuous service was posted as Sub Postmaster Cherra bazar in the interest of service.

6. That with regard to the statement made in paragraph 4(F) of the application, the answering respondents beg to submit that the contention of the applicant in this para is completely denied. The actual truth is that while the applicant was functioning as SPM Cherra Bazar did not credit the amount of deposits realized from depositors of various Savings Accounts standing at Cherra Bazar P.O and for the purpose of investigation, the investigating officers examined him. The question of compromise etc. was in no case came to picture.

7. That with regard to the statement made in paragraph 4(G) of the application, the answering respondents beg to submit that as per procedure of rules and taking into of the gravity of offence committed by the applicant, he was placed under suspension w.e.f. 25.3.2004.

8. That with regard to the statement made in paragraph 4(H) of the application, the answering respondents beg to submit that since the applicant was alleged to have misappropriated the Government money to the tune of Rs. 1,20,684.00 deposited to various Savings accounts. The action of the authority to lodge the FIR is in conformity with the Departmental rules and procedures.

9. That with regard to the statement made in paragraph 4(I) of the application, the answering respondents beg to submit that the police authority submitted their investigation report to the Hon'ble Court of SDJM Sohra on their own course of action, rule and procedure. The respondents have nothing to comment.

10. That with regard to the statement made in paragraph 4(J) of the application, the answering respondents beg to submit that the contention of the applicant that a sum of Rs. 70000/- was credited as UCR on 28.4.04 by undue pressure is denied at all. The amount was voluntarily credited vide UCR R/No B -698 as being the amount defrauded by him. Besides the applicant with his own conscience had furnished a written statement dated 25.5.04 assuring the refund the amount defrauded by him from his salary etc.



11. That with regard to the statement made in paragraph 4(K) of the application, the answering respondents beg to submit that the suspension order was revoked on 25.8.04 as per departmental rules. Revocation of suspension does under no way proves the innocency of the deponent. As soon as the threat to the meddling with records had been averred his suspension order was revoked in routine nature. The contention of the applicant that he ranked lower by posting him as PA Assam Rifles S.O is not based on truth as there is no difference in scale or rank in between the SPM in Time scale Post Office and the Postal Assistant.

12. That with regard to the statement made in paragraph 4(L) of the application, the answering respondents beg to submit that the charge sheet was issued against the deponent for violation of departmental rules and procedure and for failure to maintain absolute integrity and devotion to duty as per provision in Rule 3(1)(i) and 3(1) (ii) of the CCS (Conduct) Rules 1964. In the departmental Disciplinary proceeding the amount reflected in the charge sheet was Rs.77,763/- by taking into account of those case which were not reported to Police for investigation of criminal aspect. The cases that was detected before filing of FIR i.e. Rs. 1,20684/- was reported to Police and cases detected subsequently were included in the department proceeding. Therefore, the variation of amount between the departmental charge sheet and the FIR are these. After the completion of departmental enquiry into the fraud cases alleged to have committed by Shri Das from several

TPF accounts the total amount of defrauded money was arrived at Rs.3,55,592/-.

It is also to be mentioned that for initiating departmental disciplinary proceeding it is not necessary to reflect all the TPF accounts of which the amount was defrauded by him. The fact of non credits of the deposits came to light after due investigation at both ends. Head Office and the Sub Post Offices and statement of the applicant in this para claiming the action of the authority is after thought is not tenable and baseless one.

13. That with regard to the statement made in paragraph 4(M), 4(Q), (T) and (W) of the of the application, the answering respondents beg to submit that the respondent being informant of the Sohra P.S.Case and/or charge sheet No.16/04 aware of the case and found no error, omission or irregularity had occurred in the framing of charges and no occasion any failure of justice by prejudicing the accused/applicant in his defence, so far aforesaid charge sheet is concerned and the accused are entitled to take his all defence at the time of charge hearing and its further proceeding by adducing evidence etc. and the same are not under the domain of this respondent and as such nothing to do with the charge sheet and its proceeding/trial.

Further so far departmental proceeding is concerned the respondents had initiated the same in accordance with laws and its necessary requirements and procedures. It is pertinent to mention here that the departmental proceedings and criminal proceedings

are different in nature and operate in different field and they have different objective and it would not come in the way of disciplinary authority. The departmental action following acquittal in criminal case not hit by Art. 20(2) of the Constitution of India and as such departmental action/penalty not affected by subsequent acquittal and it is not necessary for the department/respondents to await a criminal proceeding.

14. That with regard to the statement made in paragraph 4(N) of the application, the answering respondents beg to submit that the departmental proceeding under Rule 14 of CCS (CCA) Rules 1965 was issued vide SSPOs Meghalaya Division under Memo No.F4-5/03-04/Cherra Bazar dated 30.8.04. In the memorandum it was clearly informed that an enquiry will be held against him in respect of those articles of charges as are not admitted by him. Sri Das has submitted his written statement dated 10.9.2004 clearly admitting the charges levelled against the applicant. As the deponent had unequivocally admitted the articles of charges the disciplinary authority considered not necessary to hold enquiry under Rule 14 of CCS (CCA) Rules 1965. The vigilance enquiry report dated 18.3.04 mentioned by the deponent is related to the investigation of the fraud case and nature of fraud committed by him. Hence there was no question of furnishing this report to him and he never asked for it also. The argument is an after thought and with ulterior motive to confuse the court. It is also to be mentioned that departmental disciplinary proceeding and criminal proceeding

initiated by the police are two different thing based on different rules/procedures and activities. The deponent by mixing up the two different issues rather attempts to take undue advantages to misspent the actual facts of the case and thus the submission of the applicant in this score liable to be dismissed.

15. That with regard to the statement made in paragraph 4(O) of the application, the answering respondents beg to submit that the grievances put forward by the applicant are totally devoid of iota of truth. It is he, who did not avail the opportunity entitled and provided to him. The punishment awarded by the Disciplinary authority was upheld by the appellate authority as well as reviewing authority after having gone through the pros and cons of the case and its merits. As submitted earlier the applicant was forced by the department to given the statement with the help of police is totally baseless nor supported by any documents or circumstantial evidence what has been submitted is nothing but an after thought to seek the favour through the Hon'ble Court and thus the submission is not tenable and liable to be rejected.

16. That with regard to the statement made in paragraph 4(V) of the application, the answering respondents beg to submit that the applicant misappropriated Government money to the tune of Rs.3,55,592/- and considering the gravity of the offence he was awarded the penalty of dismissal from service by the Disciplinary authority and the same was up held by the appellate and reviewing authority on merits of the case.

17. That with regard to the statement made in paragraph 4(X), (Y) and Z-2 of the application, the answering respondents beg to submit that they do not admit anything except those are in record as the applicant is put to strictest proof thereof.

18. That with regard to the statement made in paragraph 4(Z) and 4 (Z-A) of the application, the answering respondents beg to submit that as per departmental rules a Government servant is entitled to retain the Government quarter only for one month from the date of dismissal and as such the action of the respondent is justified.

19. That with regard to the statement made in paragraph 4(Z-3) of the application, the answering respondents beg to submit that the respondents considered that the punishment awarded to him is commensurate with the offence committed by him and both appellate and reviewing authority upheld the punishment considering it just. The submission of the applicant having no base on truth and liable to be rejected.

20. That with regard to the statement made in paragraph 5(I) of the application, the answering respondents beg to submit that it is again reiterate that departmental disciplinary proceeding against the applicant is totally different from criminal proceeding initiated by the Police/Court authority.

21. That with regard to the statement made in paragraph 5(II) of the application, the answering respondents beg to submit that the prescribed procedure was followed and due opportunity was given

to him in the Department disciplinary proceeding as enjoined in Rule 14 of CCS (CCA) Rules 1965. Since the applicant in his written statement dated 10.9.04 which he submitted on receipt of the memorandum for initiating the departmental disciplinary proceeding, he had admitted the charges clearly and unequivocally the disciplinary authority held that there was no need for appointing the enquiry board to enquire into the case, hence finalized the case according to the merit and gravity of offence with penalty of dismissal from service.

22. That with regard to the statement made in paragraph 5(III) of the application, the answering respondents beg to submit that these allegations are the almost repeatable as para 4 (N & O), which are already replied/ mentioned against those paragraphs.

23. That with regard to the statement made in paragraph 5(IV) of the application, the answering respondents beg to submit that the review petition submitted by the applicant was finalized as per rule & procedure of the department.

24. That with regard to the statement made in paragraph 5(VI) of the application, the answering respondents beg to submit that the same has been answered in para 4(J) of this reply.

25. That with regard to the statement made in paragraph 5(VII) of the application, the answering respondents beg to submit that the same has been clearly replied against para 4(L).

26. That with regard to the statement made in paragraph 5(VIII) of the application, the answering respondents beg to submit that

the vigilance enquiry dated 18.3.04 as mentioned by him is not the inquiry report in connection with the disciplinary proceeding initiated against him. This report is about the fraud case committed by the applicant by misappropriated the deposit amount of several TPF accounts deposited by the schools authorities with the Post Office. Hence providing copy of this report to the applicant does not arise.

As for supply of copy of Inquiry Report in connection with the disciplinary proceeding it is again mentioned that no enquiry board was appointed as the applicant has clearly admitted the charges in his written statement/representation dated 10.9.04 against the charge sheet. Hence the question of Inquiry Report does not arise.

27. That with regard to the statement made in paragraph 5(IX) of the application, the answering respondents beg to submit that the same has been answered against para 5(VIII) and also in para 4(L) of this reply.

28. That with regard to the statement made in paragraph 5(X) and 5(XI) of the application, the answering respondents beg to submit that the same has been answered against the para 5(VIII) and 4(L) of this reply.

29. That with regard to the statement made in paragraph 5(XII) of the application, the answering respondents beg to submit that the punishment is commensurate with the offence committed by him.

30. That with regard to the statement made in paragraph 5(XIII) of the application, the answering respondents beg to submit that

the allegation is totally baseless as all the written statements given by him were in his own hand writing and signature at no point of time he was forced or threatened by the official of this department to give the written statement as stated by him.

As for his applications before the trial court of SDSJM Sohra the department have no knowledge or authority to interfere.

31. That with regard to the statement made in paragraph 5(XIV) of the application, the answering respondents beg to submit that since the applicant admitted the charges framed against him in the departmental disciplinary proceeding vide statement dated 10.9.04, no further inquiry was considered necessary agreeable to the provision in Rule 14 (5) (a) of CCS (CCA) Rules 1965. The disciplinary proceeding were concluded with the punishment of dismissal from service duly considering all aspects and gravity of the offence. The same was upheld by the appellate and reviewing authorities.

32. That with regard to the statement made in paragraph 5(XV) of the application, the answering respondents beg to submit that the applicant amalgated the departmental disciplinary proceeding with that of criminal proceedings. The Departmental proceedings were initiated for violation of departmental rules and procedure as well as CCS (Conduct) Rules 1964, while the Police/Court case is for criminal aspects against quite distinct and separate set of acts. The allegation that he was forced to give the written statement by the department is totally baseless. He had submitted the same on his



own accord and will. The allegation of threat is neither supported by document nor circumstantial evidence. Nor the statement was recorded by any authority belong to the department.

33. That with regard to the statement made in paragraph 5(XVI) of the application, the answering respondents beg to submit that there is no provision to supply the vigilance report to the official suspected of committing the fraud. However, the same may be provided, if asked for during the inquiry held in disciplinary proceeding. But in this instant case no inquiry was held in connection with disciplinary proceeding already stated in the previous paras.

34. That with regard to the statement made in paragraph 5(XVII) of the application, the answering respondents beg to submit that due opportunity was given to him in the departmental disciplinary proceeding, it was also mentioned that enquiry will be held only on the article which are not admitted by him. He himself did not avail the opportunity entitled and provided to him. The punishment awarded to him is considered justified keeping in view the gravity of the offence committed by him.

35. That with regard to the statement made in paragraph 5(XVIII) and 5(XIX), of the application, the answering respondents beg to submit that the same has been replied against para 4(V) of this reply above.

36. That with regard to the statement made in paragraph 6, 7, 10, 11 and 12 of the application, the answering respondents beg to submit that they have no comments which are based on records.

But so far reliefs are concerned, the respondents beg to submit that the case against the applicant has been proved and he has failed to establish himself as innocent after having given reasonable opportunity to him to defend his case he is not entitled to any relief as sought for.

37. That with regard to the statement made in paragraph 8 (i to iv) and 9 of the application, the answering respondents beg to submit that the applicant defrauded the public money to the tune of Rs.3,55,592/- and causes great embarrassment to the department. The punishment awarded to him is considered justified in the eye of law. In view of the statements submitted in earlier paras the reliefs sought for by the applicant are not tenable and liable to be dismissed. Considering the above facts and circumstance, the applicant is not entitled to any relief in this application which is devoid of merit and as such liable to be rejected.

38. That this written statement is made bonafide and for the ends of justice & equity.

Under the above circumstances,  
Your Lordship would be pleased to  
dismiss the application filed by the  
applicant for the ends of justice.

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VERIFICATION

I, Shri Ashim Kumar Deori

aged about 50 years, working as Sr. Supdt. of Post Office

competent officer of the answering respondents, do hereby verify that the

statements made in paragraph 4, to 17 are true to my knowledge and

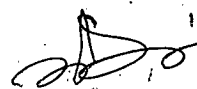
those of the paragraphs       /       being matter of record are true

to my information derived there from which I believe to be true and the

rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 22<sup>nd</sup> day of June 2006 at

Guwahati.



Signature  
Dr. Supdt. of Post Office  
Meghalaya Division  
Chillong-793001

No. C-17015/38/2005-VP  
Government of India  
Ministry of Communications & IT  
Department of Posts

Dak Bhawan, Sansad Marg,  
New Delhi-110001

Dated : 23.03.2006

ORDER

Shri Bipul Ranjan Das, ex-Postal Assistant, Meghalaya Division, North East Circle has submitted a review petition dated 28.09.2005 addressed to the President of India against the appellate order of DPS (HQ), Shillong vide memo No. Staff/109-21/2004 dated 25.07.2005, upholding the order of dismissal from service issued by the disciplinary authority, viz. Senior Superintendent of Post Offices, Meghalaya Division vide memo No. F4-5/03-04/Cherra Bazar dated 17.11.2004. The petitioner did not prefer any revision petition to the revisionary authority, viz. the CPMG, North East Circle.

2. Disciplinary proceedings under Rule 14 of CCS (CCA) Rules, 1965 were initiated against the petitioner by Senior Superintendent of Post Offices, Meghalaya Division vide memo No. F4-5/03-04/Cherra Bazar dated 30.08.2004 on the following imputations of misconduct/misbehaviour :-

“Shri Bipul Rn Das while working as SPM, Cherra Bazar during the period from 23.02.2000 to 08.02.2004 did not credit the amount of Rs. 77,763 /-(Rupees seventy seven thousand seven hundred and sixty three only) to Government account which were deposited by the Head of Institutions of Ram Krishna Mission Higher Secondary School and St. John Bosco Boys/Girls Higher Secondary School, Cherrapunjee in respect of various TPF accounts and SB accounts standing at Cherra Bazar SO on various dates.

By the above action, said Shri Bipul Rn Das failed to maintain absolute integrity and devotion to duty and thus alleged to have violated the provisions of Rule 3(1)(i) & (ii) of CCS (Conduct) Rule, 1964.”

3. On receipt of the charge sheet memo, the petitioner submitted his written statement of defence dated 10.09.2004 in which he admitted the charge unequivocally, and prayed for forgiveness. As such no statutory inquiry in the case was considered necessary and the disciplinary proceedings concluded with penalty of dismissal of the petitioner from service vide memo dated 17.11.2004. The punishment was upheld by the appellate authority vide memo dated 25.07.2005.

*Am*

4. In OA No. 4 of 2006 filed by the petitioner, the Hon'ble CAT, Guwahati Bench vide order dated 09.01.2006 has directed to consider the review application forwarded by the petitioner through the O/o the President of India and to dispose it of in accordance with law by a speaking order within a period of three months from the date of receipt of the order. The order of the Hon'ble CAT was received in the Directorate on 01.02.2006 alongwith petitioner's letter dated 19.01.2006.

5. In the review petition, the petitioner has, however, made the following submissions :-

(i) On 18.03.2004, the petitioner was forced to admit the alleged offence by the APMG (Vigilance) alongwith few other officials on the assurance of getting the matter compromised and settled amicably.

(ii) On 25.03.2004, an FIR was lodged in the Sohra Police Station against the petitioner alleging misappropriation of government money to the tune of Rs. 1,20,684/-. He was arrested on 25.03.2004 and was kept in police custody.

(iii) On 18.04.2004, the petitioner was pressurised to sign various dictated papers and a sum of Rs. 70,000/- was withdrawn from his General Provident Fund account as refund for defrauded amount. As such a false claim of admitting the guilt has been made against him.

(iv) Vide order dated 25.08.2004, the SSPOs, Meghalaya Division revoked his suspension order without any reason.

(v) Vide order dated 17.11.2004, he has been dismissed from service without following the prescribed procedure of holding an inquiry and supplying him the copy of inquiry report.

(vi) In the criminal proceedings, the alleged amount of misappropriation is mentioned as Rs. 1,20,684/-, but the amount alleged in the departmental proceedings is only Rs. 70,763/-, which is contradictory and confusing.

The petitioner has prayed to set aside the order of dismissal and to direct the Circle authorities not to evict him from the official accommodation till disposal of the review petition and to stay the operation of the appellate order dated 25.07.2005 and the dismissal order dated 17.11.2004 till the criminal proceedings are over.

6. Rule 29 A of the CCS (CCA) Rules, 1965 provides that the President may, at any time, either on his own motion or otherwise review any order passed under these rules, when any new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case, has come, or has been brought, to his notice.

7. The petition has been carefully considered along with the available records of the case. It is found that on receipt of information from succeeding SPM, Cherra Bazar PO on 16.03.2004 regarding non-credit of amount of some deposits in several Teachers Provident Fund accounts operated by different schools during the tenure of the petitioner, the departmental investigation was started. In the course of investigation, the petitioner admitted that he did not credit the amounts to government account but spend them for his personal use. Keeping in view the gravity of offence committed, he was placed under suspension with effect from 25.03.2000.

An FIR was lodged at Sohra Police Station on 25.03.2004 by the Department. Since the defrauded amount was found to be Rs. 1,20,684/- at that point of time, the same was reflected in the FIR. On completion of the enquiry, the total defrauded amount was found to be Rs. 3,55,592/-. The cases detected before filing the FIR were reported to the Police, while the cases detected subsequently were included in the departmental proceedings. Thus there is the variation of amount mentioned in the charge sheet and the FIR. As such also the departmental proceedings are not at all dependent on the outcome of the criminal proceedings which is yet to be finalised by the court.

An amount of Rs. 70,000 was credited by the petitioner voluntarily towards adjustment of the amount defrauded by him. The allegation that he was pressurised to credit the amount is not correct. While refunding this amount, he had given a written statement stating that he had withdrawn the amount from his GPF account.

The order of suspension of the petitioner was revoked on 25.08.2004 as per departmental rules and he was posted as PA, Assam Rifles SO.

In the charge sheet memo it was made clear that an inquiry will be held against him in respect of only those articles of charges as are not admitted by him. In his written statement dated 10.09.2004, the petitioner clearly admitted the charges and hence no inquiry was held and the case was concluded with the penalty of dismissal of the petitioner from service. As such he was given due opportunity as prescribed in the CCS (GCA) Rules, 1965.

The departmental proceedings were initiated against him for violation of departmental rules and procedures as well as CCS (Conduct) Rules, 1964, while the police case is for criminal aspects. Hence the allegation of the petitioner is incorrect that two cases on similar allegations have been initiated against him. The allegation that he was forced to give statement in reply to the charge sheet is not supported by any document. And hence appears to be totally baseless. So far as the government quarter occupied by the petitioner is concerned, as per departmental rules the person dismissed from service cannot occupy the government quarter after the permissible period of retention of one month.

8. In his review petition, the petitioner has not put forth any valid point to disapprove the charges levelled against him. He has also not adduced any new material or evidence, which may have the effect of changing the nature of the case as required under Rule 29-A *ibid*, justifying review of the impugned punishment order by the President. In view of the above stated facts, there is no merit in the petition and it does not call for any review by the President. The punishment awarded is commensurate with the gravity of misconduct committed by him. Therefore, the review petition is rejected.

9. In view of the above stated facts, the President, in exercise of the powers conferred by Rule 29-A of the CCS (CCA) Rules, 1965, hereby rejects the same.

10. This issues in compliance with the order dated 09.01.2006 passed by the Hon'ble CAT, Guwahati Bench in OA No. 4 of 2006.

BY ORDER AND IN THE NAME OF THE PRESIDENT

Mawban

(Sushma Chauhan)

Desk Officer (Vigilance Petition)

✓ Shri Bipul Ranjan Das  
Ex-Postal Assistant  
Meghalaya Division

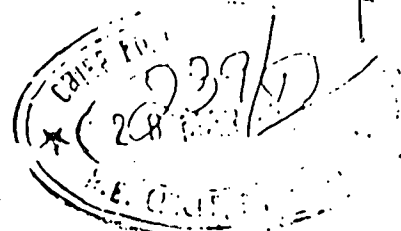
(Through the Chief Postmaster General, North East Circle, Shillong-793 001)

APMC

CC

23/1

*[Signature]*



To,

The Senior Superintendent of Post Office,  
Meghalaya Division, Shillong.

Sub.: Prayer for forgiveness.

Sir,

With due respect and humble submission, I would beg to state the following for your kind information and sympathetic necessary action.

That Sir, following detection of my committed misappropriation at the Cherrabazar Post Office, I was placed under suspension and subsequently arrested by Police personnel on 25/3/2004.

That Sir, taking advance of my GPI somehow I could manage to repay a sum of Rs.70,000/- only in connection with my misappropriation.

That Sir, now, the police case is on and I am under suspension now.

That Sir, I have my two minor school going children and my wife and there is none in my family bolster the burden of my family. I do not have any other source of income to run my family.

That Sir, I would humbly and fervently pray your goodself to be kind enough to look after my problems with high esteem and allow me to join my duty and withdraw the police case and I assure you to repay the entire balance amount from portion of my salary even from my DCRG after I retire, whatever remains outstanding to enable myself to somehow run my family from hand to mouth and get rid of inexplicable hardship being faced.

With profound regards.

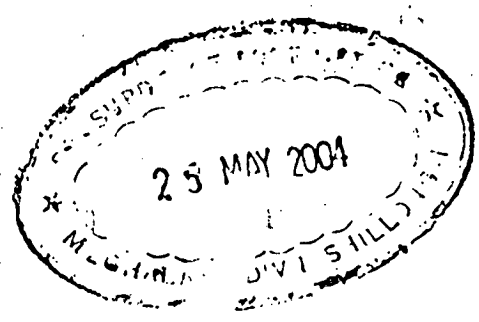
Yours faithfully,

*Bipul*  
25/5/04

(BIPUL RAJAN DAS)

P.A. Cherrabazar.

Cherrapunjee



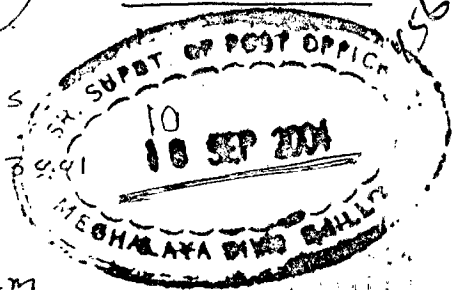
*Amx*



-22-

Amx-R=11 2/c

(7)



The Sr. Supdt. of Post Offices  
Meghalaya Division Shillong 793 001

Dated Shillong 10-9-04

Sub Memorandum

Ref Your letter no

FA-5/3-04 / Cherrabazar

Dated Shillong the 30/8/04

Sir

With reference to your office letter no cited above, while acknowledging receipt of your office memorandum under reference received on 2/9/04

with due respect and humble submission, I beg to state that I admit all the charges levelled against me in the memorandum in annexure I & II.

That sir due to various personal problem which was beyond my control, I had committed the misdeed.

I sincerely regret the misdeed and mistake committed by me.

That sir I assure you with all my sincerity that this misdeed will never be repeated by me. I promise you again that I shall remain duty bound to be sincere and faithfully in future.

I also promise you that I will credit the amount of loss sustained by the department from my salary and pension etc.

Sir I pray to your learnedself to kindly pardon me for the great mistake committed by me and save the life and existence of my family.

Certified that this  
statement given with regards  
by Sir. Bipul Ranjan Das

Bipul Ranjan Das

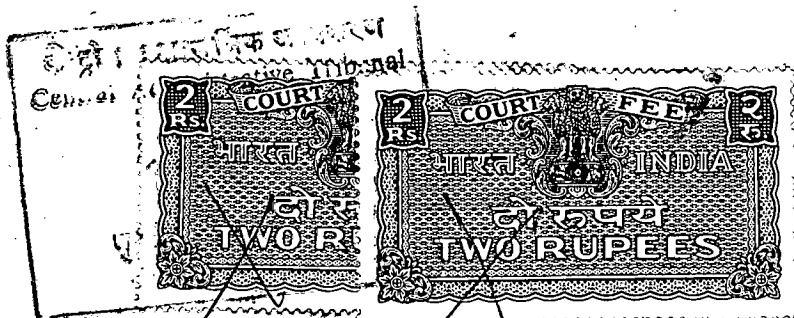
Sub. Secy. of Post Office  
North Sub-division, Shillong, 793001.

Yours faithfully

Bipul Ranjan Das  
PA ISSAN RIFLE

Shillong 11

*[Handwritten signature]*



Filed by the  
Applicant -

Bipul Ranjan Das

Through -

12-1-07

(RANJIT DAS)

Advocate for

the Applicant/Deponent

District : East Khasi Hills (Meghalaya).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH :

AT GUWAHATI - 781005.

O.A.NO.123/2006.

Sri Bipul Ranjan Das ... Applicant

- Versus -

The Union of India and others ... Respondents.

In the matter of :-

An affidavit-in-reply on behalf of  
the applicant against the written  
\* statement of the respondents nos.  
1 to 7 ( dated 22.6.2006) filed on  
22.9.06.

AN AFFIDAVIT-IN-REPLY ON BEHALF OF THE APPLICANT

I, Bipul Ranjan Das, son of Late Sachindra Kr.Das,  
aged about 57 years, by religion Hindu, by occupation  
(Dismissed Postal Assistant), (the instant applicant),  
a resident of Thana Road, (Near Congress Bhawan), P.O. &  
P.S.Shillong-793001 in the East Khasi Hills District,  
Meghalaya (now camped at Guwahati-18) do hereby solemnly  
affirm and declare as follows :-

1. That on 6.11.2006 a typed copy of the written  
statement ( without Annexures thereon) has been served on  
the learned Counsel of the instant applicant/deponent in  
the Tribunal and on pointing it to the Hon'ble Tribunal  
on 6.11.06 itself, this Hon'ble Tribunal passed an order  
directing the respondents to furnish a comprehensive copy  
of their written statement (dated 22.6.06 ) filed on

22.9.06....



Recd  
12/12/07

22.9.06 i.e. about 3(three) months after its signature. The concerned respondents have not even enclosed copies of the Annexures in the written statement (dated 22.6.06 <sup>10-5-04 and</sup> and/or filed on 22.9.06) and order dated 23.3.06 which were marked as Annexure - Nil and Annexure - R-1 vide their statements at paragraph 2(iv) and 2(vi) respectively of the written statement. At this the Hon'ble Tribunal expressed its displeasure and passed an order on 6.11.06 asking the concerned respondents to serve a comprehensive copy of their Written statement to the learned Advocate of the instant applicant/deponent within 7(seven) days failing which the written statement dtd. 22.6.06 filed after 3 months on 22.9.06 will be rejected.

It is most unfortunate that inspite of the orders dated 6.11.06 the concerned respondents have failed to serve a comprehensive copy of their written statement to the learned Advocate of the instant applicant/deponent and consequently by virtue of the aforesaid order dtd. 6.11.06 of this Hon'ble Tribunal, the written statement of the concerned respondents is non-est in law.

2. That however, the instant applicant had received the incomplete copy of the written statement of the concerned respondents and has gone through the same, and the same has also been explained to him by the learned Advocate of the instant deponent. And as such he has understood its contents and is now filing this reply against the written statement of the concerned respondents ~~filed on 22.6.06~~ signed on 22.6.06 and strangely filed on 22.9.06 i.e. approximately after 3(three) months from the date of signing the said written statement.

more so...

Bipul Ranjan Das

more so when the learned Advocate of the concerned respondents had been taking time for instructions w.e.f. 25.5.06, vide orders from this Hon'ble Tribunal dtd. 25.5.06, 28.6.06, 31.7.06, 7.8.06, when it has been informed that the learned C.G.S.C. has <sup>not</sup> received instructions etc., which is false and far from truth apparant on the face of records.

3. That this deponent states that save and except what has been specifically admitted herein all the statements and averments made in the written statement of the concerned respondents (made vide verification of the written statement dated 22.6.06 which has been filed on 22.9.06,) may kindly be deemed to have been denied by this deponent/applicant.

4. That this deponent states that from the date of inception (before this Hon'ble Tribunal), as stated above, the learned C.G.S.C. appearing for the concerned respondents have been submitting before this Hon'ble Tribunal that he has not recieved any instructions, but it is crystal clear and apparant that this application having been filed by this deponent on 24.5.06. It was heard on 25.5.06, 28.6.06, 31.7.06, 7.8.06, 8.9.06 (when Bench was not available), 24.10.06, 6.11.06, 28.11.06 and 15.12.06 (when also Bench was not available), the written statement having been signed by the concerned respondent no.7 (on behalf all respondents) on 22.6.06 and the same having been filed through the learned C.G.S.C. on behalf of the respondents on 22.9.06 before this

Hon'ble ...

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Hon'ble TRIBunal on 22.9.06 despite that the learned C.G.S.C. has been taking time all along since 25.5.06 for instructions without any truthful basis thus trying to mislead this Hon'ble Tribunal which is liable to be deprecated and rejected as false representation tantamounting to fraud on Court of law, apparant on the face of records.

5. That this deponent states that on 6.11.06 the Hon'ble Court/Tribunal directed the learned C.G.S.C. to serve copies of all Annexures to the learned Counsel of the instant deponent within 7 (seven) days but those Annexures were not served on the instant applicant/deponent. On the contrary, it has been further ordered by this Hon'ble Tribunal that the learned Counsel of this deponent is to verify if the Annexures were in the brief of this Hon'ble Tribunal. Accordingly on 7.12.06 when the learned Counsel of the instant deponent went to verify from records in presence of the Bench Asstt. and the Registrar of the C.A.T., Gauhati Bench it was surprisingly found that all those other Annexures earlier annexed as Annexure - I, II, III and IV i.e. order dtd. 2.4.04, 29.4.04, 18.8.04 and 7.6.04 at pages 17 to 20 regarding (1) promotion of Sri R.N. Mathur, Addl. D.G.P. (CID) Assam to the post of D.G. & I.G.P. ; (2) creation of the post of D.G.P. (V & A.C.), Assam, (3) Govt. of India's rejection order of approval for continuance of posts of D.G.P. (Vigilance & Anti-Corruption), Assam and (4) retention of Ex-Cadre post of D.G.P. (V & A.C.) Assam etc. were all strangely missing from the Hon'ble Tribunals briefs i.e. at "A" and "B" Part, which has been pointed out to the aforesaid officials ...

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Bipul Kumar Das

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Bipin Ranjan Das

officials of this Hon'ble Tribunal as aforesaid. This clearly shows that the concerned respondents are not only misleading the facts before this Hon'ble Tribunal, but are actually committing fraud on court/Tribunal which is highly objectionable and uncalled for and thus liable to be set aside and quashed as being held in a recent decision of the Hon'ble Apex Court. More so, when the order dated 6.11.06 clearly specifies that if copies of those Annexures were not served on the instant deponent within the 7(seven) days time the written statement of the concerned respondents filed on ~~22x~~ 22.9.06 would be rejected and consequently the said wrong Written Statement filed by the concerned respondent stands rejected and is non-est in law at present by virtue of the aforesaid order of this Hon'ble Tribunal, and needs no further reply from this deponent. However, since rightly or wrongly the concerned respondents have filed the written statement on 22.9.06 i.e. after 3(three) months of its signing by the respondent no. 7 this deponent begs to submit a reply to their statements and averments hereinbelow in paragraph no. 7.

6. That this deponent most respectfully submits that from the above facts and circumstances of the case and the demanaur of the respondents amply show that the concerned respondents have committed fraud on this Hon'ble Tribunal and thus they have not come to the Tribunal in clean hands ...

clean hands and as such their case is liable to be rejected as false and unreliable, as it is well settled in law as per a recent decision of the Hon'ble Apex Court that decree obtained by practising fraud is liable to be set aside and hence the case of the concerned respondents is liable to be set aside and rejected on this count alone.

7. That this deponent has, however, on receipt of the aforesaid incomplete written statement of the respondents and a wrongly comprehensive copy of WJs on 09/07/07 nos. 1 to 7 on 6.11.06 has gone through the same and has understood the contents thereof which were also explained to him by his learned Counsel conducting the case on his behalf before this Hon'ble Tribunal. The replies are as follows :-

(a) That as to the statements made in paragraph 1(b) of the written statement this deponent denies the averments of the respondents that the instant application is unjust and unsustainable both in law and on facts.

(b) That as to the statements made in paragraph 1(c) of the written statement this deponent categorically denies that the application is bad for non-joinder of necessary parties and misjoinder of unnecessary parties. This deponent reiterates that a vague statement non-joinder and misjoinder is not required to be replied as the parties so impleaded are necessary parties and that there is no question of non-joinder of parties in the facts and circumstances of the instant case.

(c) That as to the statements made in paragraph 1(d) of the written statement this deponent categorically denies that the application...

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Bipul Ranjan Das

that the application is hit by principle of waiver, estoppel and acquiescence and liable to be dismissed, more more so when the dismissal of the deponent from service tantamounts to Civil death of this deponent, and the concerned Respondents are not entitled in law to do so without holding any lawful enquiry and also without allowing him to cross-examine the witnesses, if any, adduced against him by the concerned Respondents and hence the same being arbitrary and illegal and violative of the principles of Article 20(3) of the Constitution of India, which provides that "no person accused of any offence shall be compelled to be a witness against himself" and the concerned respondents having done so, the impugned order of dismissal, impugned appellate order and the impugned order of review respectively are all liable to be set aside and quashed as unconstitutional.

(d) That as to the statements made in paragraph 1(e) of the written statement this deponent denies ~~that~~ the same and categorically states that the concerned respondents by using the term "not stigmatic" and "for the sake of public interest" to sustain their illegal action suffering from the vice of abovenoted provisions of law together with the violation of the provisions of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 is clearly unjust, unreasonable, arbitrary and illegal.

8. That ~~the~~ as to the statements made in paragraphs 2(i), (ii), (iii), (iv), (v), (vi) and (vii) of the written statement, this deponent denies the same (except those which are based on records). This deponent categorically states that the charge...

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Dipak Ranjan



that the charge sheet (in the instant Departmental Proceeding) dated 30.8.04 i.e. Article - I shows an amount of Rs.77,763/- alleged to have been misappropriated by this deponent. The amount now alleged to be misappropriated is Rs.3,55,952/- which is an after thought and unsustainable in law being beyond the scope of the charge sheet more so when there is no proof of the same.

Secondly, this deponent denies to have misappropriated any accepted deposit in T.P.F. Account and also denies that he ~~did not credit the~~ <sup>not</sup> had credited the amount to Government Account without (even going through the records) more so when there are Authorities like the Inspector, other High Officials of the Headoffice to verify the same at the relevant time. An allegation made after almost 4(four) years has been made on surmises and conjectures, which are not sustainable in law.

Thirdly, there is no other order dated 30.8.04 for initiation of Departmental Proceeding( which is the charge-sheet of the proceeding) more so when this deponent has been put under suspension on 22.3.04 after an unilateral Enquiry without furnishing any Enquiry Report made on 18.3.2004 which tantamounts to denial of adequate opportunity to this deponent to defend himself which has prejudiced his defence to a great extent, which is also clear violation of the provisions of rule 14 of the C.C.S.(C.C.A.)Rules, 1965 and as such there cannot be any question of failure to maintain absolute integrity and devotion to duty by this deponent as alleged.

Fourthly, it is also denied that adequate

opportunity ...

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Bipul K. Sengupta

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Bipul A. Anter

opportunity has been given to this deponent to submit his written statement and/or representation against the charge. As stated earlier in the Original Application that an F.I.R. dated 25.3.04 has been also lodged against this deponent in respect of the same and similar allegation. The period of alleged offence, the place of alleged offence, the subject matter of the alleged offence are the same except there is difference of the amount alleged. In the Criminal Proceeding the amount alleged to have been misappropriated is Rs.1,20,684/-, which appears to be similar allegation and hence it is well established in law that in such a situation both the proceedings cannot be simultaneously held resulting great prejudice in defence of the delinquent and thus not sustainable in law.

Fifthly, ~~xx~~ it is well established in law that 'a man cannot be made a witness against himself.' In the instant case, the concerned respondents without holding any independent Enquiry in the name of 'admission of the delinquent' forgot their statutory duty as a State to show that 'justice should not only be done, but it should be shown to have been done'. More so when this deponent acted on the assurance of the Emissary of the Disciplinary Authority and has written the statement dated 10.9.04 <sup>as well as prayer for forgiveness dtd. 25-5-04</sup> as per dictate of those Emissaries of the Disciplinary Authority, which was unduly obtained from this deponent under duress and police threat, which cannot be the written statement of this deponent. This deponent having not inspected the documents how can he be said to have admitted the allegations? Moreover, it is the solemn duty of the Disciplinary Authority and the Enquiry Authority to provide necessary assistance to this deponent when this deponent is well known to have been holding the post of S.P.M. Cherrabazar from the post of Peon, i.e. Grade - IV in order to show that the state action is fair and free from arbitrariness and/or duress as ...

duress as alleged by this deponent, more so when in the Departmental Appeal dated 2.12.04 there is a specific plea of this deponent that the Disciplinary Authority sent Emissary but the said plea was not considered by the Appellate Authority in its proper perspective.

Sixthly again it appears that ~~the~~ although the Appellate Authority finalised the Appeal vide order dated 27.5.05, the said order so passed is not in consonance with the provisions of Rule 14 of the C.C.S. (C.C.A.) Rules, 1965 and hence open to question.

Seventhly, it is most surprising that instead of the Govt. i.e. the respondent no. 1 (Union of India being represented by the Secretary to the Govt. of India, Department of Post, New Delhi, it is the Desk Officer (Vigilance Petition) passed the impugned Review Order dated 23.3.2006 through the Chief Post Master General, N.E.Circle, Shillong -1 in order to mislead the same to have been passed by the Appropriate Authority, thus violating the directions in the letter No. P1/D-872/68, dated 14.10.05 issued by the Under Secretary to ~~the Hon'ble~~ His Excellency the President of India's Secretariat at New Delhi, PIN - 110004 at the 'Rastrapati Bhawan' under rule 29-A of the C.C.S. (C.C.A.) Rules, 1965 while dealing with this deponent's Review Petition dated 28.9.05 (Annexure - I) and also by violating the order dated 9.1.06 (in paragraph 3 therein) of this Hon'ble Tribunal (in O.A.No. 4/2006) while dealing with vacation of official quarter of this deponent. As such it crystal clear that the concerned respondents are even guilty of contempt of this Hon'ble Tribunal's orders, as the review disposal order has not been passed by the respondent no. 1 as directed by this Hon'ble Tribunal.

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Bipul Ranjan Das

9. That with regard to the statements made in paragraph 2x 3 of the written statement this deponent denies the same and reiterates and reaffirms its statements made in paragraphs 1(A), (B), (C), 2 and 3 of the Original Application. However, this deponent states that by not making specific statements of denials in this paragraph, the concerned respondents have admitted all the statements made by this deponent in paragraphs 1(A), (B), (C), 2 and 3 of this Original Application.

10. That with regard to the statements made in paragraph 6 of the written statements this deponent denies the same and reiterates and reaffirms its statements made in paragraphs 4(F) of this Original Application. Further it appears that the concerned respondents have stated while denying the answering respondent's statement at paragraph 6 that "the Inquiry Officer examined him," which appears to be confusing and contradictory. However, since the Investigating Officer has examined this deponent on 18.3.04, it is to be ascertained if he was allowed to be cross-examined, whether this deponent has been supplied with a copy of the said Enquiry Report, which apparently appears to have been neither allowed to be cross examined nor supplied with copy of the Enquiry Report. This is because there was no order of contemplation of a Departmental Proceeding at that point of time against the instant deponent who had been suspended on 22.3.2004 in contemplation of a Departmental Proceeding, apparant from the records, vis-a-vis their pleading. However, the contention of Vigilence Enquiry had also ...

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had also been strangely denied by the concerned respondents. The initial Enquiry so made by the Investigating Officer on 18.3.04 has adversely and greatly hampered the defence of this deponent, denying this deponent his valuable right to have a copy of the Enquiry Report so made which violates the principles of Natural Justice. The question of appointment of the Investigating Officer prior to contemplation of the Departmental Proceedings and/or suspension of the instant deponent on 22.3.04 is redundant and not acceptable in law, so the same is not sustainable in law.

11. That with regard to the statements made in paragraph 7 of the written statement this deponent denies the same and reiterates and reaffirms its earlier statements made in paragraph 4(G) of the Original Application. It is not correct to say that this deponent has been placed under suspension with effect from 25.3.04. The Annexure - I (at page 49) of the Original Application which is the suspension order dtd. 22.3.04 of this deponent which speaks differently. and it appears therefrom that the suspension has been given effect from 22.3.04 as per records and not from 25.3.04 as stated in the written statement of the concerned respondents. However, this deponent states that the informant of the FIR dated 25.3.04 i.e. the respondent no. 7 has herself stated in her cross-examination in the Criminal Proceeding on 26.9.06 inter alia that she has " filed the F.I.R. on 25.3.04 on getting the information about the misappropriation of Rs.1,20,684/- from the Assistant Director, C.P.M.G.Office, ..... Again, she has stated that ..... one Vigilance Team visited Cherrabazar Post Office before filing F.I.R. and

I was also ...

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Bipul Ranjan Das

I was also a party in the Vigilance Team. ■ , which supports this deponent's contention that an enquiry was made on 18.3.04 i.e. prior to his suspension on 22.3.04 but the Enquiry Report has not been served on this deponent nor the Enquiry Officer was allowed to be cross-examined by him violating the Principles of Natural Justice.

A copy of the aforesaid cross-examination deposition of the respondent no. 7 i.e. the informant in the Criminal Proceeding (which is going on) on 26.9.06 in the trial court is enclosed herewith and marked as Annexure - VII.

12. That with regard to the statements made in paragraph 8 of the written statement, this deponent states that this deponent was transferred from the post of Postal Assistant of Laitumkhrah Sub Post Office to Cherrabazar Sub Post Office as Sub Post Master on 30.12.1999. He joined on 23.2.2000. Thereafter he was again transferred <sup>and released</sup> to Cherrapunjii Sub Post-office as Postal Assistant at Lower Cherra on 09-02-2004 and he joined there on 9.2.2004. Again, thereafter ~~he~~ the ~~said order was~~ suspension order has been revoked on 25.8.2004 and he has been transferred on ~~22~~ 25.8.2004 from Cherrapunjii as Postal Assistant to Assam Rifles (at Shillong) ~~as~~ Sub Post-office as Postal Assistant and he joined there on 26-8-04.

It further appears that while the F.I.R. was lodged on 25.3.04 he was immediately arrested on 25.3.04 itself, at the behest of the concerned respondents. But the suspension order dtd. 22.3.04 declares that his Headquarter will be at Shillong during the period of suspension although he was stationed at Cherrapunjii Sub Post Office, strangely however, the ...

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Bibul Ranjendra

however, the order of revocation ( of suspension) dated 25.8.04 speaks that he has been transferred from Cherrapunji which is inconsistent and contradictory and the same suffers from non-application of mind of the concerned Authority.

Secondly from the facts and circumstances of the instant case, the concerned Authority cannot in law proceed against the instant deponent simultaneously in 2(two) separate proceedings for the same/similar alleged offence against the instant deponent apparant on the face of records.

13. That as to the statements made in paragraphs 10 of the written statement, this deponent denies the same and reiterates and reaffirms its statements made in paragraph 4(J) of the Original Application. This deponent states that so long there was no whisper of written statement dated 25.5.04 but now it has been alleged that this deponent with his own conscience had furnished a written statement dated 25.5.04 assuring the refund of the amount defrauded by him from his salary etc. The revokation order (of his suspension dtd. 22.3.04) has been made on 25.8.04 and as such there cannot be any question of getting salary of 25.5.04 and refunding the defrauded amount from this deponent's salary etc. which has also been obtained by force and under police threat by the concerned respondent from this deponent on 25.5.04 and hence it is denied. Further the concerned respondents cannot legally bring this document on record (unilaterally) now at this stage which is inadmissible in law. This is being done now by Authorities to ...

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Authorities to make this deponent a scape-goat, and to defeat his end.

14. That as to the statements made in paragraph 12 of the written statement, this deponent denies the same and reiterates and reaffirms its earlier statements made in paragraph 4(L) of the Original Application.

Besides the plea of the Desk Officer (Vigilance Petition) who is an incompetent/unauthorised Authority (to pass the order dated 23.3.06 over the review petition) has stated in his review rejecting order that misappropriation amount detected before filing of F.I.R. (on 25.3.04) was Rs.1,20,684/- and the misappropriation amount detected subsequently were included in the Departmental Proceeding and the amount involved in the Departmental Proceeding being Rs.77,763/- as alleged the total of both these charges/proceedings amounts to Rs.1,98,447/- only which is much less than the total misappropriated amount as stated in the said order to be Rs.3,55,592/- as argued by the learned Unauthorised/incompetent Desk Officer (Vigilance Petition) to be the ~~exaggerated~~ defrauded amount (prior to proving the *guilt* *alleged*), does not corroborate the allegation and as such the said allegation and the impugned review rejection order dated 23.3.06 (Annexure-V) is not sustainable in law being false and far away from truth and thus void and in-operative in law for want of jurisdiction. More so when the Vigilance purpose the concerned respondents have filed 3(three) orders before this Hon'ble Tribunal and because the said proposal had been rejected by the Govt. of India the same had been withdrawn from this Hon'ble Tribunal's file at the behest of the concerned respondents to defeat the case of this deponent (as pointed out earlier by this deponent in paragraph 5 of this affidavit-in-reply).

Further,...

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Further it has been stated inter alia by the concerned respondent-s that " it is not necessary to reflect all the T.P.F. accounts of the alleged defrauded amount" by this deponent. This is only because the concerned respondents had a prefixed mind to make the instant deponent a scape-goat in the whole episode and as such even at the stage of framing charges they have forgotten their bounded duty to furnish the particulars of T.P.F. Accounts involved and as such the charge in the Departmental Proceeding is vague and unreliable and therefore the contention of the instant impugned actions of the concerned Authorities are not sustainable in law and liable to be set aside and quashed.

15. That as to the statements made in paragraph 13 of the written statement, this deponent denies the same and reiterates and reaffirms its earlier statements made in paragraphs 4(M), 4(Q), 4(T) and 4(W) respectively of the Original Application.

Further, this deponent states that the new material justifying filing of the review petition under rule 29-A of the C.C.S. (C.C.A.) Rules, 1965 has been well pleaded by this deponent in paragraphs 4(W) of this Original Application No. 123/06 and paragraphs 7, 8 and 9 of the review petition dated 28.9.05 (Annexure-I) i.e., in other words when before the trial court (in criminal proceeding) on <sup>29-3-04 and</sup> 30.3.04 this deponent has declined and/or refused to make a confessional statement, subsequent admission of the guilt (as alleged) by this deponent is not true and valid as the same has been extorted by the concerned respondents under undue pressure/influence and police threat. Again the documentary proof of this deponent thereof alleged to be absent by the concerned respondents are (1) trial court's order dated 30.3.06, ~~deport~~ (2) departmental appeal dtd...

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~~appeals~~ appeal dtd. 2.12.04 (Annexure-8 at pages 65-66) particularly in paragraph 3 and (3) this Original Application No. 123/06 dtd. 24.5.06 (Annexure-I at page 34) at paragraph ~~4(1)(a)~~ 4(W) which amply show and/or proves that undue pressure was given on this deponent to admit the allegations under police threat and as such the impugned order of review dated 23.3.06 (Annexure-V) suffers from the vice of non-application of mind, arbitrariness and without authority/jurisdiction i.e. unauthorised Authority's order more so when the order dated 9.1.06 (Annexure-III at page 92) passed in O.A. no. 4/06 by this Hon'ble Tribunal at ~~page~~ paragraph 3 clearly shows that the review petition ought to be disposed of by a speaking order within 3 months by the 1st respondent i.e. the Union of India represented by the Secretary to the Govt. of India, Ministry of Communications and Information Technology of 108-E, G.A. Section, Dak Bhawan, Sansad Marg, New Delhi - 110001 (and not by the Directorate) in pursuance of the order dated 14.10.05 from the Rastrapati's Secretariat at Annexure-VI at page 106 of the Original Application, which also invites contempt on the part of the concerned respondents before this Hon'ble Tribunal.

Further the withdrawn alleged undertaking filed before the learned trial court by this deponent also corroborates the undue pressure/influence exerted by the concerned Authorities on this deponent, which needs no further documentary evidence as pleaded by the ~~xxx~~ unauthorised learned Desk Officer (Vigilance Petition) who is equally incompetent in the facts and circumstances of the case to pass the impugned order at the behest of the concerned Authorities in the form of review rejection order dtd. 23.3.06 (Annexure - V) at page 102 ~~as this~~ of this Original Application, more so when undue pressure/influence has been given by the concerned respondents to this deponent to admit the alleged offence, which is bias and unfair on the part of the concerned respondents.

Again ...

Again further when the charges are the same and arising out of the same incident and of the same period, that ~~two~~ with inconsistent amount alleged to have been misappropriated in 2(two) separate proceedings i.e. one criminal and the other departmental proceeding cannot in law be proceeded with simulatneously ~~with~~ as it is well established in law that one proceeding is to be stayed making way for the criminal proceeding to proceed without any hindrance, to establish the charges in law.

SUB-article (3) of Article 20 of the Constitution of India prohibiting "a man to be a witness against himself" & it has overriding effect being the Supreme law of the land and the concerned Authorities has deliberately ignored that mandatory provision of law in the instant case and as such the impugned dismissal, appellate and review orders based on the said illegal <sup>alleged</sup> admission is unconstitutional and hence liable to be set aside and quashed on this count alone.

16. That as to the statements made in paragraph 14 of the written statement, this deponent denies the same and reiterates and reaffirms its earlier statements made in paragraph 4(N) of the Original Application. Further this deponent states that order dtd. 30.8.04 is nothing but a charge sheet of the departmental proceeding and it cannot be the Departmental Proceeding Initiation order. In the instant case no such order has been issued/passed by the concerned respondents. No Inquiry Officer and ~~any~~ Presentation Officer have been appointed. The concerned respondents had pre-conceived mind( apparant on the face of records) and hence they ~~were~~ trying to make the charge-sheet dated 30.8.04 as the Departmental Proceeding initiation order which is not...

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which is not correct as per provisions of the C.C.S. (C.C.A.) Rules, 1965. The action of the respondents suffer from the vice of bias against this deponent as even if for arguments sake it is taken to be true that this deponent had admitted the allegation (not admitting actually) still it is apparant from the face of records that the so called admission was made on 10.9.04 <sup>but</sup> on 29-3-04 and 30-3-04 this deponent ~~declined to make~~ <sup>declined to make</sup> ~~confessional statement in trial court but~~ <sup>did not follow the provisions of C.C.S. (C.C.A.) Rules, 1965</sup> did not follow the provisions of C.C.S. (C.C.A.) Rules, 1965 by initiating a Departmental Proceeding against the deponent, by appointing the Enquiry Officer, and the Presentation Officer for the instant Departmental Proceeding. As such this alone shows that the concerned respondent had a prefixed and biased mind to punish this deponent (by making him a scape-goat) without any basis and/or proof and that without holding any enquiry they had illegally been successful in dismissing this deponent from service.

Further it appears that the concerned respondents have admitted that there was ~~an~~ a vigilance enquiry made prior to 18.3.04 but a copy of that enquiry report had not been served on this deponent for which the right of defence of this deponent had greatly been prejudiced, (more so when it was not at all a vigilance enquiry as per notification dated 2.4.04, 29.4.04, 18.8.04 and 7.6.04 at pages 17 to 20 including govt. of India's rejection order) which were annexed as Annexure-I, II, III and IV of the written statement but later on taken away unauthorised from the case records at the behest of the concerned respondents) as stated in paragraph 5 of this affidavit-in-reply, apparant on the face of records, to get advantage out of it. The

furnishing ...

The furnishing of copies of Vigilance Commission's appointment and subsequent taking away of the same unauthorisedly at the behest of the concerned respondents from the Hon'ble Tribunal's case records itself speaks about misleading this Hon'ble Tribunal by the concerned respondents and not by this humble deponent as alleged.

This deponent also states that since Govt. of India rejected the State Govt. proposal for creation of the post of D.G.P.(V. & A.C.) vide documents taken away at the behest of the respondents after filing of the same alongwith the written statement, the question of Vigilance Enquiry made prior to suspension ~~by this~~ of this deponent on 22.3.04 is redundant and as such the Enquiry Report so made on 18.3.04 (as admitted by the respondents) ought to have been furnished to this deponent for preparing his defence. Non-furnishing of the said Enquiry Report greatly prejudiced the defence of this deponent, in view of no other enquiry held in this case, thus violating the principles of Natural Justice, which is arbitrary, illegal and unknown to the well established principles of rule of law and the same having also violated the principles of being heard of this deponent.

17. That as to the statements made in paragraph 15 of the written statement this deponent denies the same and reiterates and reaffirms its earlier statements made in paragraph 4(O) of this original application. This deponent also states that he has already pointed out earlier that there were 3(three) documents to prove the factum of undue influence exerted on this deponent vide paragraph 15 of

this affidavit-in-reply...

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this affidavit-in-reply more so when this deponent had declared before the learned trial court that this deponent declines to make a confessional statement on 30.3.04 and 30.3.04 but about 6(six) months after the ~~the~~ aforesaid declining, the concerned respondents had been successful to obtain a confessional statement from this deponent, which amply speaks of undue influence and police threat as the criminal case was pending simultaneously at that time and also till date, which is on, and the deposition of informant dtd. 29.9.06 (Annexure-VII) of this affidavit-in-reply corroborates the same.

18. That as to the statements made in paragraph 16 and 17 of the written statements this deponent categorically denies the same and reiterates and reaffirms its earlier statements made in paragraph 4(V), 4(X), 4(Y) and 4(Z-2) respectively of this original application. Besides that this deponent has already explained the matter in the earlier paragraphs of this affidavit-in-reply and as such the same needs no further explanation to these paragraphs of the written statement.

19. That as to the statements made in paragraph 19 of the written statement, this deponent denies the same and reiterates and reaffirms its earlier statements made in paragraph 4(Z-3) of this original application. This deponent states further that on careful examination of the appellate order dated 25.7.05 (internal Annexure - 9 at pages 67-68) and Review order dated 23.3.06 (Annexure -V at page -102) of this original application reveals that there is no whisper about the consideration of the factum that punishment being commensurate with the offence alleged by both the appellate authority and the so called unauthorised and incompetent authority i.e., the Desk Officer (Vigilance Petition)!!!

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Petition) as Reviewing Authority of the Directorate passing the impugned order of review of rejection of review petition without jurisdiction even by violating the directions of this Hon'ble Tribunal (vide order dtd. 9.1.06 (Annexure - III) at page 92, passed in O.A.No.4/06 and also violating the direction contained in the order dtd. 14.10.05 (Annexure-VI) at page 106 of this Original Application [ from the Secretariat of His Excellency the President of India from Rastrapati Bhawan, tantamounting to high handedness and contempt <sup>for violation of order of</sup> of the Hon'ble Tribunal] which is not acceptable to this deponent and this deponent is of definite view that had this order of review been passed by the Union of India being represented by the Secretary to the Govt. of India, in the Ministry of Communication and Information Technology, New Delhi, he would have got justice instead of the learned unauthorised/incompetent Desk Officer (Vigilance Petition), which is a void order not existing in law. Thus both the aforesaid Appellate ~~order~~ and the review ~~order~~ (unauthorised) ~~order~~ Authorities have both ignored their statutory duty to consider if the punishment awarded is proportionate or <sup>(without any proof known to law)</sup> not to the offence alleged and if ~~it~~ it conforms to the provisions of the rule 14 of the C.C.S.-(C.C.A) Rules, 1965.

20. That as to the statements made in paragraph 4(P), 4(R), 4(S), 4(U) and 4(Z-1) of the original application the concerned respondents are silent and have made no comments which implies in law that the contentions raised therein by this deponent have been admitted by the concerned respondents as true and correct. In other words, ~~the~~ in paragraph 4(P),....

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in Paragraph 4(P) this deponent's contention was as regards commensurate punishment, sufficiency of evidence and infringement of constitutional provisions; in paragraph 4(R) this deponent's contention was as regards undue influence and ~~xxx~~ police threat in giving undertaking before learned trial court on 19.5.05; in paragraph 4(S) this deponent's contention was (of pleading not guilty) on 5.9.05 and seeking to be tried as per law ; in paragraph 4(U) the contention of this deponent was regarding withdrawal of undertaking not made voluntarily and seeking early trial, and in paragraph 4(Z-1) this deponent's contention was that his first defence on 29.3.04 and 30.3.04 before the learned trial court of denial of making confessional statement is his best defence and of the criminal and departmental proceedings etc. respectively, which are now all admitted by the respondents in absence of their 'no comments ' against these paragraphs, in the facts and circumstances of the instant case.

21. That as to the contents of paragraph 20, 21, 22, and 23 of the written statement, this deponent states that the replies of the concerned respondents are misconstrued and misinterpreted. This is because the grounds in paragraphs 5(I), 5(II), 5(III) and 5(IV) of the Original application are nothing but submissions before this Hon'ble Tribunal and hence they need no reply and they are for consideration of this Hon'ble Tribunal as submissions of this deponent. Moreover even the grounds at paragraph 5(V) has not been replied by the concerned respondents, which may be read as admission on their part if those are statements of ...



statements of the concerned respondents as regards alleged admission under duress and undue influence exerted by the concerned respondents on this deponent. This deponent however, reiterates and reaffirms its submissions made before this Hon'ble Tribunal in paragraphs 5(I), 5(II), 5(III) and 5(IV) respectively of the original application.

22. That as to the contents of paragraph 24 and 25 of the written statement, this deponent states and submits that the replies of the concerned respondents are misconstrued and mis-interpreted, as the grounds at paragraph 5(VI and 5(VII) of the Original Application being submissions before this Hon'ble Tribunal for consideration and needs no reply. However, this deponent states and submits that as stated in this paragraphs there is no paragraph numbered as paragraph 4(J) and 4(L) of the written statement as stated including specific reply/submissions by the concerned respondents. This deponent however reiterates and reaffirms its earlier submissions made as grounds in paragraphs 5(VI And 5(VII) of the Original Application.

23. That as to the contents of paragraphs 26, 27, 28, 29 and 30 of the Written Statement, this deponent states and submits that the concerned respondents have misinterpreted and misconstrued the submissions/grounds in paragraph 5(VIII), 5(IX), 5(X), 5(XI) and 5(XII) Of the original application and hence they needs no reply. However, this deponent reiterates and reaffirms its earlier submissions as grounds made in paragraphs 5(VIII), 5(IX), 5(X), 5(XI) and 5(XII) of the Original Application.

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24. That as to the contents of paragraph 31 of the written statement, this deponent states and submits that the concerned respondents have misinterpreted and misconstrued the grounds in paragraph 5(XIV) of the Original Application, which is nothing but humble submission before this Hon'ble Tribunal and therefore needs no reply. However, this deponent reiterates and reaffirms its earlier submissions made as grounds no. 5(XIV) of the Original Application.

Further, this deponent humbly submits that admissions if any on the part of this deponent must be supported by law. Simply consideration of the same will not be sufficient to establish the guilt ~~xxx~~ but it must be supported by law. But since it was not voluntarily made under undue influence and duress, the same is violative of the provisions of Article 20(3) of the Constitution of India which is the supreme law of the land and therefore the same is not sustainable in law, and in consequence thereof this Hon'ble Tribunal had earlier on many occasions had directed the learned Counsel of the concerned respondents more particularly on 10.1.07 to produce the records relating to the Enquiry conducted if any by the concerned respondents to show if cross-examination of the witnesses had been allowed to the instant deponent or not *from the records*.

25. That as to the contents of paragraph 32, 33, 34, and 35 of the written statement this deponent states and submits that the concerned respondents had actually  
misconstrued ...

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misconstrued and misinterpreted the grounds in paragraph 5(XV), 5(XVI), 5(XVII) and 5(XVIII) of the Original Application which is nothing but humble submissions before this Hon'ble Tribunal ~~and~~ for consideration and needs ~~not~~ no reply. However, this deponent reiterates and reaffirms its earlier submissions made as grounds no. 5(XV) to 5(XVIII) of the Original Application. Further this deponent states and submits that as stated in paragraph 35 of the written statement to the effect that 'the same has been replied against paragraph 4(v) of this reply above', this deponent begs to point out that there is no paragraph numbered as paragraph no. 4(v) of the affidavit-in-opposition and/or written statement filed by the concerned respondents and as such the contention of this deponent so replied by the concerned respondents in this paragraph is deemed to have been admitted by the concerned respondents.

26. That as to the statements made in paragraph 36 of the written statement, this deponent categorically denies that the case against the applicant/deponent has been proved and that he has failed to establish himself as innocent after having given reasonable opportunity to him to defend his case and that he is not entitled to any relief as sought for in absence of an enquiry as per law.

The true fact is that no enquiry under rule 14 of the C.C.S.(C.C.A.) Rules, 1965 had been conducted against him. More so when there is a clear bar under section 25 of the Public Servants(Inquiries) Act, 1850 to the effect that - '25. Saving of power of removal without enquiry under Act - Nothing in this Act shall be construed to affect the authority of Government, for suspending or removing any public servant for ~~any~~ any cause without an enquiry under this Act.' and that this order of review had been passed not by Govt. but by an incompetent and unauthorised Authority. Moreover, the contradictory

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contradictory statements of the concerned respondents -vis- a - vis in the factum of holding Enquiry and not holding Enquiry of the Disciplinary Authority, the Appellate Authority and the so called self-posed Reviewing Authority's rejecting order will amply show that actually no Enquiry has been held, no opportunity of cross-examination of the witnesses have been given to this deponent violating the Principles of Natural Justice. More so when there is mandatory provisions and/or specific bar under the sub-rule (1) of rule 14 of the C.C.S. (C.C.A.) Rules, 1965 to the effect that no punishment can be imposed under clause (1) to (ix) of rule 11 without holding an Enquiry and the instant punishment i.e., dismissal from service has been provided under clause (ix) of rule 11 of the aforesaid C.C.S. (C.C.A.) Rules, 1965 and the concerned Authority have clearly violated the same apparent on the face of records.

Besides these the valuable rights of this deponent under rule 14(1), 14(b)(c), 14(8)(a) (together with the Govt. decision in Central Vigilance Commission's letter No. 49, dtd. 12.7.79), 14(11)(i)(ii), 14(14) (With Govt. 's decision in GISC Deptt. of Personnel & A.R. O.M. No. 134/775-A, V.D.I., dtd. 1.6.76), 14(18), 14(23)(1) and proviso to 14(23)(1) of the C.C.S. (C.C.A.) Rules, 1965 have been denied to this deponent i.e. such as appointment of Enquiry Officer and the Presentation Officer, affording assistance of a Govt. Servant to select defence witness, inspection of documents, submissions of defence witnesses, cross -examination...

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cross-examination of prosecution witnesses, reading out of depositions of witnesses to him, <sup>in</sup>examination of deponent to state his defence, submission of Enquiry Report and recording of finding without affording opportunity to defend etc. more so when the provisions of ~~Article~~ Article 20(3) of the Constitution of India bars making an accused a witness against himself and finally his first defence of denial on 29.03.04 and 30.3.04 in the trial Court vis-a-vis the alleged admission tantamounts to 'no admission' having been obtained under duress and undue influence and thus the impugned orders are all not sustainable in law and cannot be admission in the eye of law <sup>as such the same</sup> and cannot withstand the judicial scrutiny.

27. That as to the statements made in paragraph 37 ~~xx~~ and 38 of the written statement, this deponent categorically denies the same and reiterates and reaffirms its earlier statements ~~stated~~ made in the prayer for relief portion of the Original Application at paragraph 8 and 9 and for interim relief are matters of consideration by this Hon'ble Tribunal and the same needs no further reply. And as such, this deponent states that the statement so made by the concerned respondents in paragraph 37 and 38 (alongwith their prayer) are false, misleading being far away from truth. The concerned respondents cannot enhance the misappropriated amount (so alleged) which is beyond the scope of the charge-sheet and hence their stand is not bonafide but misleading and they have not come with clean hands in law ~~and equity~~ hence this deponent is well entitled to the reliefs sought for before this Hon'ble Tribunal, for the ends of justice.

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28.. That this deponent most respectfully states and submits that the concerned respondents have stated in their Verification dated 22.6.06 (at page 16) of the written statement that the contents of paragraph 4 to 37 are true to their knowledge, but they have stated nothing about their statements made at paragraph 1 to 3, in other words, there is no Verification of the statements made in these paragraphs, which manifestly show that their statements in those paragraphs are open to doubt and hence those are not reliable, acceptable to this Hon'ble Tribunal.

29. That this deponent states that the concerned respondents have supplied the comprehensive copy of the written statement before this Hon'ble Tribunal to the learned Counsel of this deponent on 9.1.07 and it appears again that the papers at pages 15 and 16 are missing because there is no paragraph 36, ~~and~~ 37 and 38 in that comprehensive written statement <sup>along with</sup> and the prayer portion with the verification, which <sup>and carelessness</sup> speaks amply of the malafide of the concerned respondents, <sup>↑</sup> unworth to be believed.

29. That the statements made in this affidavit-in-reply and in paragraphs 3, 7, 8 to 20, 26 and 28, are true to the best of my knowledge, those made in paragraphs 1, 2, 4 and 5 are true to my informations derieved from records, which I believe to be true and correct and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this Affidavit-in-Reply on this the 8th day of ~~February~~ February, 2007 at Guwahati - 1.

Identified by me.  
*[Signature]* 08/02/07  
(RANJIT DAS)  
Advocate for the  
Applicant/deponent.

*Bipul Rangan Das*  
DEPONENT 8/2/07

Solemnly affirmed and declared before me by the abovenamed Deponent who is identified by Sri R. Das, Advocate on this the 8th day of February, 2007 at Guwahati - 1.

*[Signature]*  
EXECUTIVE MAGISTRATE  
KAMRUH SUB-DIVISION  
GUWAHATI-1.





Annexure-VII.

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Date of Application for the copy	Date fixed for notifying the requisite number of stamps and folios	Date of delivery of the requisite stamps and folios	Date on which the copy was ready for delivery.	Date of making over the copy to the complainant.
29/11/06.			11 <sup>th</sup> 12 - '06.	19 <sup>th</sup> 12 - 06.

The Deposition of Smti. F.Khongbri, P.W. I, daughter of

(L) J.Lyngden of Mawlai Phudmawri, Mawlai P.S., East Khasi Hills District,

A N O A T H

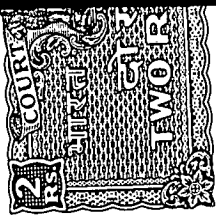
That on 25.3.04, I have filed F.I.R. against

accd Bipul Das, who is working as Sub Post Master and misused the amount of Rs.1,20,684 w.e.f. from 23.2.2000 to 8.2.2004 shown as Ex.I is my signature.

X X XZ

I have filed the F.I.R. on 25.3.04, I got the information about the misappropriation of 1,20,684 from Asstt.Director, CPMG office, I filed the F.I.R. on the instruction of the Supervisor Officer and filed this F.I.R. after getting the detail records, I don't know about any department proceeding against the accd.person according to me the findings of Dept. Enquiry is not correct as because on Deptt. Enquiry the amount of misappropriation mention as Rs.77,766/-

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I have no knowledge whether he is deposited or not, one

Vigilance Team visited Cherra Bazar P.O. before filing

F.I.R. and I was also a party in the Vigilance Team. It

the V.T. advice

this person to pay

something in order to avoid future litigation, I cannot

remember whether I have given any statement before the

police in connection with the F.I.R. No documents was seized

from his possession, I have personally submitted the F.I.R. to

the O/C, Sohra P.S., I do not know any about the recovery

of the money. So far I remember the accd. person has confessed

his involvement before the V.T. So, the accd. person now

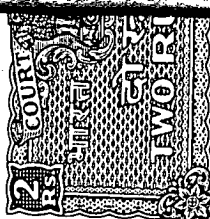
contd...3/-

End of Report to Be sent to Court

*Jm*

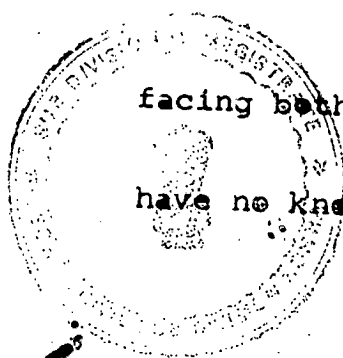


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- 3 -



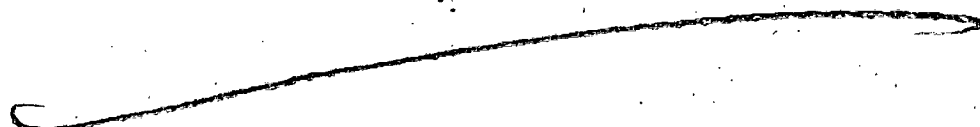
facing both the Deptt. proceeding and the present case, I  
have no knowledge except the content of the F.I.R.

Sd/- F. Khongbri.

Dt: 26.9.06.

Sd/-

R.O. & A.C.



1983(3) SC  
Para 15 470

199/C2 SC 213

858/14 900

Modified to R.O. term (000)

*[Signature]*