

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

16

(DESTRUCTION OF RECORD RULES, 1990)
- (D C P 1/2010 order page-1 to 2 CP closed 24.12.10)

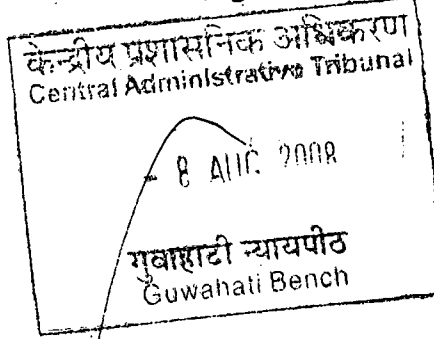
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(4) MP 31/08 petition copy not found. 20.6.08 E.P./M.A No. 31/08

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SECTION OFFICER (Judl.)

Kahli
23/10/17



Answer = R-2

2 Company
F Comp Sig Regt
PIN-918102
C/O 99 APO

27 May 2008

1632/2C/01/Sigs/

Mr. MU Ahmed
Sr. Central Govt Counsel,
Central Administrative Tribunal Court
Guwahati

265/07/988 FILED BY SMT FARIDA BEGUM, OA NO 260/07/982 FILED BY SMT SAVITA PAUL (DAS), CSBO OF STATION CELL HQ 51 SUB/AREA, AND OA NO 305/07/1989 FILED BY JOGESHWAR NATH, OF WEST COMD COMP/SIG REGT AND OA 306/2007 FILED BY SAROJ KUMAR MAHANTA OF 41 VEH COY

Sir,

1. Please Reference to CAT Guwahati judgment dated 31 Mar 2008 (Copy att) passed in the following original application :-

- ✓(a) OA 260/2007 filed by Smt Savita Paul
- ✓(b) OA 265/2007 filed by Smt Farida Begum
- ✓(c) OA 305/2007 filed by Shri Jogeshwar Nath
- ✓(d) OA 306/2007 filed by Shri Saroj Kumar Mahanta

2. It is intimated that as per Indarmy Sig (4 C) Signal No B/44572/TBP/Sigs 4 c/228 dt 19 May 2008 (Copy att) the above cases are under examination with Ministry of Defence for implementation of CAT order and requesting for take some more time.

3. You are therefore, requested to apprise the hon'ble CAT and file an application for seeking three months time to comply the said order.

Yours faithfully



27/5/08

FROM No. 4.
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 134/06

Disc Petition No. _____

Contempt Petition No. _____

Revision Application No. _____

As) Prabhat Ch. Das.

Rs L.O.P. 7000

For the Applicant(s) M. Chanda, S. Nath, G.N. Chakrabarty

For the Respondent(s) Case... M. M. Ahmed

At the Registry	Date	Order of the Tribunal
-----------------	------	-----------------------

Full application is in form.

As per C.F. Rs. 50.

Received vide P.O.

No. 24374272

Dated 13.6.06

[Signature]
Dy. Registrar

14.6.2006 Present) The Hon'ble Mr. K.V. Sachidananda
Vice-Chairman.

Mr. M. Chanda, learned counsel for the
applicant ~~and~~ is present. Mr. M. U. Ahmed,
learned Addl. C.G.S.C. represents the
respondents.

Post on 19.6.2006.

[Signature]
Vice-Chairman

bb

19.06.2006 Post on 20.06.2006 along with other
matter.

[Signature]
Vice-Chairman

mb

Steps not taken

Rs. 15/- Submitted
for 2 extra respondents.

[Signature]

10
O.A. 134/2006

20.06.2006 Present: Hon'ble Sri K.V. Sathidhanandan
Vice Chairman.

Heard Mr M. Chanda, learned
counsel for the Applicant and Mr M.U.
Ahmed, learned Addl. C.G.S.C. for the
Respondents.

This application is against the
dismissal of the Applicant from service
and the Applicant has challenged the
procedural irregularities and lack of
opportunities of being heard in the inquiry
proceeding.

After hearing, learned counsel for
the parties, I am of the view that this O.A.
has to be admitted. Admit. Issue notice to
the Respondents.

Six weeks time is given to the
Respondents to file reply statement. P
on 03.08.2006.

Vice Chairman

/mb/

order and notice sent
to D/Section for issuing
to resp. nos. 1 to 8 days
regd. A/D post.

03.08.2006 Present; Hon'ble Sri K.V. Sathidhanandan
Vice-Chairman.

Hon'ble Sri Gautam
Administrative Member

Steps will be taken to issue
notices to Respondent Nos. 6 to 8
Applicant. Service reports for all
Respondents are awaited.

Post on 05.09.2006. Pra
issuing notices through Respondent
is rejected.

Member

Vice-Chairman

mb

1-8-06

- ① Service report awaited.
- ② No. WLS has been filed.

mb

Pt. comply order
dt. 3-8-06

O.A. 134/2006

Notice duly served R-4.

4/8/06

05.09.2006

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

Notice & order dt.
20/6/06 issuing to
resp. nos. 1 to 8, vide
our office note dt. 29/6/06
and order dt. 3/8/06.
Sent to D/section for
issuing to resp. no-4 by
post.

D/NO-818
7/8/06. Dt- 8/8/06.

No Wls has been filed.

4.9.06.

14-11-06

- ① Service report awaited.
- ② No Wls has been filed.

22

No Wls has been
filed.

20.12.06.

No. Wls has been
filed.

7.2.07.

9.3.07
no Wls filed.

No Wls has been
filed.

14.5.07

Learned Counsel for the
Respondents wanted time to file reply
statement. Let it be done.

Post on 20.10.2006.

Vice-Chairman

/mb/
15.11.06.

The counsel for the Respon-
dents wanted to further four weeks
time to file written statement.
Let it be done. Post the matter
on 21.12.06.

Vice-Chairman

lm
21.12.06

Counsel for the respondents
seek time to file written statement
Post on 31.1.07 for order

Vice-Chairman

pg

8.2.06.

Counsel for the respondents want
file written statement. Let it be done
the matter on 12.3.07.

Vice-

lm
12.3.07.

Counsel for t
wanted to file writte
Let it be done. Post
on 13.4.07.

Member

lm

0-17-13

4
No Wls has been
filed.

23
13.6.07.

15.5.07

pg

Four weeks time granted to file
written statement.

Post on 14.6.07 for order.


Vice Chairman

C
n
en

Notes of the Registry	Date	Order of the Tribunal
W/S not filed. <u>22/0</u> 16.7.07. 23.7.07 W/S filed by the respondents. page 1 to 76 copy served. <u>Dis</u> Rejoinder not filed. <u>22/0</u> 1.8.07. Rejoinder not filed. <u>22/0</u> 24.8.07.	~~Contd~~ 14.06.2007 /bb/ 17.7.2007 pg 2.8.07 pg	Mr.M.U.Ahmed, learned Addl.C.G.S.C. requested for further time to file reply statement. Four weeks' further time is granted as a last chance. Post on 17.07.2007. Vice-Chairman Counsel for the respondents wanted to file written statement by tomorrow. Counsel for the respondents will also furnish a copy to the counsel for the applicant. Post on 2.8.07 for order. The applicant is at liberty to file rejoinder in the meantime. Vice-Chairman Three weeks further time granted for filing rejoinder to the applicant. Post on 27.8.07 for order. Vice-Chairman

6- G.A. 134/2006
27.8.07. Counsel for the applicant
wanted time to file rejoinder. Let it be
done. Post the matter on 11.9.07.

Rejoinder not filed.

Vice-Chairman

lm

24
10.9.07

11.9.07

Counsel for the applicant has submitted that he has filed
the Rejoinder. Counsel for the respondents has submitted that
he wanted to take instructions. Let it be done. Post the matter
on 27.9.07. In the meantime, the liberty is given to the
counsel for the respondents to take instructions. Respondents
are directed to keep in readiness the records in the next date
of hearing.

Vice-Chairman

lm

12.9.07

Rejoinder submitted

by the applicant, 10.10.2007

Copy Secured.

This case is otherwise ready for
hearing. Call this matter for hearing on
21.11.07. Learned counsel for the
Respondents should cause production of the
Departmental Proceedings files on the date of
hearing. ^{Respondents should act} through their learned Addl. Standing
Counsel appearing for the Central
Government.

The case is ready
for hearing.

24
1.10.07.

Send copies of this order to the
Respondents and free copies of this order
be handed over to the counsel appearing
for both the parties.

(Khushiram)
Member(A)

(Monoranjan Mahanty)
Vice-Chairman

lm

Dt. 3.10.07.

Pl. send copies

order dt. 3/10/07 sent to
D/section for issuing resp.
nos. 1 to 8 by post.

6/11/07. D/No-1173 to 1180
dt. 7/11/07.

21.11.2007

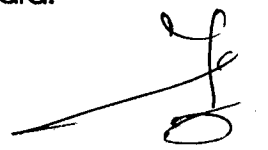
Mr.M.Chanda, learned counsel appearing for the Applicant and Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India/appearing for the Respondents are present.

Mr.M.U.Ahmed seeks more time to cause production of the disciplinary proceeding file and the appeal proceeding file and in the said premises this matter is adjourned to be taken for hearing on 10.01.2008. Mr.M.U.Ahmed undertakes to produce the disciplinary proceeding files and appeal proceeding files and all connected files by that date.

Send copies of this order to all the Respondents in the address given in the Original Application.

A copy of this order be handed over to Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India.


(Khushiram)
Member (A)


(M.R.Mohanty)
Vice-Chairman

Dt. 22.11.07

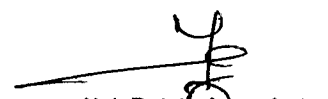
/bb/

10.01.2008

For the reason of ailment of Mr.M.Chanda, learned counsel appearing for the Applicant, a prayer has been made seeking adjournment. Mr. M.U.Ahmed, learned Addl. Standing counsel for the Union of India has no objection for granting adjournment.

Call this matter on 07.02.2008 for hearing.


(Khushiram)
Member (A)


(M.R.Mohanty)
Vice-Chairman

1. Pl. send order copies to the respondents
2. Mr. M.U.Ahmed, Addl. Standing counsel be handed over a copy of the order

hi

order dt. 21/11/07 sent to D/Section for issuing to all the respondents and another copy issuing to Mr. M.U.Ahmed, Addl. C. Cr. S. C, CAT, Gt. 147/156/

28/11/07. D/No - 1570 to 1578
Dt - 29/11/07.

O. A. 134/08

07.02.2008

Mr. M. Chanda, learned counsel

appearing for the Applicant and Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Respondents are present. Mr. M. Chanda, learned counsel appearing for the Applicant seeks an adjournment in this case to be taken up on 18th March, 2008.

Mr. M. Chanda, learned counsel appearing for the Applicant states that he is going to file Misc. Petition to call for records (which is ~~kept~~ ^{is kept} in ~~safe~~ ^{safe} custody of the Respondents) and he has also stated that he has already served the copy of the Misc. Petition on Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Respondents, ^{who} ~~and~~ should keep the records (mentioned in the said petition) ready with him ^{by} ~~for~~ the next date ^{and} if those records shall be required at the time of hearing, ^{then} ~~those shall be perused~~.

Call this matter on 18th March, 2008. Supply a Copy of this order to Mr. Ahmed

(Khushiram)
Member (A)

(M. R. Mohanty)
Vice-Chairman

lm

lm

18.03.2008

Call this matter on 3rd April, 2008.

(Khushiram)
Member (A)

(M. R. Mohanty)
Vice-Chairman

lm

(Mr. M. U. Ahmed,
Addl. C. C. S. C.)

The case is ready
for hearing.

30
6.2.08.

dt. 7.2.08.

Pl. supply order
to this order to the
Ld. C.C.S.C. Mr. M. Ahmed.

18/3/08

The case is ready
for hearing.

30
17.3.08.

03.04.2008

On the prayer of Mr.M.Chanda, learned counsel appearing for the Applicant, this case stands adjourned and to be taken up on 27.05.2008; the Respondents should cause production of departmental proceedings file relating to this case.

Call this matter on 27.05.2008 for hearing.

The case is ready for hearing.

26.5.08

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

27.05.2008

On the prayer of learned counsel appearing for both parties, call this matter for hearing on 11.06.2008.

The case is ready for hearing.

10.6.08

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

11.06.08

Mr M.Chanda, learned counsel for the Applicant is present. Mr M.U.Ahmed, learned Addl. Standing counsel for the Respondents seeks and adjournment.

Call this matter on 02.07.2008 for hearing.

The case is ready for hearing.

01.07.08

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

pg

10-
O.A.No-134/2006

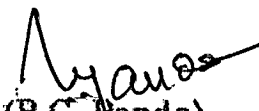
02.07.2008

Mr. M. Chanda, learned Counsel appearing for the Applicant, is present. Mr. M.U. Ahmed, learned Addl. Standing Counsel for the Union of India, requires more time to obtain the papers sought to be produced at the instance of the learned Counsel for the Applicant.

The case is ready
for hearing.

Call this matter on 12.08.2008 for hearing.

11.08.08


(R.C. Panda)
Member (A)

nkmm


(M.R. Mohanty)
Vice-Chairman

12.08.2008

Mrs. U. Dutta learned counsel appearing for the Applicant and Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Respondents, are present. In consent of parties, call this matter on 22.9.2008, when Mr. M. U. Ahmed, learned Addl. Standing Counsel shall cause production of Original departmental proceedings files.

Dt. 12.8.08

Pl. send copies of this order to the respondents who should cause production of departmental proceedings on the date of hearing.

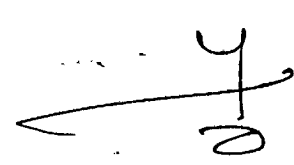
15/8/08

Copies of order dt. 12/8/08 sent to D/Section for issuing to respondents by post.

19/8/08 D/No-3615-22

Dt. 22/8/08.

Send copies of this order to the Respondents; who should cause production of departmental proceedings and records on the date of hearing


(M.R. Mohanty)

Vice-Chairman

The case is ready
for hearing.

19.9.08.

11- O.A. 134/08

22.09.2008 Mr. M. Chanda, learned Counsel appearing for the Applicant is present. Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Union of India is absent for the reason of bereavement of his family.

The case is ready for hearing.

Call this matter on 12.11.2008 for hearing.

lm
11.11.08

(S.N. Shukla)
Member(A)

(M.R. Mohanty)
Vice-Chairman

12.11.2008 Mr. M. Chanda, learned counsel appearing for the Applicant is present. Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Respondents seeks an adjournment.

The case is ready for hearing.

Call this matter on 15.12.2008 for hearing.

lm
12.12.08

(S.N. Shukla)
Member(A)

(M.R. Mohanty)
Vice-Chairman

15.12.2008 Mr. M. Chanda, learned counsel appearing

The case is ready for hearing.

for the Applicant is not present. Mr. M. U. Ahmed, learned Addl. Standing counsel appearing for the Respondents is present.

lm
6.1.09.

On the request of learned Addl. Standing Counsel, call this matter on 06.01.2009.

(S.N. Shukla)
Member (A)

/lm/

12

O.A.134/06

06.01.2009

Mrs U. Dutta, learned counsel for the Applicant and Mr M.U.Ahmed, learned Addl. Standing counsel for the Respondents are present.

The case is ready for hearing

Call this matter on 13.02.2009 for hearing.

12.2.09

(M.R.Mohanty)
Vice-Chairman

pg

13.02.2009

Call this matter on 27.03.2009 for hearing.

The case is ready for hearing

26.3.09

(M.R.Mohanty)
Vice-Chairman

pg

27.03.2009

For the reasons recorded separately this

O.A. stands disposed of.

Received
CEEP Appellant

(Khushiram)
Member (A)

(A.K.Gaur)
Member (J)

27/03/09

/bb/

13/4/09
P. S. /
P. S. /

28.4.09

Copy of the order sent to the D/Sec. for issue the fine to the Applicant as well as to the Respondents.
H.S.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A No. 134 of 2006

DATE OF DECISION: 27.03.2009

Sri Prabhat Chandra Das

.....Applicant/s.

Mr.M.Chanda

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Mr. M.U.Ahmed, Addl. C.G.S.C.

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR.A.K.GAUR, JUDICIAL MEMBER

THE HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

4. Whether Reporters of local newspapers may be allowed to see the Judgment? Yes/No
5. Whether to be referred to the Reporter or not? Yes/No
6. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Judgment delivered by

Judicial Member

18

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.134 of 2006.

Date of Order : This, the 27th day of March, 2009.

THE HON'BLE MR. A.K.GAUR, JUDICIAL MEMBER
THE HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Prabhat Chandra Das
S/o Late Gopal Chandra Das
Qtr. No.DM 30/4
Deodgenline
Shillong Cantt.
Shillong

...Applicant.

By Advocates: Mr.M.Chanda. Mr.S.Nath & Mr.G.N.Chakraborty

- Versus -

1. The Union of India represented by the
Secretary to the Govt. of India
Ministry of Defence, South Block
New Delhi - 110 001.
 2. The Director General (Civ)
Master General of Ordnance Branch
Army Headquarters, DHQ Post
New Delhi - 110 011.
 3. Major General
Electrical Mechanical Engineering (MGEME)
HQ Eastern Command (EME Branch)
Fort William
Kolkata-21.
 4. Station Commander
Station Headquarters, EME
Shillong.
 5. Officer Commanding
306 Station Workshop
EME, C/o 99 APO..
 6. Asstt. Executive Engineer (AEE)
306 Station Workshop EME
- h✓

C/o 99 APO.

7. Lt. Col JS Bains
Officer Commanding
306 Station Workshop EME
C/o 99 APO.
8. Shri R.C.Nath
Subedar
JC-750768X
306 Station Workshop EME
C/o 99 APO.

... Respondents.

By Mr. M.U.Ahmed, Addl. C.G.S.C.

ORDER (ORAL)

A.K.GAUR, MEMBER (J) :

We have heard M.Chanda, learned counsel for the Applicant and Mr. M.U.Ahmed, learned Addl. Standing counsel for the Government of India.

2. It has been argued by the learned counsel for the Applicant that the order passed by the appellate authority is not a reasoned and speaking one and the appellate authority has passed the said order dated 08.05.2006 in a most casual and perfunctory manner without application of mind without considering all the grounds taken in the appeal dated 06.12.2005. To support his contention, learned counsel for the Applicant has placed reliance on the following Supreme Court decisions in order to buttress the contention that it is the bounden duty of the appellate authority to consider each and every ground raised in the memorandum of appeal:-

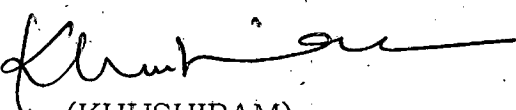
- (i) 2006 SCC L&S 840 (Narinder Mohan Arya. vs. United India Insurance Co. Ltd & Others);
- (ii) AIR 1986 SC 1173 (Ram Chander vs. Union of India & Others)
- (iii) (2005) 7 SCC 597 (National Fertilizers Ltd. and Another vs. P.K.Khanna; and lastly

h

(iv) 2006 (11) SCC 147 (Director of Indian Oil Corporation vs. Santosh Kumar)

3. We have given our anxious thought to the arguments advanced by the counsel for the parties. In view of the aforesaid decisions, we are fully satisfied that the appellate authority had not at all considered the grounds taken in the appeal dated 06.12.2005, the appellate order has been passed in a most casual and perfunctory manner without application of mind. Accordingly, we quash and set aside the appellate order dated 08.05.2006 and remit back the matter to the appellate authority to reconsider the appeal of the Applicant by passing a reasoned and speaking order in accordance with the provisions of rules, within a period of three months from the date of receipt of a copy of this order.

4. With the above observations and direction, the O.A. is disposed of as above.


(KHUSHIRAM)
ADMINISTRATIVE MEMBER


(A.K. GAUR)
JUDICIAL MEMBER

/BB/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

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

O. A. No. 134/2006

Shri Prabhat Chandra Das

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

1982- Applicant was initially appointed as Mazdoor in the year 1982, thereafter, he was promoted to the post of Vehicle Mechanic (Male) in the year 1991. He was holding the post of Vice-President of the Station Workshop, Civilian Workers Union Shillong.

01.06.2001- Applicant was placed under suspension w.e.f. 01.06.01. (Annexure-1)

11.07.2001- Applicant was served with a memorandum of charge sheet in order to hold an inquiry under Rule 14 of CCS (CCA) Rules 1965. (Annexure-2)

28.07.2001- Applicant submitted a representation categorically denying the charges labeled against him. (Annexure-3)

20.09.2001- Shri Bidyot Panyang, AEE, vide his letter dated 20.09.01 informed the applicant that he has been appointed as Inquiry Authority to conduct inquiry. (Annexure-4)

21.01.2002- Applicant vide his letter dated 21.01.02 intimated the disciplinary authority that he has nominated one Shri MP Singh, UDA, serving at 222 ABOD, Guwahati as his defence assistant. (Annexure-5)

06.02.2002- Respondents vide letter dated 06.02.02 alleged that applicant has refused to accept letter dated 21.12.01 and 24.01.02. In fact applicant did not refused to accept any such letters. (Annexure-6)

27.09.2001- Applicant prayed for grant of 30 days time for nomination of name of another defence assistant as because his prayer to appoint Shri MP Singh as defence assistant has been rejected by the respondents. (Annexure-7)

- 07.12.2001- Applicant informed the disciplinary authority that he has not received the order of appointment of inquiry officer and presenting officer. (Annexure- 8)
- 09.10.2001- Applicant received the daily order sheet dated 09.10.01 only on 21.11.01. (Annexure- 9)
- 22.10.2001- Applicant received the daily order sheet dated 22.10.01 on 21.11.01 as such applicant could not attend the preliminary hearing on 22.11.01. (Annexure- 10)
- 24.01.2002- Inquiry authority vide letter dated 24.01.02 informed the applicant that next date of hearing is on 06.02.02, the said letter was received by the applicant on 14.02.02 as such he could not appear before the inquiry authority on 06.02.02. (Annexure- 11)
- 07.02.2002- Applicant submitted a representation to the inquiry officer informing that all the letters dated 22.10.01, 23.10.01, 20.10.01 09.10.01 and 20.09.01 was received by the applicant only on 21.11.01, therefore it was not possible on the part of the applicant to appear in the inquiry proceeding. (Annexure-14)
- 18.02.2002- Applicant submitted a representation to the disciplinary authority stating that he has never receipt the alleged letter dated 21.12.01 as such allegation of refusal of the said letter is false. (Annexure- 12)
- 22.02.2002- Applicant received letter dated 22.02.03 only on 04.03.02. In the letter dated 22.02.03 it is informed to the applicant that the inquiry proceeding will be held on every alternative day except Sunday and holidays in the office chamber of the inquiry officer. (Annexure- 13)
- 12.03.2002- As per intimation received vide letter dated 04.03.02 applicant went to attend inquiry proceeding but gate was closed due to Shiv Ratri.
- 14.03.2002- Applicant appeared before the inquiry authority on 14.03.02 and submitted a representation to the inquiry authority to reconsider his prayer to engage Shri MP Singh, UDA as defence assistant but the same was again rejected. Deposition of SW 3 was recorded and the applicant was humiliated, tortured and forced to sign daily order sheet by the respondents. (Annexure-15)
- 18.03.2002- Applicant submitted a representation addressed to the disciplinary authority, stating that his request for engaging defence assistant has been rejected and he has been tortured on 14.03.2002. (Annexure- 16)

- 19.03.02, 21.03.02, 23.03.02- Applicant prayed for supply of copies of appointment in respect of Inquiry officer and presenting officer.
(Annexure- 17 series)
- 26.03.2002- Applicant submitted a representation to the disciplinary authority informing that he was not allowed to enter inside the office campus by the gatekeeper in the proceeding. (Annexure-18)
- 04.04.2002- Lt. Col. JS Bains, disciplinary authority vide his letter dated 04.04.02 rejected prayer of the applicant for engaging Shri MP Singh as defence assistant and forwarded the copies of the appointment order of inquiry officer and presenting officer for the first time.
(Annexure- 19, 20, 21)
- 29.04.2002- Applicant submitted a representation on 29.04.02 against the appointment of Shri Bidyot Panging as Inquiry officer since Shri Panging is personally involved in the affairs, allegation or charges that were labeled against the applicant. (Annexure- 22)
- 09.04.2002- Inquiry officer vide his letter dated 09.04.02 forwarded the copies of the daily order sheet dated 17.01.02, 06.02.02, 12.03.02, 18.03.02, 21.03.02, 30.03.02, 04.04.02 along with deposition made by SW 2, SW 3, SW 4 and SW 5.
(Annexure- 23 Series)
- 02.09.2002- Applicant submitted an appeal to the Director General EME (Civil), Army Headquarter, New Delhi, pointing out the irregularities and infirmities while conducting the inquiry proceeding by the inquiry officer and prayed for change of inquiry officer Shri Bidyot Panging.
(Annexure- 24)
- 24.10.2002- Written brief of the Presenting officer dated 30.08.02 was forwarded to the applicant vide letter dated 24.10.02. (Annexure- 25, 26)
- 07.07.03/21.11.03- Inquiry report dated 07.07.2003 was served upon the applicant vide officer commanding letter dated 21.11.03 i.e. after a lapse of more than 4 months.
(Annexure- 27, 28)
- 29.11.2003- Applicant submitted a representation against the inquiry report dated 07.07.2003, in the said representation applicant pointed out the irregularities in the disciplinary proceeding. (Annexure- 29)
- 15.04.2005- Disciplinary Authority vide letter dated 15.04.05 imposed extreme order of penalty of dismissal from service to the applicant.
(Annexure- 30)
- 06.12.05, 18.02.05- Applicant submitted appeal against the impugned order of penalty of dismissal from service.
(Annexure- 31 Series)

08.05.06- Appellate authority vide impugned order dated 08.05.06 communicated through letter dated 09.05.06, rejected the appeal of the applicant. (Annexure- 32 Series)

Hence this Original Application before this Hon'ble Tribunal.

PRAYERS

Relief (s) sought for:

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned memorandum of charge sheet bearing letter No. 21208/169/EST-IND/LC dated 11.07.2001 (Annexure- 2), impugned order of penalty bearing No. 10401/169/Civ/INQ/2005 dated 15.04.2005 (Annexure- 30) and impugned appellate order dated 08.05.2006 communicated through letter bearing No. 332229/2/EME Civ dated 09.05.2006 (Annexure- 32 Series).
2. That the Hon'ble Tribunal be pleased to direct the respondents to reinstate the applicant in service with effect from the date he has been dismissed with all consequential service benefits including monetary benefits.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.
 2. That the Hon'ble Tribunal be pleased to stay operation of the impugned order of penalty bearing No. 10401/169/Civ/INQ/2005 dated 15.04.2005 (Annexure- 30) and impugned appellate order dated 08.05.2006 communicated through letter bearing No. 332229/2/EME Civ dated 09.05.2006 (Annexure- 32 Series).
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8 JUN 2002

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 134 /2006

Shri Prabhat Chandra Das. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Date: 07.06.06.

Filed By:

Sulbata Natar
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O.A. No. 134 /2006

BETWEEN:

Shri Prabhat Chandra Das

S/o- Late Gopal Chandra Das,
Qtr. No. DM 30/4
Deodgenline,
Shillong Cantt.
Shillong.

.....Applicant

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Defence, South Block,
New Delhi- 110001.
2. Directorate General of EME (Civ),
Master General of Ordnance Branch,
Army Headquarters,
DHQ Post,
New Delhi- 110011.
3. Major General
Electrical Mechanical Engineering (MGEME),
HQ Eastern Command (EME Branch),
Fort William,
Kolkata- 21.
4. Station Commander,
Station Headquarters, EME,
Shillong.
5. Officer Commanding,
306 Station Workshop
EME, C/o 99 APO.
6. Asstt. Executive Engineer (AEE),
306 Station Workshop EME,
C/o 99 APO.

human

Prabhat Ch. DAS

22
1
Filed by me applicant
through
S. Nath
Advocate
07.06.2006

7. Lt. Col JS Bains
Officer Commanding
306 Station Wksp EME,
C/O 99 APO.

8. Shri RC Nath
Subedar,
JC- 750768X
306 Station Wksp EME
C/O 99 APO.

..... Respondents.

The notices in respect of Respondent No. 7 and 8 may be served through Respondent No. 4.

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made against the impugned order of penalty bearing letter No. 10401/169/Civ dated 15.04.2005 (Annexure- 30), issued by the disciplinary authority as well as against the impugned appellate order dated 08.05.2006 (Annexure- 32 Series) and further praying for a direction upon the respondents to reinstate the applicant in service at least from the date of dismissal of service.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

The applicant further declares that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act 1985.

4. Facts of the case:

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- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That your applicant was initially appointed as Mazdor in the year 1982, thereafter he was promoted to the post of Vehicle Mechanic (Mate) in the year 1991. He was again promoted to the post of Vehicle Mechanic (Motor Vehicle) in the year 2000 but subsequently reverted.
- 4.3 That your applicant while working as Vehicle Mechanic (Motor Vehicle), in the 306 Station Workshop FME, C/o 99 APO, he was holding the post of Vice-President of the Station Workshop, Civilian Workers Union, Shillong.
- 4.4 That your applicant begs to say that during tea break in the Civilian Recreation Room in between 1030 hrs to 1045 hrs wherein the applicant (Vice President) and Shri Bihari Singha, the General Secretary were busy with the most important works of the Union, mainly on the issue of long standing medical re-imbursement claims of the members of the Union, which was initiated by Asstt. Labour Commissioner (Central), Guwahati. In the nick of time all of a sudden, the Officer Commanding (Lt. Col. JS Bains) along with Nb Sub RC Nath and the staff car driver Nk. Puran Singh rushed into the said Civilian Recreational Room (at around 1045 hrs) compelling all other Defence Civilians, present therein, instantly to scuttle away from the said room out of fear except the applicant and Shri Bihari Singha, the General Secretary. Having seen both of them in such an un-staggered position there, the Officer Commanding (Lt. Col. JS Bains) seemed to have lost his temper beyond his control, for reasons best known to him only. However, both the applicant and Shri Bihari Singha, while wishing Officer Commanding Lt. Col. Shri JS Bains, politely informed him about the aforesaid burning issues of the Union and at the same time, tried to show him a letter received from the ALC (Central), Guwahati out of the Union file in this regard. But ironically, instead of reciprocating it, the said

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Officer Commanding started behaving like a person not commensurate with his official status and that was evident from his unparliamentary and un-ethical words, like, "Go to Hell your Union", "Abhi tum log ko suspend karta hoan" etc. and in no time he threw away the said Union file and practically he did what he uttered i.e. both the applicant and Shri-Bihari Singha, the General Secretary were instantly placed under suspension on this very day of 1st June 2001. Only God knows, how things could so happen and that too, so quickly, if there was no preponderance.

- 4.5 That your applicant further begs to say that in his bid to fulfill his pre-planned evil designs, the Officer Commanding, Shri JS Bains purposely distorted the reality of the incident that took place in between him and the said Union leaders in the Civilian Recreation Room on 1st June 2001 and half-heartedly brought out a completely different kind of picture in its place. With his determined evil intent to inflict severe penalties upon the applicant and also upon Shri Bihari Singha, the General Secretary, Shri JS Bains deliberately suppressed the real fact and Nb Sub RC Nath, one of the silent spectators present in the Civilian Recreation Room during the said incident, was made to play the key role in the stage managed drama, of the so called inquiry duly supported by Nk. Puran Singh, Nk. D. Palani, Nk. Rajan, Nk SC Singh, Hav. J. Kushwaha, Hav. Lalan Sah, Nb Sub Jai Prakasan, Nb. Sub (now Sub) MDC Ahmed, Nb. Sub UP Mishra etc. (witnesses).

Be it stated that in order to keep his terror tactics going Lt. Col JS Bains, addressed a letter to Shri KM Nath, President of the Civilian Workers Union vide his letter No. 10402/Civ. Dated 16.06.2001, with a reference to the Union letter dated 24.05.2001 whereby he was advised as follows: -

- (a) No gate meeting/cadre meeting during working hours will be permitted.

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- (b) No Slogan shouting during mastering in/mustering out inside the workshop and in front of the workshop, adjacent to HQ 101 Area will be permitted.
- (c) No strike ballot in the workshop premises will be permitted.
- (d) You are also advised not to create a law and order problem.

It is stated that utter dismay of the Unit Authority (Lt. Col. JS Bains), the all India programme referred to herein above was successfully implemented as scheduled, but, it resulted in the forms of issue of Explanation call, show cause memo etc., to Shri KM Nath, the President and the applicant, the organizing Secretary respectively, including one day pay cut in respect of Shri KM Nath, the President, the applicant and Shri Bihari Singha, the General Secretary, the applicant, organizing Secretary, Shri DK Gurung and Shri PK Ghosh, the Executive Members for their absence of only 2 (two) hours on 28.05.2001 due to Khasi Student Union's office picketing.

It is relevant to mention here that the Station Workshop Civilian Worker's Union Shillong has taken several resolution and subsequently brought to the notice of all Higher Headquarters vide its No. SWCWU/07/2002 dated 09.04.2002 and No. SWCWU/21/2002 dated 15.11.2002. But no favourable step was taken from any corner till to date.

- 4.6 That your applicant was placed under suspension vide order bearing No. 10401/Civ dated 01.06.2001 in terms of Rule 10 of CCS (CCA) Rule 1965 with immediate effect with necessary instruction.

Copy of the order dated 01.06.2001 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 1.

- 4.7 That your applicant thereafter was served with a memorandum of charge sheet bearing No. 21208/169/EST-IND/LC dated 11.07.2001. In the said memorandum of charge sheet in as much as 5 allegations is brought against

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the applicant. The relevant portion of the article of charge No. 1 is quoted below: -

- " 1. On 01 Jun 2001, JC-750768X Nb Sub RC Nath of 306 Stn Wksp EME went to civilian rest room at 0830h and requested the workers to come to the shop floor for work. T. No. 172 Shri Bihari Singha and T. No. 169 Shri PC Das informed that they will not come out as they wanted to discuss about the picketing by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub RC Nath returned back and waited for them for about one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub RC Nath again went to the civilian rest room along with Nk Puran Singh. Nk SC Singh, Hav J Kushwaha and Hav Lalan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T. No. 172 Shri Bihari Singha and T. No. 169 Shri PC Das left for the work. They were going through some siles. Shri PC Das shouted at Nab Sub RC Nath and said "Hamara Koi Claim Pass Nahi Hota, Yahan Par Sab Gandu Offr Aur JCO Hai, Hum Bharat Varash Ke Employee Hain Yahan Par Dil Karega Bathengi". Shri PC Das again raised his hands to hit Nb Sub RC Nath and said "AAP Chor Ho, FIP Ka Paisa Khaya Hai". He made a gesture to hit Nb Sub RC Nath with both hands but Nb Sub RC Nath ducked and saved himself."

On a mere reading of the article of charge it appears that the Officer Commanding Lt. Col. JS Bains has issued the memorandum of charge sheet with whom the allege incident has taken place on 01.06.2001 since Lt. Col. JS Bains, Officer Commanding is involved in the instant alleged incident on 1st June 2001 as such Lt. Col. JS Bains should not have issued the memorandum of charge sheet since he is an interested party and at his instance the

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applicant was placed under suspension and further departmental proceeding has been initiated. In the statement of imputation of misconduct the said disciplinary authority tactfully alleged that the incident has taken place in between the applicant and Nab Sub RC Nath without referring his name and his presence at the time of alleged incidence on 1st June 2001. In fact the alleged incident was created by Shri JS Bains himself but in order to impose major penalty in a well planned manner Shri JS Bains tactfully did not show his presence at the place of incidence rather terror was created by Shri Bains alone and on that score alone the memorandum of charge sheet bearing letter No. 21208/169/EST-IND/LC dated 11.07.2001 is liable to be set aside and quashed.

Copy of the memorandum of charge sheet dated 11.07.2001 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 2.

- 4.8 That your applicant begs to say that on a mere reading of the Article of charge, more particularly the charge alleged in Sl. No. 4 and 5 of the article of charge that the applicant is continuously and willfully neglecting his duty from 1st February 2001 to 1st June 2001 on all working days and continuously and willfully disobedience of order for refusing to proceed to place of work from 1st Feb' 2001 to 1st June 2001 on all working days. Therefore, it appears that the concerned sectional in-charge deliberately did not take any action against the applicant from 1st Feb' 2001 to 1st June 2001 and the allegation of non-performing of duties has not reported to the higher authorities by the Section In-Charge and assuming but not admitting that the applicant has refused to perform the assigned duties than a duty cast on the Section In-Charge to report the matter immediately to the higher authority and in the instant case higher authority is Officer Commanding i.e. Lt. Col. J S Bains and the disciplinary authority ought to have taken action against the applicant on the alleged ground of non-performing his duties for such a long period i.e. about 5 months, whereas

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no memo or show cause was issued at any point of time since February 2001 to 1st June 2001 rather applicant was paid full salary since February 2001 to 1st June 2001. As such, it can rightly be presumed that all the charges labeled against the applicant are false, concocted and baseless not based on any record as because the entire allegation or charges were based on only two lists of documents. The relevant list of documents by which the article of charge framed against the applicant is quoted below for perusal of Hon'ble Tribunal: -

- "a) Complaint given by JC - 750768X Nb Sub RC Nath dated 01 June 2001.
- b) Reports of disobedience and no output given by Section In-Charge."

It is quite clear from the list of documents relied upon by the disciplinary authority, the 1st one is complain dated 1st June 2001 given by Nb Sub R C Nath and second one is given by the Section In-Charge but the said Section In-Charge never given any memo, warning or show cause during the span of 5 months for alleged non-performance of duties as such it appears that the charge sheet is an outcome of an evil design of the Officer Commanding Lt. Col. Shri J S Bains i.e. the disciplinary authority.

It is categorically submitted that none of the listed documents were supplied with the memo of charge sheet dated 11.07.2001 which is a mandatory requirement in terms of Rule 14 and 15 of the CCS (CCA) Rule 1965.

- 4.9 That your applicant begs to say that vide his reply dated 28.07.2001, he has categorically denied the charges labeled against him in the memorandum dated 11.07.2001 and also expressed his desire to be heard in person.

Copy of the reply dated 28.07.2001 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 3.

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4.10 That your applicant begs to say that vide letter bearing No. 10401/Civ/169/Inq dated 20.09.2001, it has been informed by the Inquiry authority Shri Bidyat Panging, Asstt. Executive Engineer, that he has been appointed as Inquiry Authority to conduct inquiry. However, it is relevant to mention here that there was no intimation from the disciplinary authority regarding appointment of inquiry officer as required under the rule. Inquiry officer in his letter dated 20.09.01 granted liberty to the applicant to nominate defence assistant.

Copy of the letter dated 20.09.01 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 4.

4.11 That your applicant vide his letter dated 21.01.02 nominated one Shri MP Singha, UDC of 222 ABOD, C/o 99 APO as his defence assistant who was serving at Guwahati at the relevant point of time. Surprisingly, vide letter bearing No. 10401/169/Civ/Inq dated 06.02.2002, whereby it has been alleged that the applicant has refused to accept letter dated 21.12.2001 and 24.01.2002 and thereby he has made an attempt to delay the proceeding. It is relevant to mention here that the applicant did not refuse any registered letter at any point of time. It is ought to be mentioned here that the post office from which registered letters are being issued is under the absolute control of the respondent since it is functioning from the premises of the respondent authority. Moreover, the prayer of the applicant for engaging Shri MP Singha as defence assistant has been rejected on the ground that Shri MP Singha UDC is serving outside the state of Meghalaya whereas there is no bar as per CCS (CCA) Rule 1965 to engage a defence assistant from outside the State of Meghalaya.

Copy of the letter dated 21.01.02 and 06.02.02 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 5 and 6 respectively.

4.12 That your applicant vide his letter dated 27.09.2001 addressed to the Inquiry authority prayed for grant of 30 days time for nomination of name

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of another defence assistant and again vide his letter dated 07.12.01 addressed to the Officer Commanding it is informed that he has not received the formal order of appointment of inquiry officer and as such asked for a copy of appointment order of inquiry officer.

Copy of the letter dated 27.09.01 and 07.12.01 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 7 and 8 respectively.

- 4.12 That your applicant received the copy of the daily order sheet dated 09.10.2001 regarding preliminary hearing on 22.10.2001, wherein it is stated that the inquiry proceeding could not be proceeded as the applicant sought some more time to engage defence assistant and accordingly next date of preliminary hearing was fixed on 22.10.2001 but surprisingly the said letter of daily order sheet was received by the applicant on 21.11.2001 as such the applicant could not appear in the proceeding for preliminary hearing held on 22.10.01.

The applicant again received the daily order sheet of proceeding dated 22.10.01 on 21.11.2001 i.e. on the same date and as a result the applicant could not attend the preliminary hearing on 22.10.01 as well as on 16.11.01 since the daily order sheet was received by the applicant on 21.11.2001.

Copy of the daily order sheet dated 09.10.01 and 22.10.01 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 9 and 10 respectively.

- 4.14 That the letter of the inquiry authority bearing No. 10401/169/Civ/Inq dated 24.01.2002, whereby it was informed that the date for next hearing was fixed on 06.02.2002 in the office chamber of the inquiry officer was received by the applicant only on 14.02.2002 and accordingly he could not appear at the hearing fixed on 06.02.02. This fact was intimated by the applicant to the inquiry officer vide his representation dated 18.02.02, wherein the applicant specifically stated that the alleged letter dated

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21.12.01 was never delivered to him as such allegation of refusal is false and the applicant nominated Shri MP Singha UDC as defence assistant since he could not arrange any other defence assistant as because no body came forward out of fear to assist the applicant in the inquiry proceeding since Defence personnel are conducting the inquiry.

Copy of the letter dated 24.01.02 and representation dated 18.02.02 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 11 and 12 respectively.

- 4.15 That your applicant received the letter bearing No. 10401/Civ/169/Inq dated 22.02.2002 only on 04.03.2002, wherein it has been alleged that the applicant remained absent on 09.10.01, 22.10.01, 16.11.01, 17.01.02 and on 06.02.02 in the inquiry proceeding and thereby he is trying to delay the inquiry proceeding and it has been intimated that ex parte hearing started w.e.f. 16.11.2001 and it is also alleged that the same was intimated to the applicant vide letter dated 21.12.01 and 12.03.02 and further directed to appear on 12.03.02 for inquiry in the office chamber of the inquiry officer and it is also categorically informed that the inquiry proceeding will be held on every alternative day except Sunday and holidays this will be held on next working day except Sunday and holiday but copy of the letter dated 22.02.02 was receipt by the applicant on 04.03.02.

Copy of the letter dated 22.02.02 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 13.

- 4.16 That your applicant vide his representation dated 07.02.02 informed the inquiry officer that all the letter dated 23.10.01, 22.10.01, 20.10.01, 09.10.01 and 20.09.01 received by him only on 21.11.2001, therefore, it was not possible on his part to attend before the inquiry on 16.11.2001 and also sought confirmation of his letter dated 21.01.2002.

Copy of the representation dated 07.02.02 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 14.

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4.17 That your applicant after receipt of the intimation that the next hearing would be held on 14.03.2002 he appeared before the inquiry officer on 14.03.02 and submitted a representation addressed to the inquiry officer to reconsider his prayer to engage Shri MP Singh, UDC as his defence assistant but the same was again rejected. However, the applicant could not proceed to cross-examine the SW No. 3 since his prayer for engaging Shri MP Singh as defence assistant has been rejected. In this connection it may be stated that a readymade prepared statement well in advance by the inquiry officer himself in favour of the SW No. 3 and the SW No. 3 at the dictation of the authority signed the said statement and the inquiry officer in a very planned manner put certain questions to the SW No. 3 and closed the proceeding on 14.03.02. On a mere reading of the daily order sheet dated 14.03.02, it would be evident that the SW No. 3 specifically stated that the allegation of non-performing of works was brought to the notice of the officer Commanding but he did not pay any attention, therefore, it appears that the very question and answer asked by the inquiry officer and replied by the SW No. 3 are well planned and stereotype as because it appears that almost in a same fashion all the other State witnesses have been replied as evident from the daily order sheets.

It is relevant to mention here that not a single document relied on by the inquiry officer has been examined in the proceeding as such the inquiry proceeding is conducted in total violation of rule laid down in CCS (CCA) Rules 1965.

Copy of the daily order sheet dated 14.03.02 and deposition made by SW No. 3 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 15.

4.18 That your applicant subsequently submitted a representation on 18.03.02 addressed to the Officer Commanding, wherein the applicant has stated that his request for engaging Shri MP Singha, UDC has been rejected and the applicant was much tortured on 14.03.02 when he attended the

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inquiry, he was forced to sign the daily order sheet in the absence of his defence assistant and he was detained upto 1410 hrs without allowing him to take water and launch the authority even not allowed him to attend call of nature and he was humiliated on the day of inquiry on 14.03.02 and further requested to allow the necessary permission to allow Shri MP Singha as his defence assistant.

Copy of the representation dated 18.03.02 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 16.

- 4.19 That your applicant submitted representations dated 19.03.02, 21.03.02 and 23.03.02, wherein he prayed for supply of copies of appointment letter of inquiry officer and presenting officer for conducting inquiry proceeding since he did not receipt any letter from disciplinary authority regarding appointment of inquiry officer and presenting officer as required under the rule. In the representation dated 19.03.02 addressed to the disciplinary authority, applicant specifically prayed for supply of all the documents listed out in Annexure- III of the memorandum of charge sheet dated 11.07.2001 at an early date but the same was denied to the applicant.

Copy of the representations dated 19.03.02, 21.03.02 and 23.03.02 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 17 (Series).

- 4.20 That your applicant vide his representation dated 26.03.02 addressed to the disciplinary authority, informed that he was not allowed to enter inside the office campus by the Gate in charge although he wanted to cooperate with the inquiry authority in the proceeding and also requested for making necessary arrangement for conducting disciplinary proceeding by a duly appointed inquiry officer with prior notice about the date, time and venue. However, the disciplinary authority Lt. Col. JS Bains vide his letter bearing No. 10401/Civ/169 dated 04.04.2002 rejected prayer of the applicant for engaging Shri MP Singh as his defence assistant since Shri

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MP Singh is from outside the state of Meghalaya and thereby uphold the decision of the inquiry officer regarding rejection of prayer for engaging Shri MP Singh as defence assistant of the applicant. It is relevant to mention here that Lt. Col. JS Bains, disciplinary authority vide his letter bearing No. 10401/169/Civ dated 17.04.2002 sent for the first time the copies of the appointment order dated 30.08.2001 of inquiry officer and presenting officer to the applicant.

Copy of representation dated 26.03.02 letter dated 04.04.02, 17.04.02 and 30.08.01 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 18, 19, 20 and 21 respectively.

- 4.21 That your applicant made a representation dated 29.04.2002, against the appointment of Shri Bidyot Panging as Inquiry officer on the ground of biasness as because Shri Bidyot Panging is personally involved in the affairs, allegation or charges labeled against the applicant. Moreover, said Shri Bidyot Panging, AEE is directly dealing with day to day official work including his service covered by the period of charges framed against the applicant and as such he is rather deemed to be a witness in the disciplinary proceeding being conducted against the applicant as such he should not act as inquiry officer in the inquiry proceeding.

Copy of representation dated 29.04.02 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 22.

- 4.22 That your applicant in terms of the order dated 22.02.2002 went to attend inquiry on 20.03.2002 since he attended the inquiry proceeding earlier on 18.03.2002, therefore, in terms of the order dated 22.02.02 the next date of hearing is scheduled to be held on 20.03.02 but he was informed in the gate that there is no sitting of the inquiry on 20.03.02 and the applicant returned back to his quarter. Surprisingly, on 21.03.02 inquiry officer held the inquiry ex parte without any intimation to the applicant in violation of the order dated 22.02.02 again another proceeding of the inquiry held on

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30.03.2002 and on 04.04.02, 23.04.02 and 03.06.02 without any intimation to the applicant and the inquiry was not held in terms of the order contained the inquiry officer's order dated 22.02.02 and thereby with deliberate attempt the subsequent inquiry was held ex parte by fixing the date by the inquiry officer without any intimation to the applicant whereas in terms of the order dated 22.02.02 inquiry was supposed to be held on every alternative day except Saturday, Sunday and holidays. The inquiry was held on a malafide intention with the sole attempt to restrain the applicant to participate in the inquiry proceeding since the programme of inquiry was laid down by the inquiry officer himself vide his order dated 22.02.02, therefore it was obligatory on the part of the inquiry officer himself to intimate the date of inquiry if the same is fixed subsequently in violation of his earlier order dated 22.02.02, therefore the action of the respondents holding ex parte inquiry proceeding without any intimation to the applicant smacks malafide and on that score alone the ex parte inquiry proceeding as well as the order of penalty dated 15.04.2005 and impugned appellate order dated 08.05.2006 are liable to be set aside and quashed.

- 4.23 That your applicant begs to say that he has received the daily order sheet dated 17.01.2002, 06.02.2002, 12.03.2002, 18.03.2002, 21.03.2002, 30.03.2002 and 04.04.2002 along with copies deposition made by SW 2, SW 3, SW 4 and SW 5 vide inquiry officer's letter No. 10401/169/Civ/INQ dated 09.04.2002. As per daily order sheet dated 17.01.02 charged official was shown as absent since no intimation was received by the applicant regarding date of proceeding held on 17.01.2002. However, in the daily order sheet dated 06.02.02 the applicant was shown as absent and the inquiry officer recorded stereotype deposition of SW 2, on 12.03.2002.

Be it stated that on 14.03.02, the applicant was present as stated in the preceding paragraph since he received the intimation well in advance. On 18.03.02, the applicant was shown as present and the inquiry officer recorded stereotype deposition of SW 4, again on 21.03.02, the

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charged official was shown as absent. In this connection it is stated that the charged official in fact went to attend the inquiry proceeding on 20.03.02 but he was informed from the gate that there is no sitting of the inquiry on 20.03.02 but he was not informed regarding the sitting of the inquiry proceeding on 21.03.02 which was held in violation of the inquiry officer's letter dated 22.02.2002.

On 30.03.02 again ex parte hearing was held without any intimation to the applicant in violation of the earlier programme fixed by the inquiry officer vide his letter dated 22.02.2002 and the inquiry officer recorded stereotype deposition of SW 5 Shri Birbal Khuswah. Again on 04.04.2002, the charged official (applicant) was shown as absent and ex parte proceeding was conducted without any prior intimation to the applicant and deposition of SW 5 Shri B Khuswah was recorded. However, in the letter dated 09.04.02 which was received by the applicant on 15.04.02 where the next date of hearing was indicated on 23.04.02 and the applicant was advised to present on the hearing along with defence assistant if any. On 23.04.02 ex parte hearing was held in violation of the earlier order dated 22.02.02. It is surprised to note here that all the ex parte inquiry proceeding was conducted without any prior intimation to the applicant and in violation of the order dated 22.02.02 and on that score alone the entire ex parte inquiry proceeding is liable to be set aside and quashed.

Copy of the letter dated 09.04.02 along with daily order sheets dated 17.01.02, 06.02.02, 12.03.02, 14.03.02, 18.03.02, 21.03.02, 30.03.02, 04.04.02 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 23 (Series).

- 4.24 That your applicant received letter bearing No. 10401/Civ/169/INQ dated 24.10.2002, whereby written brief of the presenting officer was served upon the applicant. In the said written brief the presenting officer stated that out of 9 listed witnesses 5 listed witnesses were produced in the inquiry proceeding and merely repeating the article of charges he has

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come to the conclusion that the charges labeled against the applicant has been proved. On a mere reading of the written brief it would be evident that none of the listed documents were examined in the inquiry proceeding and there was simply mention of the listed documents but no finding of evidence is recorded either in the inquiry proceeding or grounds available in the written brief of the presenting officer dated 30.08.2002 as such the written brief which suffers from lots of infirmities cannot be taken into consideration for the purpose of imposition of any penalty upon the applicant.

Copy of the letter dated 24.10.02 and written brief dated 30.08.02 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 24 and 25 respectively.

- 4.25 That your applicant further begs to say that he submitted an appeal vide his letter dated 02.09.02 before the Director General EME (Civil), Army Headquarter, New Delhi and informed about the irregularities and infirmities while conducting the inquiry under Rule 14 of CCS (CCA) Rule 1965 and also prayed for change of inquiry officer Shri Bidyot Panging.

Copy of the appeal dated 02.09.02 along with forwarding letter dated 02.09.02 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 26 (Series).

- 4.26 That your applicant received the copy of the inquiry report dated 07.07.2003 only on 27.11.03 vide Officer Commanding's letter bearing No. 10401/Sus/Civ dated 21.11.2003, in the said inquiry report it is indicated that on many occasion the applicant i.e. charged official was absent in the inquiry proceeding and inquiry proceeded ex parte. In this connection it is relevant to mention here that reason of absence of the applicant has been very elaborately explained in the preceeding paragraphs. It is further categorically stated that ex parte hearing was conducted without proper intimation to the applicant. In the inquiry report the inquiry officer failed

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to discuss the evidence before reaching to the findings as required under the rule. On a mere perusal of the inquiry report it is evident that not a single listed documents has been examined which was relied upon by the disciplinary authority, as per own admission of the inquiry officer, the presenting officer produced only 5 State Witnesses out of 9 listed State Witnesses for the reasons best known to the presenting officer. Be it stated that in the inquiry report stereotyped deposition has been recorded which was prepared at the instance of the inquiry authority, in the inquiry report it has been stated that the applicant requested for change of inquiry officer but the said prayer of the applicant has not been considered. Moreover, in the inquiry report the inquiry officer has simply stated that the applicant was informed regarding hearing dates but even then the charged official has failed to appear before the inquiry proceeding on most of the dated of hearing. This contention of the inquiry officer is contrary to the record of the inquiry proceeding.

It is categorically submitted that the inquiry authority in violation of their own order dated 22.02.02 conducted the inquiry by fixing the date as per their own choice without any prior intimation to the applicant, all letters have been deliberately delayed in order to restrain the applicant from participating in the inquiry proceeding. It is quite clear whenever the applicant received any prior intimation he had attended the inquiry proceeding. Moreover, the deposition made by SW 1 Shri RC Nath was deliberately not supplied to the applicant for the reasons best known to the inquiry authority.

On a mere perusal of the assessment of evidence made by the inquiry officer, it would be evident that he has made certain general discussion but nothing discussed from the record of the inquiry proceeding, in other words the inquiry officer has quoted certain languages from the article of charge and statement of imputation of misconduct. It is categorically submitted that there is no discussion of evidence recorded in the inquiry proceeding and there is no discussion on the list of documents

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which are relied upon by the disciplinary authority for sustaining the charges, as such findings of the inquiry officer is simply based on stereotype deposition made by the 5 State witnesses out of the 9 listed State witnesses which was prepared at the dictation of the inquiry authority in the absence of the charged official more or less in the same fashion. The charge of continual disobedience also alleged to have been proved without examining the listed documents relied upon by the disciplinary authority and on that score alone the inquiry report dated 07.07.2003 is liable to be set aside and quashed.

Copy of the letter dated 21.11.03 as well as inquiry report dated 07.07.03 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 27 and 28 respectively.

- 4.27 That your applicant immediately after receipt of the inquiry report dated 07.07.03 submitted a detailed representation addressed to the Officer Commanding i.e. disciplinary authority praying interalia for dropping the entire departmental proceeding and further prayed for reinstatement in service with all consequential benefit treating the suspension period as on duty in view of illegal and irregular initiation of a disciplinary proceeding. In the said representation applicant categorically pointed out in paragraph 7 that the inquiry authority totally failed to substantiate its claim with documentary evidence and also pointed out that the copy of appointment of inquiry officer was also not supplied to him. The applicant also pointed out in his representation dated 29.11.03 made against the inquiry report wherein it has been stated that his request for change of inquiry officer has not been considered even though the inquiry officer Shri Bidyot Panging in fact closely involved with the entire incident as well as in the alleged charges and in fact in other words Shri Panging was a witness of the incident as such the applicant requested for change of inquiry officer but the said request was not considered in the manner as it required under the rule. It is quite natural that Shri Panging cannot maintain impartiality

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since he was a witness of the incident on 1st June 2001 and Shir Panging is directly involved with the day to day work of the applicant and such non-consideration of request of the applicant for change of inquiry officer is in fact a unfair decision which vitiated the entire disciplinary proceeding. The applicant also pointed out that he was placed in a helpless condition by refusing the nomination of his defence assistant Shri MP Singh. The applicant further submitted that out of 9 State witnesses only 5 State witnesses have been examined and the statement of witnesses was not recorded in presence of the applicant. The applicant was not afforded with reasonable opportunity to cross-examine the witnesses and most of inquiry dates were fixed by the inquiry officer was communicated to the applicant after expiry of the inquiry date. The applicant also stated that he has been denied subsistence allowance. Paragraph 24, 25, 26 of the representation dated 29.11.03 are quoted below:

"24. That, in the name of so-called inquiry the Petitioner was deliberately inflicted untold ill-treatment and physical harassment to the extend that he was forced to be confined to a very narrow room without drinking water and responding to the call of nature, which stretched over several hours. The Petitioner has been also subjected to be kept naked without any garments, this apart, he was manhandled and dragged by force, in front of other colleagues including juniors, as if he was hard core criminal, in as much he was forced upon to sign the Daily Order Sheet which was irregular, illegal and against the spirit of human dignity. No action has however been taken against such misdeeds while the attention of the Authorities at all levels were drawn.

25. That, ironically, numbers of letters with different dates were sent by the so-called Inquiry Officer together in one envelope and host of similar others were made available to

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the Petitioner at a time, which is irregular, illegal, unwarranted, uncalled for, biased, arbitrary and in view of that consideration the proceeding is vitiated by product of conspiracy.

26. That, Inquiry Report by itself is irregular, illegal, arbitrary and beyond the provision of law."

The applicant in his representation dated 29.11.03 very clearly stated how he was humiliated and tortured by the inquiry authority while he attended the inquiry proceeding.

Copy of the representation dated 29.11.03 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 29.

- 4.28 That the disciplinary authority by the impugned letter bearing No. 10401/169/Civ/INQ/2005 dated 15.04.2005, forwarded the impugned penalty order to the applicant. The disciplinary authority by the impugned order dated 15.04.05 imposed the extreme penalty of dismissal from service w.e.f. 15.04.05, interestingly in the impugned order the disciplinary did not consider any of the grounds raised by the applicant in his representation dated 29.11.03 but mechanically followed the inquiry report submitted by the inquiry officer. The disciplinary authority did not apply his mind independently and also did not consider the procedural infirmities pointed out by the applicant in his representation dated 29.11.03. The disciplinary authority did not discuss a single evidence but repeated in a very casual manner the charges labeled against the applicant. The findings of the disciplinary authority recorded in paragraph (a), (b), (c), (d) and (e) are contrary to the record of the inquiry proceeding. On a mere reading of the disciplinary authority it appears that he has proceeded in a very vindictive attitude to impose major penalty upon the applicant without any discussion of evidence and there was no findings regarding examination of other witnesses as well as there

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is no findings regarding examination of the list of documents in the impugned order of penalty dated 15.04.2005 but the disciplinary authority came to the conclusion in a very arbitrary manner that the charges have been proved against the applicant. It is mandatory on the part of the disciplinary authority to consider as to whether procedure has been followed by the inquiry officer while conducted the inquiry, moreover, it is the duty of the disciplinary authority to consider the evidence recorded in the inquiry proceeding while coming to any conclusion on the basis of the evidence recorded in the proceeding but in the instant case the disciplinary authority miserably failed to discuss the evidence recorded in the inquiry proceeding but in a very arbitrary and vindictive manner imposed the major penalty of dismissal from service w.e.f. 15.04.05 upon the applicant. The impugned order of penalty dated 15.04.05 is very cryptic and the said order has been passed without taking into consideration the record of the inquiry proceeding and also without considering the fact that there are large scale violation of principle of natural justice while conducted the ex parte inquiry without intimating the date of inquiry thereby deliberately the inquiry officer, restrained the applicant in participating in the inquiry by sending the communication at a belated stage and on that score alone the impugned order of penalty dated 15.04.05 is liable to be set aside and quashed.

Copy of the impugned order of penalty dated 15.04.05 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 30.

- 4.29 That it is stated that on a careful reading of the paragraph (a) of the impugned order of penalty dated 15.04.2005, wherein the disciplinary authority has observed as follows:

"(a).....From the records of Inquiry it reveals that situation would have become serious, had Sub RC Nath not pacified the accompanied Jawans."

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Therefore, it appears that Nb Sub RC Nath went to the rest room when there was no occasion for Nb Sub Shri RC Nath to visit the rest room and it further appears from the aforesaid statement that the Jawans accompanied by Lt. Col. JS Bains and Nb Sub RC Nath created a riotous situation and disorderly situation in the rest room with the help of the Jawans, therefore, question of pacifying the Jawans has occasioned. Moreover, the document i.e. the complain lodged by Nb Sub RC Nath neither supplied to the charged officer nor it was examined even in the ex parte inquiry proceeding save and except obtaining certain stereotype written deposition from the interested witnesses in the ex parte hearing. Therefore, contention of the respondents that the charged official has created a riotous and disorderly situation in the rest room on 1st June 2001 is contrary to the record as well as it appears from the impugned order of penalty dated 15.04.05.

The charge discussed by the disciplinary authority in Clause (b) of the impugned penalty order dated 15.04.05 is also contrary to the record of the inquiry proceeding and also contrary to the deposition made by the State witnesses. In this connection it may be stated that the complain of Nb Sub RC Nath neither supplied to the applicant nor it was examined even in the ex parte inquiry proceeding as such holding guilty to the charged officer on the alleged ground of assaulting Junior Commissioned Officer Shri RC Nath is not sustainable in the eye of law. More so in view of the fact that the charged official i.e. the applicant was not provided with reasonable opportunity to defend his case before the inquiry officer due to non-intimation and also due to delayed intimation regarding holding of the inquiry proceeding against the applicant.

That with regard to the findings of the disciplinary authority stated in para (c) of the impugned penalty order dated 15.04.05 wherein the inquiry officer held the charged official guilty due to an act subversive of discipline and also for using abusive and filthy languages against Shri RC Nath relying on the stereotype deposition made by the SW No. 1, SW No. 4,

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and SW No. 5. The stereotype deposition recorded at the dictation of the higher authority as well as inquiry authority without providing reasonable opportunity of cross-examination of the State Witnesses. Moreover, the findings of the disciplinary authority without considering the listed documents relied upon by the disciplinary authority is not maintainable in the eye of law that too in an ex parte proceeding. It is also relevant to mention here that out of the 9 State witnesses relied upon by the disciplinary authority only 5 interested witnesses were produced in the inquiry who are working under absolute control of Officer Commanding Lt. Col. JS Bains as well as under the administrative control of Nb Sub Shri RC Nath. As such those stereotype deposition made by the 3 State witnesses i.e. SW 1, SW 4 and SW 5 as indicated in para (c) of the impugned order dated 15.04.05 without examination of other 4 State witnesses deliberately as such the findings recorded in para (c) is not sustainable under the law and the same is liable to be set aside and quashed.

So far findings recorded by the disciplinary authority in para (d) of the impugned order of penalty dated 15.04.05 wherein the disciplinary authority is of the opinion that the charge of continual and willful absence from place of work on all working days w.e.f. 01.02.01 to 01.06.01 has been proved on the basis of deposition of the interested State Witnesses are contrary to the records of the ex parte inquiry proceeding. More so in view of the fact that the listed document No. 2 which is relied upon by the disciplinary authority in order to sustain the alleged charges neither supplied to the applicant along with the memorandum of charge sheet nor the said document was examined i.e. report of the Section in charge even in the ex parte inquiry proceeding as such said allegation of continual and willful absence from place of work w.e.f. 01.02.01 to 01.06.01 in fact not based on any official records or documents rather such charges has been framed against the applicant at the instance of Nb Sub Shri RC Nath i.e. SW 1 and also at the dictation of Officer Commanding Lt. Col JS Bains who is being influenced by Shri RC Nath JCO. In this connection it is relevant to

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mention here that the disciplinary authority i.e. Officer Commanding Shri JS Bains was very much involved in the alleged incident which took place on 01.06.01. In fact Shri RC Nath and other jawans with the leadership of Officer Commanding Lt. Col. Shri JS Bains attacked the charged official who is holding the portfolio of General Secretary of the recognized association of the Station Workshop in the recreation room and created riotous and disorderly situation raising certain irrelevant charges against the applicant. It is relevant to mention here that normally there is no occasion to visit the rest room by the Officer holding the rank and status of Officer Commanding of the Station Workshop EME but in the instant case the Officer Commanding Lt. Col. JS Bains at the instigation of Nb Sub RC Nath along with some jawans with a well planned manner attacked the office bearers the recognized Union in the rest room while they were discussing to take some urgent steps on certain issues and in fact the Officer Commanding with the assistance of Shri RC Nath restrained the officer bearers of the Union to take any further action on those issues but in the process, the authority labeled certain charges against the applicant in order to restrain the activities of the Union members permanently and as a result the applicant has been made a victim of the system.

It is relevant to mention here that the applicant has been discharging his duties all along with utmost sincerity and devotion and it is categorically submitted that the applicant has rendered his service like other working days w.e.f. 01.02.01 to 01.06.01 and he has been duly paid salary for the entire period w.e.f. 01.02.01 to 01.06.01 without any notice, show cause or warning from the immediate controlling officer regarding non-performing of duties assigned to the applicant. Therefore, allegation of continuous willful absence from the place of work for the period indicated above is nothing but an attempt to spoil and damage the service career of the applicant on the basis of false and concocted and after thought allegation without any evidence or record. As such findings of the

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disciplinary authority recorded in para (d) is liable to be set aside and quashed.

So far findings of the disciplinary authority recorded in para (e) of the impugned penalty order which is exactly similar to that of para (d) of the impugned penalty order dated 15.04.05 wherein it is alleged that continual and willful disobedience of orders given by supervisory staff from 01.02.01 to 01.06.01 on all working days said charge has been proved by the inquiry officer and as such charged official held guilty. On a mere reading of para (d) and (e) of the impugned order dated 15.04.05, it appears that the disciplinary authority simply on the basis of findings of the inquiry officer reached to the conclusion that the charges labeled against the applicant has been proved and accordingly the applicant is held guilty of the charges without application of his mind independently as required under the rule. Now it appears from the findings of the disciplinary authority in para (e) that the allegation against the applicant had continuously and willfully violated the orders of his supervisory staff from 01.02.01 to 01.06.01. But surprisingly the supervisory staff never served him any memo or warning or show cause for such alleged willful violation of orders of the supervisory authority during the span of 4 months as indicated in para (e) of the impugned order but the same has come to the notice of the disciplinary authority all of a sudden on 01.06.01 and the said allegation has been made a part of the memorandum of charge sheet dated 11.07.01. Therefore, on a normal course the disciplinary authority ought to have initiated proceeding against those supervisory staff whose order have been violated continuously and willfully without any break from 01.02.01 to 01.06.01 but surprisingly it appears that the supervisory staff who are now made State witnesses remained silent without issuing any memo to the applicant. Therefore, it establishes that although state witnesses are guilty at the first instances if they maintain such statement which have been deposited before the inquiry authority.

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On a careful reading of the charge of willful disobedience on the part of the applicant it appears that the said charge is after thought and concocted and the said charge has found place in the memorandum of charge sheet dated 11.07.2001 at the dictation of the Officer Commanding.

It is humbly submitted that the Officer Commanding Lt. Col. JS Bains ought to have refrained himself from the inquiry proceeding since he was involved in the incidence alleged to have been occurred on 01.06.01 but Shri Bains with a malafide intention have acted as a disciplinary authority with a vindictive attitude to impose major penalty of dismissal from service with the intention to teach a lesson to the important Office bearers of the Union so that they will not raise or agitate even when there is a legitimate claim or demand in near future. It is relevant to mention here that on 01.06.01 the applicant was discussing an urgent matter relating to order of recovery and stoppage of SDA in the rest room. On seeing such discussion Nb Sub RC Nath reported the matter to Officer Commanding Lt Col. JS Bains and at the instigation of Nb Sub Shri RC Nath with a team of jawan attacked the applicant and other office bearers in the rest room, where they have warned the applicant in rude manner and other officer bearers of the Union and it is categorically submitted that there was no occasion arises even for any heat exchange of words, therefore, allegation of assault as well as willful disobedience of orders of the supervisory staff and the allegation of non-performing of duties are categorically denied but unfortunately the alleged incidence given a very ugly shape by the Officer Commanding at the instance of Nb Sub Shri RC Nath and as a consequence memorandum of charge sheet has been framed against the applicant in colourable exercise of power and the said Shri JS Bains, Commanding Officer deliberately acted as disciplinary authority with a malafide intention even though he is personally involved on the alleged incidence of 01.06.01 and as such Shri JS Bains has been impleaded by name as respondent No. 7 in the instant proceeding. Therefore, in view of the above facts and circumstances the entire proceeding as well as findings of the disciplinary authority,

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impugned order of penalty dated 15.04.05 are liable to be set aside and quashed.

The contention of the disciplinary authority to the effect that the charged official neither opted to cross-examine any witness nor submitted any defence thereof is categorically denied, rather the charged official has been denied reasonable opportunity to advance his defence in the inquiry proceeding in the following manner

- (1) Firstly, the applicant was not intimated regarding appointment of the inquiry officer as well as appointment of presenting officer by the disciplinary authority as required under the rule, however the same was intimated to the applicant by the disciplinary authority much after the commencement of the proceeding.
- (2) Listed documents relied upon by the disciplinary authority to substantiate the charges contained in the memorandum of charge sheet has not been supplied to the applicant along with the memorandum of charge sheet even those listed documents also not supplied at any stage of the inquiry proceeding in spite of specific request and thereby reasonable opportunity has been denied to the applicant to take adequate defence to the charges.
- (3) That the inquiry authority deliberately and willfully did not intimate the date of hearing on many occasion when ex parte proceeding was held and in some occasion the inquiry officer deliberately send the intimation of hearing after the expiry of the schedule dates of hearing. The details of delayed communication of hearing dates as well as non-communication of hearing dates are quoted below for perusal of the Hon'ble Court but the inquiry proceeding conducted ex parte.

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Schedule date of hearing	Date on which intimation of hearing received	Non-receipt of intimation regarding hearing.
20.09.2001	26.09.2001	
09.10.2001	21.11.2001	
22.10.2001	21.11.2001	
16.11.2001	21.11.2001	
17.01.2002	04.03.2002	Since letter dated 22.02.02 received by the applicant on 04.03.02, wherein it is directed to the applicant to appear inquiry on every alternative day.
06.02.2002	04.03.2002	
12.03.2002	04.03.2002	Applicant went to the office but gate was closed due to holiday of Shiv Ratri.
14.03.2002		Applicant appeared in the proceeding.
18.03.2002		Applicant appeared in the proceeding.
20.03.2002		Applicant appeared but it is informed that there is no sitting of inquiry.
21.03.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 applicant was directed to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
30.03.2002	No intimation to	As per direction contained in the

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	the applicant.	letter dated 22.02.02 applicant was directed to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
04.02.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 applicant was directed to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
23.04.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 applicant was directed to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
03.06.2002	No intimation to the applicant.	As per direction contained in the letter dated 22.02.02 applicant was directed to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.

- (4) It is categorically submitted that the intimation regarding date of hearing on 20.09.01 has been intimated to the applicant at a later stage after the inquiry was over on the schedule date. Moreover, in terms of the letter dated 22.02.2002 received by the applicant on 04.03.2002, wherein it has been instructed that the proceeding will be held on every alternate day. The applicant thereafter as per instruction appeared on 14.03.02, 18.03.02 and participated in the

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inquiry proceeding in spite of inhuman torture and humiliation as indicated in preceeding paragraph. Again he went to attend inquiry on 20.03.02 but it was informed by the security personal at the gate that there was no sitting of the inquiry proceeding whereas as per order dated 22.02.02 hearing is supposed to take place on every alternative date but it appears that hearing has been conducted on 21.03.02, 30.03.02, 23.04.02, 03.06.02 in violation of the instructions contained in the letter dated 22.02.02 that too without any intimation to the applicant and thereby denied reasonable opportunity to the applicant.

- (5) That the documents relied upon by the disciplinary authority has not been examined as required under the rule.
- (6) Out of 9 listed witnesses only stereotype deposition of 5 interested state witnesses has been recorded more or less on the similar fashion on the dictation of the inquiry authority as well as of the higher authority. But the remaining 4 state witnesses has not been examined for the reasons best known to the authority.
- (7) That the statement of deposition of the interested witnesses has been prepared and got signed by them through Nb Sub Shri RC Nath.
- (8) That the charge of continual and willful disobedience of the order of supervisory staff and non-performing of duties w.c.f. 01.02.01 to 01.06.01 has held to be proved by the inquiry officer without examining any evidence on record and also without examining the listed documents but on the basis of deposition of the interested witnesses which was confirmed by the disciplinary authority without any discussion of evidence in his impugned order of penalty dated 15.04.05.

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- (9) That the inquiry officer failed to give any specific finding as to whether charge is proved or not in his inquiry report dated 07.07.03 which was forwarded to the applicant vide letter dated 21.11.03 that is after lapse of about more than 4 months.
- (10) That the disciplinary authority did not consider any of the grounds raised by the applicant in his representation dated 29.11.03 and surprisingly the disciplinary authority did not discuss a single evidence in the impugned order of penalty dated 15.04.05 whereby major penalty have been imposed mechanically without application of mind and also without taking into consideration the record of the inquiry proceeding.
- (11) That the appellate authority also did not consider any of the ground raised by the applicant in his appeal dated 06.12.05 as well as his appeal dated 18.02.06 and the appellate authority also did not make any effort to consider as to whether the relevant procedure laid down in CCS (CCA) Rule 1965 has been complied with or not and also did not consider as to whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice.

The appellate authority also failed to consider as to whether findings of the disciplinary authority are warranted by the evidence on the record. The appellate authority did not even consider as to whether the penalty imposed on the applicant is adequate, inadequate or severe but confirmed the order of the disciplinary authority in a most arbitrary and mechanical manner without independent application of mind and thereby caused irreparable loss and injury to the applicant. The case of the applicant has not been dealt with fairly by the inquiry authority, disciplinary authority as well as by the appellate authority.

Pradeep Ch. Das

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4.30 That your applicant being highly aggrieved with the impugned order of penalty dated 15.04.05 submitted an appeal dated 06.12.05 as well as another appeal dated 18.02.06 in continuation to his appeal dated 06.12.05 addressed to the appellate authority. In the said appeal the applicant raised several grounds, such as non-receipt of proper intimation regarding holding of inquiry, humiliation and mental torture caused by the inquiry authority when attended the inquiry, apart from the grounds of non-intimation of appointment of inquiry officer, non-consideration of his appeal for change of inquiry officer on the ground of biasness, statement of witnesses not being recorded in presence of appellant, most of the inquiry dates fixed by the inquiry officer were communicated after the respective date of inquiry, subsistence allowance was stopped w.e.f. October 2003.

Copy of the appeal dated 06.12.05 and 18.02.06 are enclosed herewith for perusal of Hon'ble Court as Annexure- 31 (Series).

4.31 That the appellate authority vide impugned order dated 08.05.06 communicated through letter bearing No. 332229/2/EME Civ dated 09.05.06, whereby the appellate authority rejected the appeal of the applicant without discussing a single ground raised by the applicant in his appeal rather the appellate authority without application of his mind simply followed the inquiry report and the penalty order of the disciplinary authority dated 15.04.05. In the impugned appellate order it has been alleged by the appellate authority simply stated that the representation being devoid of merit does not warrant any consideration said by the appellate authority and accordingly rejected the appeal without discussing any grounds or evidence as required under the rule. On that score alone the impugned appellate order dated 08.05.2006 is liable to be set aside and quashed.

Prabhal ch Dts

Copy of the impugned appellate order dated 08.05.06 and forwarding letter dated 09.05.06 are enclosed herewith for perusal of Hon'ble Court as Annexure- 32 (Series).

4.32 That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

- 5.1 For that, the memorandum of charge sheet dated 11.07.2001 has been framed by Lt. Col. JS Bains, Officer Commanding against the applicant with a malafide intention at the instigation of Shri RC Nath, the then Naib Subedar in order to restrain the important officer bearers of the Civilian Worker's Union, Station Workshop, EME Shillong in participating in welfare activities of the Union workers.
- 5.2 For that, Lt. Col. JS Bains, Officer Commanding, is personally involved on the alleged incidence, which took place on 01.06.01 and misbehaved with the office bearer of the Union for their active participation in the Union activities but surprisingly after misbehaving with the applicant, Shri Bains, Officer Commanding brought false charges against the applicant vide memorandum of charge sheet dated 11.07.2001 with the help and instigation of Shri RC Nath with a vindictive attitude to cause injury to the important office bearers of the Union. Therefore, Shri Bains, Officer Commanding who himself involved should not have initiated the disciplinary proceeding by issuing memorandum of charge sheet dated 11.07.2001.
- 5.3 For that, Shri JS Bains ought to have refrained himself to act as disciplinary authority when he has created the ugly situation in the recreation room on 01.06.01 with the instigation of Shri RC Nath, Nb Subedar and misbehaved with applicant and other office bearers.

Prabhat. Ch Das

- 5.4 For that, articles of charges contained in the memorandum of charge sheet dated 11.07.01 are totally false and same has been framed against the applicant with a malafide intention in order to curtail the welfare activities of important officer bearers of the Union.
- 5.5 For that, none of the listed document was supplied to the applicant along with the memorandum of charge sheet dated 11.07.2001 and thereafter even in spite of specific demand by the applicant vide his representation dated 19.03.02, and on that score alone the entire proceeding is liable to be set aside and quashed.
- 5.6 For that, in number of occassion intimation regarding holding of inquiry communicated to the applicant by the inquiry officer after the inquiry is over and on many occasion date of inquiry has not been communicated to the applicant at all with an ulterior motive but the inquiry authority proceeded with the ex parte hearing and thereby applicant has been denied reasonable opportunity to participate in the inquiry proceeding.
- 5.7 For that, inquiry has been conducted on number of occasions in total violation of the instruction contained in the inquiry officer's letter dated 22.02.02 where date of inquiry has been fixed by the inquiry authority in every alternate day but the inquiry was held on some other date as per choice of the inquiry authority in violation of their own order dated 22.02.02 without intimation to the applicant and thereby applicant has been restrained to participate in inquiry proceeding.
- 5.8 For that out of 9 listed state witnesses stereotype deposition of only 5 state witnesses have been recorded and got signed by them at the instance of Officer Commanding Lt. Col. JS Bains and Nb Sub Shri RC Nath without providing any opportunity to cross-examine them.

Prabhat Ch. DAS

- 5.9 For that no reason has been assigned for non-examination of other 4 listed witnesses in the inquiry proceeding relied upon by the disciplinary authority for sustaining the charges labeled against the applicant.
- 5.10 For that the inquiry officer failed to record any specific finding on the charges labeled against the applicant as such penalty cannot be imposed by the disciplinary authority only on the basis of imagination or on assumption by the disciplinary authority arbitrarily holding that the charges has been proved. In fact inquiry officer failed to give any ultimate finding on the basis of the inquiry report as such order of penalty imposed by the disciplinary authority is liable to be set aside and quashed.
- 5.11 For that the disciplinary authority did not discuss the evidence if any recorded in the inquiry proceeding but mechanically reached to the conclusion that the charges labeled against the applicant has been proved by the inquiry officer, providing all reasonable opportunity to the applicant. Such finding of the disciplinary authority even without considering the representation of the applicant submitted to disciplinary authority against the inquiry report. It is obligatory on the part of the inquiry authority to discuss each and every evidence if recorded in inquiry proceeding and thereafter only to come to a specific finding but in the instant case the disciplinary authority mechanically followed the incomplete inquiry report and imposed major penalty of dismissal upon the applicant as such the order of penalty is not maintainable in the eye of law.
- 5.12 For that the inquiry report is incomplete without any specific finding.
- 5.13 For that none of the listed documents were examined which were relied upon by the disciplinary authority for sustaining the charges labeled against the applicant and on that score alone the entire proceeding is liable to be set aside and quashed.

P. Bal. Hal. Ch. D.A.

- 5.14 For that the ex parte inquiry proceeding has been conducted deliberately against the applicant with the ulterior motive to restrain the applicant to participate in the inquiry proceeding by sending delayed communications for holding inquiry and on that score alone the inquiry proceeding is liable to be set aside and quashed.
- 5.15 For that the alleged charge of assaulting Shri RC Nath, the Naib Subedar by the applicant is a deliberate false charge and the same has not been established in the inquiry proceeding as claimed by the disciplinary authority.
- 5.16 For that the charge of non-performance of duties and continual and willful disobedience of the order of the supervisory staff w.e.f. 01.02.01 to 01.06.01 has not been proved in the inquiry proceeding basing on any evidence or record as claimed by the inquiry officer and disciplinary authority. But penalty has been imposed upon the applicant by the disciplinary authority without any evidence.
- 5.17 For that the impugned order of penalty dated 15.04.05 has been passed mechanically against the applicant without application of mind and also without basing on any evidence and on that score alone the arbitrary impugned order dated 15.04.05 is liable to be set aside and quashed since the same has been passed in total violation of the relevant rule.
- 5.17 For that the appellate order also passed in a most arbitrary manner without considering a single ground raised by the applicant in his appeal dated 06.12.05 as well as in his appeal dated 18.02.06. Moreover, the appellate authority failed to follow the mandatory, relevant provision laid down in Rule 27 of the CCS (CCA) Rules 1965 and on that score alone the impugned appellate order dated 08.05.06 is liable to be set aside and quashed.

6. Details of remedies exhausted.

Foral hall ch. DAS

VERIFICATION

I, Shri Prabhat Chandra Das, S/o- Late Gopal Chandra Das, aged about 45 years, resident of Qtr. No. DM 30/4, Deodgenline, Shillong Cantt, Shillong, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 7th day of June 2006.

Prabhat Ch. Das

That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

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 before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned memorandum of charge sheet bearing letter No. 21208/169/EST-IND/LC dated 11.07.2001 (Annexure- 2), impugned order of penalty bearing No. 10401/169/Civ/INQ/2005 dated 15.04.2005 (Annexure- 30) and impugned appellate order dated 08.05.2006 communicated through letter bearing No. 332229/2/EME Civ dated 09.05.2006 (Annexure- 32 Series).
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to reinstate the applicant in service with effect from the date he has been dismissed with all consequential service benefits including monetary benefits.
- 8.3 Costs of the application.

Poole hall ch. DAS

8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

9.2 That the Hon'ble Tribunal be pleased to stay operation of the impugned order of penalty bearing No. 10401/169/Civ/INQ/2005 dated 15.04.2005 (Annexure- 30) and impugned appellate order dated 08.05.2006 communicated through letter bearing No. 332229/2/EME Civ dated 09.05.2006 (Annexure- 32 Series).

10.

11. Particulars of the I.P.O

i)	I.P.O No.	:	266 324216
ii)	Date of issue	:	15.05.06
iii)	Issued from	:	SPO. Suwahate
iv)	Payable at	:	SPO. Suwahate

12. List of enclosures:

As given in the index.

Prabhat ch. Das

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CONFIDENTIAL

Annexure - 1

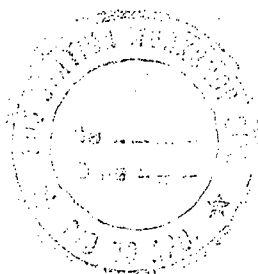
Standard form of suspension (Rule 10(1) of CCS (CC&A) Rule 1965

Place of Issue : SHILLONG

No : 10401/Civ
Date : 02 Jun. 2001

ORDER

1. Where as a disciplinary proceedings against T No 169 (Civ Veh Mech) Shri P C Das of 306 Station Workshop EME C/O 99 APO are contemplated.
2. Now, therefore, the undersigned (the appointing authority to which it is subordinate), in exercise of the powers conferred by sub rule (1) of rule 10 of Central Civil Services (Classification, Control and Appeal) Rule 1965, hereby places the said T No 169 (Civ Veh Mech) Shri PC Das of 306 Station Workshop EME C/O 99 APO under suspension with immediate effect.
3. It is further ordered that during the period that this order shall remain in force, the headquarters of T-169 (Civ Veh Mech) Shri P C Das shall be Shillong and the said T No 169 (Civ Veh Mech) Shri P C Das shall not leave the headquarters without obtaining the previous permission of the undersigned.



[Signature]
LT Col J S Bains
Officer Commanding
306 Station Wksp EME
C/O 99 APO

Copy to :-

- T No 169 (Civ Veh Mech)
- Shri P C Das
- (a) 306 Station Workshop EME C/O 99 APO
- (b) Qtr No DM 30/4 Dudgeon Lines Shillong

CONFIDENTIAL

*Attested
By
Advocate*

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CONFIDENTIAL

Annexure-2

STANDARD FORM FOR CHARGE SHEET FOR MAJOR PENALTIES
(UNDER RULE 14 OF CCS (CC & A) RULES, 1965)

BY REGD POST
306 Sth Wksp EME
C/O 99 APO

21208/169/EST-IND/LC

11 Jul 2001

MEMORANDUM

1. The undersigned proposes to hold an Inquiry against T.No 169 Trade Veh Mech Name Shri PC Das under Rule 14 of the Central Civil Services (Classification and Appeal) Rules, 1965. The substance of the imputations of mis-conduct, or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of charge (Annexure I). A statement of the imputations of mis-conduct or mis-behaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and list of witnesses by whom, the article of charges are proposed to be sustained are also enclosed (Annexure III & IV).

2. Shri PC 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 article of charge as are not admitted. He should therefore specifically admit or deny each article of charge.

4. Shri PC Das is further informed that if he does not admit 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 refuse to comply the provisions of Rule 14 of the CCS (CC & 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 PC Das is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt in these proceedings, it will be presumed that Shri PC Das is aware of such representation so that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.

6. The receipt of the Memorandum may be acknowledged.




(JS Bains)
Lt Col/
Officer Commanding
(Disciplinary Authority)7

Encls :- Annexure I to IV

T.No/69 Trade Veh Mech
Shri PC Das Q/No DM 30/4, Dudgeon,
Lines Shillong

CONFIDENTIAL

*Attested
for
signature*

*Received
12/2001*

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CONFIDENTIAL

-1-

Annexure I

**STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST T.NO 169 TRADE
VEHICLE MECHANIC NAME SHRI PC-DAS OF 306 STATION WKSP EME, C/O 99 APO**

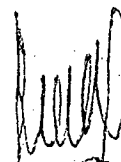
ARTICLE OF CHARGE - I

That the said T.No 169 Shri PC Das while functioning as Veh Mech during the period Feb 2001 to Jun 2001 committed the following offences :-

"Gross misconduct" i.e

- (i) On 01 Jun 2001, at about 0935h created a riotous and disorderly situation in the civilian rest room while being told to go to the shop floor by JC-750768X Nb Sub RC Nath.
- (ii) Assaulting JC-750768X Nb Sub RC Nath by raising both his hands to hit him on 01 Jun 2001 at 0935hrs approximately.
- (iii) An act, subversive of discipline in using abusive and filthy language against JC-750768X Nb Sub RC Nath, a Junior Commissioned Officer.
- (iv) Continual and willful neglect of duty from 01 Feb 2001 to 01 Jun 2001 on all working days.
- (v) Continual and willful disobedience of orders for refusing to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of a Government Servant and committed offences violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964."



.....Contd.....2/-

CONFIDENTIAL

*Attended
Sub
Amok*

4. - 44- 70
CONFIDENTIAL

Annexure II

STATEMENT OF IMPUTATION OF MIS-CONDUCT OR MIS-BEHAVIOUR IN SUPPORT
OF THE ARTICLE OF CHARGES FAMED AGAINST T.NO 169 TRADE VEH MECH
NAME SHRI PC DAS

ARTICLE OF CHARGE I

1. On 01 Jun 2001, JC-750768X Nb Sub RC Nath of 306 Stn Wksp EME went to civilian rest room at 0830h and requested the workers to come to the shop floor for work. T.No 172 Shri Bihari Singha and T.No 169 Shri PC Das informed that they will not come out as they wanted to discuss about the picketting by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub RC Nath returned back and waited for them for about one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub RC Nath again went to the civilian rest room alongwith Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Lalan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T.No 172 Shri Bihari Singha and T.No 169 Shri PC Das left for the work. They were going through some siles. Shri PC Das shouted at Nb Sub RC Nath and said "Hamara Koi Claim Pass Nahi Hota, Yahan Par Sab Gandu Offr Aur JCO Hai, Hum Bharat Varash Ke Employee Hain Yahan Par Dil Karega Bathengi". Shri PC Das again raised his hands to hit Nb Sub RC Nath and said "AAP Chor Ho, Aur FIP Ka Paise Khaya Hai". He made a gesture to hit Nb Sub RC Nath with both hands but Nb Sub RC Nath ducked and saved himself.

2. Shri PC Das while working as Vehicle Mechanic in 306 Stn Wksp EME did not perform any duty on all working days from 01 Feb 2001 to 01 Jun 2001, through he used to be present in the workshop. He kept sitting in the civilian rest room. Thus he remained absent from place of work for 23 days in Feb 2001, 25 days in Mar 2001, 17 days in Apr 2001, 23 days in May 2001.

3. T.No 169 Veh Mech PC Das did not obey the orders of I/C Shop floors from 01 Feb 2001 to 01 Jun 2001 on all working days when he was told to proceed to shop floor and remained sitting in civilian rest room or kept moving aimlessly. Nb Sub Jai Prakasan and Nb Sub MDC Ahmed tried their best to order him to move to shop floor but he refused and told them that he will go to shop floor whenever he feel like.

4. Thus T.No 169 Veh Mech Shri PC Das violated the provisions of rules 3 of CCS (Conduct) Rules 1964, Committed Offences as under :-

- (i) On 01 Jun 2001 at about 0935h created a riotous and disorderly situation in the civilian rest room while being told to go the shop floor by JC-750768X Nb Sub RC Nath.
- (ii) Assaulting JC-750768X Nb Sub RC Nath by raising both his hands to hit on 01 Jun 2001 at about 0935h. Nb Sub RC Nath, a Junior Commissioned Officer saved himself by ducking.

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(iii) T.No 169 Veh Mech Shri PC Das used abusive and filthy language on 01 Jun 2001 at about 0935h against JC-750768X Nb Sub RC Nath, a Junior Commissioned Officer and used words "AAP Chor Ho, Apne Bahut Chori Ki Hai Aur FIP Ka Paise Khaya Hai". He further said "Hum Bharat Varash Ke Empllyee Hain, Yahan Dil Karega Bathenge."

(iv) Shri PC Das had been reporting for duty from 01 Feb 2001 to 31 May 2001 but did not report for duty at place of work and failed to perform and duty. Thus he remained absent from place of work in the shop floor for 23 days in Feb 2001, 25 days in Mar 2001, 17 days in Apr 2001 and 23 days in May 2001.

(v) T.No 169 Veh Mech PC Das did not obey the orders of section I/C shop floors from 01 Feb 2001 to 01 Jun 2001 for proceeding to place of duty on all working days when he was present in the unit.

Annexure III

1. List of documents by which the articles of charge framed against T.No 169 Trade Vehicle Mechanic Shri PC Das are proposed to be sustained.

- (a) Complaint given by JC-750768X Nb Sub RC Nath dt 01 Jun 2001
- (b) Reports of disobedience and no output given by Section incharges.

Annexure IV

1. List of witnesses by whom the article of charges framed against T.No 169 Veh Mech Shri PC Das are proposed to be sustained.

- (a) No 14577561N Nk Puran Singh
- (b) JC-750768X Nb Sub RC Nath
- (c) 14591478F Nk SC Singh
- (d) 14581821L Hav J Kushwaha
- (e) 14558493W Hav Lalan Sah
- (f) 14624820Y Nk D Palani
- (h) JC-753913P Nb Sub Jai Prakasan
- (j) JC-750236Y Nb Sub (Now Sub) MDC Ahmed
- (k) JC-754018W Nb Sub UP Mishra

Station : C/O 99 APO

Dated : 11 Jul 2001

(JS Bains)

Lt Col

Officer Commanding

(Disciplinary Authority)

CONFIDENTIAL

A. K. Singh
Rohit

From
6 T. NO. 169 V/M
P.C. DAS

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② 306 STN WKSP
C/O 99 APO ✓
28th July 2001

Annexure 3

To

The Officer Commanding
306 STN WKSP EME
C/O 99 APO

SUB: MEMORANDUM.

Ref. your memorandum No. 21208/
169/EST-IND/LE dt 11 July 2001

Sir In reference to the above referred
memorandum, I beg to submit that I
deny the alleged charges contained in
the aforesaid memorandum and desire
to be heard in person with in the framework
of Rule 14 of CCS(CCA) 1965.

Thanking you

बीमा नहीं NOT INSURED

लगाये गये बीमा के तहत का मूल्य रु.

Amount of Insurance Rs. 212. -

एक रीसेप्ट

Received & Registered

सामग्री का नाम

Addressed to

क्रमांक

No 11163

तारीख मंतर

306 STN WKSP EME

C/O 99 APO

सामग्री के अधिकारी के हस्ताक्षर

Signature of Receiving Officer

Your faith fully

(P.C. DAS)
Civ V/M

Attested
by
Advocate.

7
T. No 6177

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Annexure-4
REGD POST
306 Stn Wksp EME
C/O 99 APO

10401/Civ/169/INQ

20 Sep 2001

T.No 169 Veh Mech
Shri PC Das
Qtr No DM 30/4
Dudgeon Lines
Shillong

**DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED
AGAINST SHRI T.NO 169 VEH MECH PC DAS UNDER RULE
14 OF CCS (CCA) RULES 1965**

1. I have been appointed as Inquiring authority to conduct inquiry in the case above cited, vide Order No 10401/169/Civ dt 30 Aug 2001 issued by Lt Col JS Bains, OC of this unit, a copy of which has been endorsed to you.
2. Accordingly, a preliminary hearing of the case will be held by me on 09 Oct 2001 at 1100h at Office of Workshop Officer 306 Stn Wksp EME, C/O 99 APO. You should present yourself alongwith your defence assistant, if you so desire, in time to attend the preliminary hearing and wait until further directions. In case you fail to appear at the appointed date and time, proceeding will be taken ex-parte.
3. Instructions for getting your Defence Assistance relieved will be issued if his particulars and willingness to work as such alongwith the particulars of his controlling authority are received by me before 01 Oct 2001.
4. While nominating a Government servant as Defence Assistance the instructions on the subject should be kept in view.
5. Receipt of this notice may please be acknowledged.

B.P.
(Bidyot Panging)
AEE
Inquiring Authority

Copy to :-

JC-722950F Nb Sub/SKT(MT) Amar Singh -
Presenting Officer
306 Stn Wksp EME
C/O 99 APO

He is also requested to attend the preliminary hearing at appointed date and time alongwith all listed documents in Original.

B.P.
(Bidyot Panging)
AEE
Inquiring Authority

Received on
20/9/2001

Affected
Int.
Advocate

To,

Sri B. Panginy
AEEAnnexure-5

Inquiring Authority

306 Stn. WKSP. EME

c/o 99 A.P.O.

Sub:- Disciplinary Proceeding under Rule 14
of CCS (CCA) Rules 1965 against T.NO. 169
V.M. P.C. Das of 306 Stn. WKSP. E.M.E.

Ref:- My applications dt 23/11/2001 and
24/12/2001.

Sir,

I beg to state that the reply of my
letter under reference is still awaited. I
desire to appear before the disciplinary
proceeding with my defence assistance
Shri M P Singha UDC of 222 ABOD c/o 99
A.P.O. His willingness certificate is attached
here with for your further necessary
action.

Thanking you.

Encls: (One)

Dated: Shillong.

21st Jan. 2002

Attested
for
Advocate

Yours faithfully

(P.C. Das)

T.NO. 169 V.M.

Qtr. No. DM. 30/4

Deodger Line

Shillong cantt

CERTIFICATE

49

I the undersigned hereby tender my willingness to
act as defence assistance in respect Of NO 169 Rank VM
Name PC Das Of 306 Stn Wkp in the disciplinary case bearing
NO 21208/169/EST dated MD/LC dt 11 July 2001

Station: Narengi.

Dated : 6 Jan 02.

(MP Singha)

T/NO.6959394

Rank:UDC

222 ABOD C/O 99 APO.

CONFIDENTIAL - 50-

Annexure-6
Recd by Post

306 Stn Wksp EME
C/O 99 APO

06 Feb 2002

Tele: 6177

10401/169/Civ/Inq

T/No 169 Civ VM (MV)
Shri PC Das
Qtr No DM-30/4
Deodgen Line
Shillong Cantt

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 169
CIV VM (MV) SHRI P C DAS UNDER RULE 14 OF CCS (CCA) RULES 1965

1. Refer to your letter No nil dated 07 Feb 2002.
2. It is for your information that there has been no delay in intimating the dates of inquiries but you have been trying to delay the proceedings by refusing to accept the registered letters sent by this office. Again a registered letter No 10401/169/Civ/Inq dated 21 Dec 2001 has been refused back by you and has been returned back by postal authorities with the remarks-"refused to accept". It is clear from above that knowing fully well, you are refusing these letters.
3. It is also for your information that another registered letter has been sent to you on 24 Jan 2002 intimating you the inquiry date on 06 Feb 2002. As you have not attended the inquiry on 06 Feb 2002, the inquiry is being conducted ex-parte.
4. Your application for defence assistance from out side Meghalaya was considered but has been rejected. In this connection a reference be made to our letter No 10401/169/Civ/Inq dated 08 Feb 2002.

B P
(Bidyot Panging)
AEE
Inquiring Authority

CONFIDENTIAL

Attested
for
Advocate

25/2/02
on 25/2/02
25/2/2002

306 Stn Wksp. EME
C/O 99 APO.

Annexure-7

Sub :- DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST SRI P. NO. 169
MECH PO DAS UNDER RULE 14 OF CCS (CCA) RULES 1965

Ref :- Your letter No 10401/civ/169/IND dt. 20 Sep 2001 and received on
26 Sep 2001.

Sir,

I am in receipt of your letter under reference on 26/09/2001. In the connection, I would like to say that I am not in a position to manage my defence assistance for my defence within this short span.

I therefore request you to kindly give me 30 days time and allow me to present myself with my defence assistance, before the Inquiring office.

Thanking You Sir.

Your's Faithfully

Dated :- 27th Sep 2001

(P C DAS)
T. NO 169 Veh Mech
Qtr No DM 30/4
Budgeon Line
Shillong.

ब्रीमा नहीं NOT INSURED

लगाये गये डाक टिकटों का मूल्य रु. 21/-
Amount of Stamps affixed Rs. 21/-

एक रजिस्ट्र* प्राप्त किया

Received a Registered* तारीख मोहर

पानेवाले का नाम Date Stamp

Addressed to The Inquiring Authority

306 Stn Wksp EME पानेवाले अधिकारी के हस्ताक्षर

C/O 99 APO Signature of Receiving Officer

28/9/01

Attested
Smt
Admate

Officer Commanding
306 Stn Wksp Bme
C/O 99 APO.

Annexure-8

SUB : DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST SRI B NO.
169 VM MECH PG DAS UNDER RULE 14 OF CCS (CCA) RULES 1965.

Ref :- Inquiring authority's letter No 10401/Oiv/169/IND dt
20 Sep 2001 addressed to me and copy endorsed to Presenting Officer.

Sir,

I beg to state that OC Wksp letter No 10401/169/Oiv dt 30 Aug 2001, stated to have been endorsed to me by enquiring authority has not been received by me. A copy of endorsement of your letter cited above may please be furnished to me for record and also intimate who is disciplinary authority of this enquiry. Your earlier reply is requested. So that I may be able to prepare myself to face the enquiry.

Thanking you.

Your's faithfully,

(Signature)
07/12/01

(PG Das)
T.No 169 VM (MV)
Qtr No IM-30/4
Deodgen line
Shillong Cantt

Dated : 07 Dec 2001

Copy to :-

Shri B Pangang
AEE
Inquiry authority
306 Stn Wksp BME
C/O 99 APO

- for info and necessary action please.

*Attested
Advocate*

Dated 09 Oct 2001

DAILY ORDER SHEETAnnexure-9

Disciplinary proceedings against T.No 169 Civ VM Shri P C Das to inquire into the charges levelled against vide memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001.

1. Proceedings on 09 Oct 2001.

Present (a) Shri Bidyot Panging, AEE
Inquiring Authority

(b) JC-722950E Nb Sub/SKT(MT) Anwar Singh
Presenting Officer

2. The inquiring proceedings could not proceed as T.No 169 Shri P C Das has written a letter dated 27 Sep 2001 which was received by me on 01 Oct 2001. In the letter individual has expressed his inability to arrange for defence assistance due to shortage of time. Though sufficient time has been given to the individual to arrange for defence assistance, but one more opportunity has been given to the indi to appear for preliminary hearing on 22 Oct 2001 at 1100h in my office.

4. Copies of daily order sheet have been endorsed to all concerned.

(Bidyot Panging)
AEE
Inquiring Authority

CONFIDENTIAL

Attested
for
Advocate

Received on 21/NOV/2001

CONFIDENTIALAnnexure-10

File No. 10401/Civ/169/Inq/D5

Dated : 22 Oct 2001

DAILY ORDER SHEET

Disciplinary proceedings again T.No 169 Civ VM Shri P C Das to inquire into the charges lendled against vide memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001.

1. Proceedings on 22 Oct 2001.

Present : (a) Shri Bidyot Panging, AEE
Inquiring Authority

(b) JC-722950E Nb Sub/SKT(MT) Amar Singh
Presenting Officer

2. The inquiring proceedings could not proceed as T.No 169 Civ VM Shri P C Das did not attend the inquiring on 22 Oct 2001. Instead a letter dated 15 Oct 2001 addressed to Officer Commanding 306 Sth Wksp EME and copy endorsed to undersigned was received on 18 Oct 2001, requesting for engaging a lawyer as defence assistance and for joint trial. Another letter dated 18 Oct 2001 was also recd by me through courier acknowledging my letter 10401/Civ/172/Inq dated 03 Oct 2001 and giving reference of letter addressed to officer commanding 306 Sth Wksp EME.

3. The contents of daily order sheet have been sent to all concerned Officer Commanding 306 Sth Wksp EME did not accede the request of charged official as presenting officer is not legally qualified. Similarly request of joint trial has also been rejected.

4. The next hearing will take place on 16 Nov 2001 in my office at 306 Sth Wksp EME.

Attested
Jmt.
Advocate

File on 21/Nov-2001

B.P.
Bidyot Panging
AEE
Inquiring Authority

15
55-
CONFIDENTIAL

Annexure - 11 24 21

Registered Post

306 Stn Wksp EME
C/O 99 APO

Tele : 6177

10401/169/Civ/Inq

24 Jan 2002

T/No 169 Civ VM
Shri P C Das
Qtr No DM 30/4
Deodgen Line
Shillong Cantt

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 169
CIV VM (MV) SHRI P C DAS UNDER RULE 14 OF CCS (CCA) RULES 1965

1. Refer to :-

(a) My Registered letter No 10401/169/Civ/Inq dated 23 Oct 2001.

(b) Your letter No Nil dated 23 Nov 2001, recd on 29 Nov 2001.

(c) My Registered letter No 10401/169/Civ/Inq dated 21 Dec 2001. (Returned back
unaccepted on 18 Jan 2002).

2. On your request vide letter at Para 1 (b) above, you have been given sufficient time to search for a defence assistance and date of hearing was fixed on 17 Jan 2002 which was intimated to you vide our Registered letter No 10401/169/Civ/Inq dt 21 Dec 2001. But this letter was returned undelivered because you had refused to accept the registered letter on 11 Jan 2002, as per remarks endorsed on the letter by the postal authority.

3. It seems that you are trying to delay the inquiry. However, it is for your information that exparte inquiry has already been started on 16 Nov 2001 (which was intimated to you vide our letter ref at Para 1 (c) above. You are hereby given one more chance to report for inquiry on 06 Feb 2002 at 1100 h in my Office.

Copy to :-

Officer Commanding
306 Station Wksp EME
C/O 99 APO

IC 322950F, Abn SGT (MT)
Amar Singh
306 Station Wksp EME
C/O 99 APO

B.P.
(B Panging)
AEE
Inquiring Authority

Received on
14/2/2002

Attested
Sd/-
Advocate

Sri Bidyot Panging
AED
Inquiring Authority
206 Stn Wksp EME
C/O 99 APO.

56-
Annexure - 12

Sub : DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T NO 169 CIV VM (MY) SHRI PC DAS UNDER RULE 14 OF CCS(CCA) RULES 1965.

Ref : Your letter Nos :-

- (a) 10401/159/Civ/inq dt 08/2/2002.
- (b) 10401/169/Civ/inq dt 24/1/2002.

Sir,

1. Your letter under reference, has been received on 14/2/2002, hence the appearance before you on 06/1/2002 is not possible.
2. Further your letter No 10401/169/Civ/inq dt 21/12/2001 has not been delivered to me, so refusal of the same does not arise. Hence the charges levelled against me for non-acceptance of registered letter is false.
3. I had nominated Shri MP Singha UDC of 222 ABOD C/O 99 APO under the provision of Rule-14 of CCS(CCA) Rules 1965, with a copy of his willingness, vide my letter dt 21/01/2002. Hence changing of my defence assistant at this stage can not be made, as such ~~my~~ necessary action in this regards may please be taken. however a fresh willingness certificate of my defence assistant is enclosed herewith again for your necessary action.
4. Your attention is also drawn to the last sentence of para 2 of your letter No- 10401/169/Civ/inq dt 08/2/2002. In which you have advised to engage a defence assistant and on the other hand you have stated that ex-parte inquiring proceeding have already been started, which is not understood.
5. Your early action is solicited.

Your's faithfully.

Pd 18/2/02

Encls : 1 (one)

Dated : 18 Feb. 2002

(P.C Das)
T No - 169 Civ VM
Qtn. No. DM 30/4
Deodgen line
Shillong Cantt

*Accepted
for
Signature*

- 57 -

(78) 27

()

WILLINGNESS CERTIFICATE.

I the undersigned hereby tender my willingness
to act as defence assistant in respect of T No. 169 VM
Shri PC Das of 306 Station Workshop EME C/O 99 APO
in the disciplinary case bearing No. 21208/169/EST-IND/LC
dated 11 Jul 2001.

Station : Narengi.

Dated : 15 Feb 2002.

(MP Singha)

T/No. 6959394 UDC.

222 ABOD C/O 99 APO.

18

- 58 -

CONFIDENTIALAnnexure - 13

(32) 84

Regd by Post

Tele : 6177

306 Stn Wksp EME
C/O 99 APO

10401/Civ/169//INQ

22 Feb 2002

T/No 169 Civ VM (MV)
Shri P C Das
Qtr No DM 30/4
Deodgen Line
Shillong Cantt

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 169 CIV
VM (MV) SHRI P C DAS UNDER RULE 14 OF CCS (CCA) RULES 1965

1. Further to our letter No 10401/169/Civ/INQ dated 12 Feb 2002.
2. You have already been given five opportunities on 09 Oct 2001, 22 Oct 2001, 16 Nov 2001, 17 Jan 2002 and 06 Feb 2002, but you were absent on all the above dates. Its seems that you are trying to delay the inquiry with one excuse or the other.
3. Beside that, exparte inquiry has already been started on 16 Nov 2001 (which was intimated to you vide our registered letter No 10401/169/Civ/INQ dt 21 Dec 2001 and registered letter No 10401/169/Civ/INQ dt 24 Jan 2002), you are hereby given another chance to report for inquiry on 12 Mar 2002 at 1100hrs in my Office. It is for your information that after 12 Mar 2002, the inquiry proceedings will be held on every alternative day except Sunday and Holidays at 1100hrs in my Office. If the date of inquiry is falls on Sunday or Holidays, these will be held on next working day at same time and place.

B 7
(B Pānging)
AEE
Inquiry Authority

Received on
04/3/2002

CONFIDENTIAL

Pd/s
04/3/2002

Attested
Joint
Advocate

19
59-
23
85
Annexure-14

To
Shri B Penging
AEE
Inquiring Authority
306 Sta Wksp EME
C/O 99 APO.

Sub :- DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T.NO 169
VM PO DAS UNDER RULE 14 OF CCS (CCA) RULES 1965.

Ref :- Your's letter Nos :-

1. 10401/169/Civ/INQ dt 23 Oct 2001.
2. 10401/Civ/169/INQ dt 22 Oct 2001.
3. 10402/Civ/169 dt 20 Oct 2001.
4. 10401/Civ/169/INQ dt 09 Oct 2001. and
5. 10401/Civ/169/INQ/Db dt 20 Sep 2001.

Sir,

Since all the letters were received by me on 21 Nov 2001. It was not possible for me to appear before you on 16 Nov 2001 at 1100 hrs as desired vide your letter dt 23 Oct 2001.

I have already sought permission for engaging Shri MP Singha UDC of 222 ABOD as my defence assistance vide my letter dt 21/1/2002. But confirmation in this regards has not yet been received.

Hence there is no delay on my part, rather there is delay in communication and decision on your part and on the part of the disciplinary authority.

I therefore, request you to give confirmation to my letter dated 21 Jan 2002, so that the case can be settled at an early date as the same is pending/lingering since 01 June 2001.

Thanking you sir.

Dated :- 07 Feb 2002.

Copy to :-

The CC
306 Sta Wksp EME
C/O 99 APO.

Your letter No.
10401/Civ/169
dt 19 Oct 2001
has been received
by me on 21 Nov 2001
and made a request to
inquiring authority
subsequently on 23/11/2001,
24/12/2001 and 21/1/2002 for
engaging defence assistance,
reply to which is yet to be received.

Your's faithfully

(PC Das)

T.No 169 VM
Qtr No. DM 30/4.
Deedgen line
Shillong Cantt.

Attested
for
Advocate

20
- 60 -
CONFIDENTIAL

Annexure-15

35

File No : 10401/Civ/169/Inq

Dated : 14 Mar 2002

DAILY ORDER SHEET

Disciplinary proceedings against T/No 169 Civ/VM (MV) Shri P C Das to inquire into the charges lendled against vide memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001.

1. Proceedings on 14 Mar 2002 :-

Present

(a) Shri Bidyot Panging AEE
Inquiring Authority

(b) JC-722950E Nb Sub SKT (MT) Amar Singh
Presenting Officer

(c) T/No 169 Civ/VM(MV) Shri PC Das
Charged Official

(d) JC-753913P Nb Sub Tech 'B' Veh
K Jaya prakasan
State Witness - 3

Absent

(e) Defence Assistance.

2. The inquiry proceedings started at 1100 h on 14 Mar 2002, T/No 169 Civ VM (MV) Shri PC Das came without any defence assistance saying "Hum Kahanse defence assistance layenge". He delivered me a letter No nil dated 09 Mar 2002 requesting for reconsider to engage Shri M P Singha UDC of 222 ABOD as defence assistance, which was already have been rejected by the undersigned vide letter as under :-

(a) 306 Stn Wksp EME letter No 210401/169/Civ/INQ dated 08 Feb 2002, recd by the charged official on 14 Feb 2002.

(b) 306 Stn Wksp EME letter No 210401/169/Civ/INQ dated 12 Feb 2002, recd by the charged official on 25 Feb 2002.

However, his request have been considered by the undersigned but has been Rejected. Charged official have been once again advised by the undersigned to engage a defence assistance from any local unit in Shillong and not to delay the proceedings, which was already started ex-parte wef 16 Nov 2001.

3. On continuation of the deposition of State Witness-3 recorded in the proceedings on 12 Mar 2002, the charged official was asked for any cross examination after statement of SW-3 was read out to him in the language he understand by the inquiry officer. But the charged official is not willing to speak anything without defence assistance. Cross examination by defence assistance could not be done due to

Affected
State Advocate

CONFIDENTIAL

21

- 61 -

CONFIDENTIAL

87

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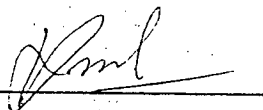
absence of defence assistance. Though the charged official have been given sufficient time to engage a defence assistance vide registered letter as under :-

- (a) 306 Station Wksp EME letter No 10401/Civ/169/INQ dated 20 Sep 2001
- (b) 306 Station Wksp EME letter No 10401/Civ/169/INQ dated 03 Oct 2001
- (c) 306 Station Wksp EME letter No 10401/Civ/169/INQ dated 20 Oct 2001
- (d) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 23 Oct 2001
- (e) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 21 Dec 2001
- (f) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 24 Jan 2002
- (g) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 08 Feb 2002
- (h) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 12 Feb 2002

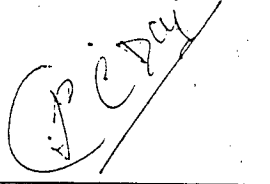
4. Inquiry officer proceeded to process the remaining task of the deposition of SW-3 and his deposition have been completed and read over to the witness in the language, he understand.

5. Copies of depositions made by the State Witness-3 before me have been handed over to the presenting officer and the charged officer.

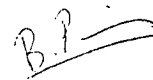
6. The next hearing will be on 18 Mar 2002 at 1100 hrs in my office, thereafter on every alternative date as mentioned in my letter No 10401/169/Civ/INQ dated 12 Feb 2002.



Presenting Officer



Charged Officer



Inquiry Authority

Not yet engaged by
the charged official

Defence Assistance

CONFIDENTIAL

22
-62-
Annexure-16
(35)
88
★ The Officer Commanding
306 Stn Wksp EME
C/O 99 APO.

Sub : DEFENCE ASSISTANT.

Ref : My application dt 09/3/2002.

Sir,
With reference to my application cited above, I beg to submit the following.

That in my aforesaid application, I had requested for engagement of defence assistant for my defence in the court of enquiry to be held against me and Sri MP Singha has been nominated as my defence assistant to assist my case but my request was turned down on the plea that the defence assistant, which is going to be engaged by me is not from the HQ Shillong and from the distance place. I have requested again and again vide my applications dt/ 21/1/2002, 07/2/2002 and 18/2/2002. But my request was flatly rejected.

During the enquiry on 14/3/2002 both enquiry officer and presenting officer have forced to sign the daily order sheet, which is very difficult without defence assistant. Even without any work I was detained up to 1410 hrs without water and lunch, and not allowed to attend call of nature. I was much tortured and humiliated. I have no other way but to sign and somehow managed to be relieved from there.

As I am a layman in this case and to face the enquiry, which is very much complicated and full of motivation, I would like to once again request you to kindly allow me to engage Sri MP Singha as my defence assistant. At the same time he may also be intimated to appear before the court of enquiry at an early date.

In this connection, my application dt 09/3/2002 addressed to the inquiring authority is attached here with for your kind perusal and necessary action.

Hope you will do the needful and consider my case for appointment of defence assistant Sri MP Singha.

Thanking you sir.

Encls : One sheet.

Dated : 18/3/2002.

Copy to :-

Sri B Pangning.
AEE
Inquiring Authority
306 Stn Wksp EME
C/O 99 APO.

For information
please.

Your's faithfully.

(PC Das)
T No 169 VM (MV)
Qtr No DM 30/4.
Deodgen Line
Shillong Cantt.

Attested
Advocate

23
Lt.Col. JS Bains

Officer Commanding/Disciplinary Authority

306 Stn Wksp EME C/O 99 APO.

63-
Annexure-17 (series) 37

29

Sub : SUPPLY OF COPIES OF APPOINTMENT IN RESPECT OF THE INQUIRY OFFICER AND THE PRESENTING OFFICER IN THE DISCIPLINARY PROCEEDING FRAMED AGAINST ME UNDER RULE 14 OF CCS(CCA) RULES 1965.

Sir,

With reference to the subject indicated above, I have the honour to state as hereinafter :-

1. That, infact I am in receipt of your Memo No. 21208/169/EST-IND /LC dt 11 Jul 2001 by which I have been charged with a solitary Article of charge, with some clauses thereunder.
2. That, in response to the Memo aforesaid I submitted my showcause reply on 28/7/2001, denying the charge in each entirety.
3. That, thereafter I have not yet received any communication from the appropriate authority about any further action taken in this regards except a few correspondences from Sri B Pangning AEE who claims to be the Inquiring Authority in the instant disciplinary proceeding being duly appointed by Lt.Col JS Bains OC/Disciplinary Authority of this unit vide order No 10401/169/Civ dt 30 Aug 2001.
4. That, in this connection, it is very pertinent to place on record that all the relevant papers/documents including copies of appointment of the inquiry officer and the presenting officer are vitally required to be furnished to the charged official, in advance, well ahead of time before any enquiry starts, as per provisions under the CCS(CCA) Rules 1965 read with Article 311 of the constitution of India. But, unfortunately, I have not yet received any communications from the disciplinary authority in this regards. In the absence of any specific written official order issued from the competent authority, whatever was done in the name of disciplinary proceeding so far automatically stood null and void, according to the procedure established by law.
5. It needs to be further stated that I preferred several submissions to the authority concerned, on several occasions either through personal approaches or in writing requesting them to supply me the copies of the letters appointing the inquiry officer and the

Contd..... 2 .

Attested
Jain
Advocate

Pd 19/3/2002

the presenting officer. But, it is curious to note that nothing has been communicated to me in this regards till date. My letter dt 07/12/2001 may kindly be reffered to.

6. That, I beg to state further more that I still reserve my right of personal hearings being duly assisted by an experienced defence counsel(assistant) of my own choice for this ends of justive and fairplay.

7. That, I may kindly be permitted to mention here that to my utter surprise, when I went to attend the departmental enquiry on 18/3/02, I find that the security team has dragged me to the duty room and asked me for taking off my all cloths including shoes, except inner wear, as if I am a criminal. As such it seems that the disciplinary authority and self designated enquiry officer have debarred me of reasonable justice. After complition of all security checks aforesaid the team took me to enquiry office. No enquiry was conducted but detained me for sometime with no work and asked me to leave the enquiry office.

8. In the premises stated hereinabove it is humbly prayed that your benignself would be graciously please to look into the matter very sympethetically and further be please to furnish me the copies of the relevent office order appointing the enquiry officer and the presenting officer including all the documents listed out in Annexure -III of the Memo aforesaid at an early date, thereby affording me the reasonable opportunity of personal hearings of being duly helped and assisted by an experience defence counsel(assistant) of my own choice as provided under relevent provision of CCS(CCA) Rules 1965 readwit Article 311 of the constitution of India. Forthis act of your kindness I shall remain ever grateful to you.

Dated : 19 Mar 2002.

Your's faithfully.

Copy to :-

1. Sri B Panging.

AEE

Inquiring Authority
(self designated)

2. Nb/Sub Amar Singh
Presenting officer
(as claimed by self
designated enquiry
officer)

(PC Das)

T No 169 VM(MV)

Charged Officer.

For information please.

RECEIVED BY

[Handwritten signature]
21/03/02

[Handwritten signature]
19/3/2002

25
To

154 Ram
-65- D.
395
a1
Annexure-17 (Series)
Lt. Col JS Bains
OC/Disciplinary Authority.
306 Stn Wksp EME C/O 99 APO.

Sub : SUPPLY OF COPIES OF APPOINTMENT IN RESPECT OF THE INQUIRY OFFICER AND THE PRESENTING OFFICER IN THE DISCIPLINARY PROCEEDING FRAMED AGAINST ME UNDER RULE 14 OF CCS (CCA) RULES 1965.

Sir,

In continuation to my application dt 19/3/2002 I may kindly be permitted to submit the following.

As instruction by self designated inquiry officer, that the the enquiry will be held on every alternative day, I went to the enquiry office on 20/3/02 at 100 hrs. But I have not been allowed to go inside the office complex/enquiry place and the self designated inquiry officer came to the gate of the office. I wanted to handover the letter to him but he refused to accept it, when I asked him to give in writing. He said that "KEYA MAIN APNE APP, APNE PAO MAIN KUDALI MARNA HAI KIA." send it by post. Saying this he went inside. He did not concede my request to receive the letter by hand. That I am hand to mouth due to non-receipt of subsistence allowance. How can I send letter by post. I become very much surprise to see the indifferant attitude of self designated enquiry officer. I am not getting justice in this enquiry and it seems that the self designated inquiry officer is biased against me.

~~Copy~~

Dated : 21 Mar 2002

Copy to -

1. Sri B Panging

AME

Inquiring Authority.

(Self designated)

306 Stn Wksp EME
C/O 99 APO.

2. Nb/Sub Amar Singh
Presenting officer

(as claimed by self
designated enquiry officer)

306 Stn Wksp EME C/O 99 APO.

Your's faithfully

(PC Das)

T No 169 VM(MV)

Charged Officer.

For information please.

Received

22/03/02

306 Stn. Wksp. EME
C/O 99 APO

Attested
Sd/-
Akhore

66
Lt. Col. JS Bains
Disciplinary Authority
306 Stn. Wksp EME
C/O 99 APO.

Annexure-17 (series) (39)
Dated : Shillong.
The 23 Mar 2002

Subj: SUPPLY OF COPIES OF APPOINTMENT IN RESPECT OF THE INQUIRY OFFICER
AND THE PRESENTING OFFICER IN THE DISCIPLINARY PROCEEDING FRAMED
AGAINST ME UNDER RULE 14 OF CCS(CCA) RULES 1965.

Ref: (i) My applications dated 19/3/2002, 21/3/2002 and
(ii) Order No. 10401/Civ/169/INQ dt 22/2/2002 issued to me by the
self designated Inquiry Officer.

Sir,

I have the honour to invite your kind attention to the
order and my applications under reference on the subject indicated above
and to state as follows :-

1. That, I have submitted my humble representation referred to
hereinabove on 19/3/2002, praying thereby to supply copies of the appoint-
ment of the Inquiry officer and the Presenting officer in connection with
the Disciplinary proceedings against me along with other documents which
I consider, are vitally relevant to the instant enquiry sofar as my presen-
tation of the case is concerned.

2. That, in this connection, I may kindly be permitted to refer
to the letter No. 10401/Civ/169/INQ dt 22/2/2002 issued to me by the self
designated Inquiry officer (Sri B Panging), AEE whereby I have been
directed to appear before him every alternative date wef. 12 Mar 2002.
However, I have been continuously co-operating with him (the said IO) by
my regular appearances inspite of the fact that I am not in receipt of
his (the said IO) appointment letter issued from the appropriate Disciplinary
Authority.

3. That, but, it is very surprising to find that I was not in a
position to reach up to the place of enquiry on 20/3/2002 and 22/3/2002.
due to forcible restriction imposed upon me by the Gate NCO/Incharge
inspite of my sincere efforts. As a consequences, I have been denied of
my reasonable opportunity of being heard in person, on the said days.

4. That, as far as nomination/appointment of Defence Counsel is
concerned, I have already furnished the name of Sri MP Singha of 222
ABOD C/O 99 APO along with his consent. But, no communication has yet
been received from the Disciplinary Authority in this regards. In this
connection my earlier representations dt. 21/1/2002, 07/2/2002,
13/2/2002, 09/3/2002 and 18/3/2002. may kindly be referred to.

Under the facts and circumstances stated above it is humbly
prayed that your goodself would be graciously pleased to consider my
earlier representations referred above indicating the instant one very
sympathetically and pass necessary orders affording the reasonable

portunity of my personal hearings as per provision under CCS(CCA) Rules
55 read with Article 311 of the constitution of India at an early date.
For this act of your kindness I shall remain ever grateful to you.

Your's faithfully

PC Das
23/3/2002

Copy to :-

Sri B Panging

AEE

Inquiring Authority

(self designated)

306 Stn Wksp EME

C/O 99 APO.

For information
and necessary
action please.

(P C Das)

T No. 169 VM(MV)

Charged Officer

Qtr No. DM 30/4

Deodgen Line

Shillong Cantt.

Sri B. Panging

AEE

Received

Hand
26/03/02

306 STN WKSP
C/O 99 A.P.O

*Attended
Advocate*

28
- 68-
Annexure - 18
Dated : Shillong
The 26 Mar 2002.

Col. JS Bains
Disciplinary Authority
306 Stn Wksp EME
C/O 99 APO.

Sub : DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T.NO. 169
SRI PC DAS UNDER RULE 14 OF CCS(CCA) RULES 1965.

Sir,

With reference to the order No 10401/Civ/169/Inq dt 22/2/2002 issued to me by Sri B Panging AEE, who claims to be the Inquiry Officer of the instant Disciplinary proceedings conducted against me, I beg to inform you that I sincerely came to the place of enquiry at 306 Stn Wksp EME C/O 99 APO to co-operate with the said enquiry according to the time and venue fixed for the purpose.

But, it is surprising that again I was not even allowed to enter the gate of the office by the Gate NCO/Incharge and rather I was force upon to leave the place for reason known only to the authorities concerned.

In this connection my earlier applications dt 21/1/2002, 07/2/2002, 18/2/2002, 09/3/2002, 18/3/2002, 19/3/2002, 21/3/2002, and 23/3/2002. may kindly be referred to, whereby I requested the authorities concerned to communicate me about steps taken in regards to appointments of the Inquiry Officer and the Presenting Officer and also permission for engagement of Defence Counsel(Assistant).

In the circumstances stated above, it is humbly prayed that you would be kind enough to look into the matter thoroughly and make necessary arrangement for conducting the instant Disciplinary proceedings against me by a duly appointing Inquiry Officer with prior notice to all concerned about the date, time, venue etc. For this act of your kindness I shall remain ever grateful to you.

Copy to :-

Your's faithfully.

Sri B Panging
AEE

Inquiry Officer
(designated)
306 Stn Wksp EME
C/O 99 APO.

For information
and necessary
action please.

(P C Das)
T No. 169 VM(MV)
Charged Officer.
Qtr No. DM 30/4.
Deodgen Line, Shillong Canton.



Advocate

29

- 69-

Registered by Post

(41)

as

Tele : 6177

306 Stn Wksp EME

C/O 99 APO

Annexure-19

10401/Civ/169

Apr 2002

OL

T/No 169 Civ VM
 Shri P C Das
 Qtr No DM 30/4
 Deodgen Line
 Shillong Cantt

DEFENCE ASSISTNACE

1. Refer to your application dated 14 Mar 2002.
2. As per Para 2 of your application, you had request ed for engaging Shri MP Singha of 222 ABOD as your defence assistance and inquiry officer has rejected your request for engaging a defence assistance from outside Shillong due to long distance.
3. In this connection, your attention is also drawn to our letter No 10401/Civ/169 dated 19 Oct 2001, where your request for engaging legally qualified defence assistance was not agreed upon. Again inquiry officer vide his letter No 10401/169/Civ/Inq dated 08 Feb 2002 has already rejected your request for engaging a defence assistance from outside Shillong due to long distance between place of inquiry and place of posting of defence assistance. Inquiry officer had advised you to engage a defence assistance from place of inquiry. He had also mentioned that you were trying to delay the proceedings.
4. It has also been seen that you have been trying to delay the proceedings right from the beginning by refusing to accept registered letters in time which were sent to you. It has also been intimated by Postal authorities that you have not been available at your residence when postman used to visit you for delivering the registered letters. Many a registered letters have also been received back with the remarks of postal authorities "Individual refused to accept". It seems that you have been trying to use dilatory tactics to delay the proceedings and asking time and again to engage a defence assistance from 222 ABOD at a distance of 100 Km from this place. There are a large number of defence civilian employees, Central Govt employees of various departments available in Shillong, as all the Central Govt departments like Central Excise, P&T, MES CPWD, Survey of India, North East Council are located in Shillong. You can select any of the employees from these organisations from about 1000 Central Govt employees posted in Shillong, who will be available every day due to less distance.
5. In view of above, undersigned in the capacity of disciplinary authority upholds the decision given by the inquiry officer to reject your request for engaging a defence assistance from outside Shillong. You are advised to select a defence assistance from any unit/organisation in Shillong and co-operate with the inquiry officer for early completion of inquiry.

Received
 on 08/04/2002
 Time 1035

Attested
 by
 Advocate

43 Sd (Bains)
 १०६ स्टेशन वर्कशॉप ई. एम्. ई.
 306 Stn Wksp EME

Tele : 6177

~~CONFIDENTIAL~~
-70-
EL

Regd by post (u)

306 Stn Wksp EME
C/O 99 APO

Annexure-20

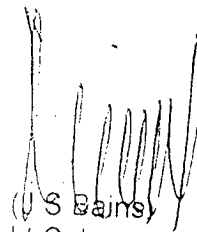
17 Apr 2002

10401/169/Civ

T/No 169 Civ VM
Shri P C Das
Qtr No DM 30/4
Deodgen Line
Shillong Cantt

**SUPPLY OF COPIES OF APPOINTMENT IN RESPECT OF INQUIRY
OFFICER AND THE PRESENTING OFFICER IN THE DISCIPLINARY
PROCEEDING AGAINST T/NO 169 SHRI P C DAS**

1. Refer to your letter No Nil dated 21 Mar 2002.
2. It is for your information that AEE, Shri Bidyot Panging was appointed as Inquiry Officer vide order No 10401/169/Civ dt 30 Aug 2001 and JC-722950F Nb Sub/SKT(MT) Amar Singh of 306 Station Wksp EME was appointed as Presenting Officer vide order No 10401/169/Civ dated 30 Aug 2001. The copies of the appointment of Inquiry Officer and Presenting Officer were sent to you vide Regd Post.
3. In fact, you have knowing been about the appointment of Inquiry Officer as you have been corresponding with him under intimation to this office. In this connection, zerox copies of your letter No Nil dated 23 Nov 2001 and 07 Dec 2001 are forwarded herewith to remind you that you know about the appointment of Inquiry Officer. You have been attending the inquiry on 14 Mar 2002 and 18 Mar 2002, as it seen from the gate passes. From the above it is clear that you have been trying to mislead the authorities and trying to delay the proceedings.
4. However a zerox copies of appointment of Inquiry Officer and Presenting Officer dated 30 Aug 2001 are again forwarded for your information.
5. You are advised once again to co-operate with the Inquiry Officer for early finalisation of court of inquiry.


(J S Bains)
Lt Col

Officer Commanding

- Encls : (a) Appointment of inquiry officer
(b) Appointment of presenting Offr
(c) Letter No Nil dated 23 Nov 2001
(d) Letter No Nil dated 07 Dec 2001

Copy to :-

Shri Bidyot Panging
AEE
306 Stn Wksp EME

for info and finalising the Inquiry at
earliest.

Received
on 27/4/2002
from 1035

*Attested
Advocate*
~~CONFIDENTIAL~~

31
CONFIDENTIAL

H- Annexure-21
STANDARD FORM OF ORDER RELATING TO APPOINTMENT OF
INQUIRY OFFICER UNDER RULE 14 (2) OF CCS (CC&A) RULES 1965

Regd by Post

306 Stn Wksp EME

C/O 99 APO

30 Aug 2001

10401/169/Civ

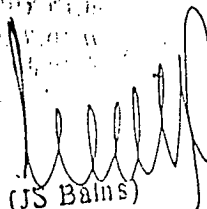
ORDER

1. Refer to this Workshop memorandum of Charge sheet bearing No 21208/169/Est
IND/LC dt 11 Jul 2001.

2. WHEREAS an inquiry under rule 14 of Central Civil Services (Classification,
Control & Appeal) Rule 1965 is being held against T.No 169 Civ/VM Shri PC Das.

3. AND WHEREAS the undersigned considers that an inquiry Officer should be
appointed to inquire into the charges framed against him.

4. Now therefore, the undersigned, in exercise of the powers conferred by Sub Rule
(2) of the said rule, hereby appoints Shri Bidyot Panging, AEE as Inquiry Officer to
inquire into the charges framed against the said T.No 169 Civ/VM Shri PC Das.



(JS Bains)

Lt Col

Officer Commanding

Disciplinary Authority

Copy to :-

T.No 169 Civ/VM
Shri PC Das
Qtr No DM 30/4
Dudgeon Lines
Shillong Cantt

NOO

Shri Bidyot Panging
306 Stn Wksp EME
C/O 99 APO

for information and action alongwith a copy of
charge sheet mentioned above.

CONFIDENTIAL

Shri Bidyot Panging
Advocate

32
Tele : 6177

10401/162/Civ

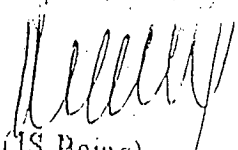
72 Annexure - 21

Regd by Post
306 Stn Wksp EME
C/O 99 APO

30 Aug 2001

APPOINTMENT OF PRESENTING OFFICER

1. Where an Inquiry under rule 14 of Central Civil Services (Classification, Control and Appeal) Rule 1965 is being held against T.No 169 Civ/VM Shri PC Das.
2. And whereas the undersigned considers that a Presenting Officer should be appointed to present on behalf of the undersigned..
3. Now therefore, the undersigned, in exercise of the powers conferred by Sub Rule 5 (2) of Rule 14 of the said rules, hereby appoints JC- 72295901b Suby SXT as the Presenting Officer.


(JS Bains)
Lt Col
Officer Commanding
Disciplinary Authority

Copy to

IC 72295901b Suby SXT (All)
Amn Hq
306 Stn Wksp EME

for info along with the following docs

- (a) Copy of memorandum
- (b) Copy of written statement of defence

Attested
Sub Advocate

33

- 73 -

F1

Annexure-22

11/4

09

Dated : Shillong
The 29th April 2002

Lt.Col J.S. Bains,
Officer Commanding,
306 Stn. WKSP. EME,
C/o 99 A.P.O.

Sub : Representation against the Appointment of Sri Bidyot Panging as Inquiry Officer on grounds of bias.

Ref : O.C. Wksp's letter No. 10401/169/Civ dt. 17/4/2002.

Sir,

I have the honour to acknowledge the receipt of the OC Wksp's letter under reference, which I received on 27/4/2002 and to state as hereunder :-

1. That, by this letter, (under Para-2), I was formally informed that Sri Bidyot Panging AEE. was appointed as Inquiry Officer, way back vide his order No. 10401/169/Civ dt. 30/8/2001 and JC-722950 F Nb. Sub/SKT (MT) Amar Singh of 306 Stn. Wksp. EME was appointed as presenting officer vide his order No 10401/169/Civ dt. 30/8/2001. It was interalia, stated there in that the copies of the appointment of the Inquiry Officer and the Presenting Officer, were sent to me vide Regd Post. In reply there to I am to state that it is not possible for me to accept the above allegation of the OC. Wksp that the copies of the appointments of the Inquiry Officer and the Presenting Officer were sent to me vide Regd Post, on the ground that he has either wilfully omitted or miserably failed to quote the No. and Date of the said Regd Post, while making correspondence with me, even though, I have requested him several times for the same.

2. That, it was also alleged in para-3 of his letter under reference, that infact, I have been knowing about the appointment of the Inquiry Officer as I have been corresponding with him under intimation to this office and that I have been attending the inquiry on 14 March 2002 and 18 March 2002 as it seen from the gate passes and also that from the above, it is clear that I have been trying to mislead the authorities and trying to delay the proceedings. In rebuttal there to, I am to state that I have never ever tried either to mislead the authorities or to delay the proceedings as alleged, but I tried my level best to co-operate with the authorities in this regard.

The ground reality is that rather the authorities have been arbitrarily and illegally trying to put me in troubles by adopting dilatory tactics and instead, putting the blame on me for no fault of my own and this will be evident from the fact that I was forced upon to recognise/accept an un-identified person as the Inquiry Officer whose mandatory formal appointment was purposely not made available to me for quite a long time and to obtain gate pass for attending the inquiry on the aforesaid dates under duress which, however, culminated in a total ban on my entry in the office campus in the long run.

3. That, as regards appointment of Sri Bidyot Panging AEE of 306 Stn. Wksp.

Contd ... 2/-

*Attest
Advocate*

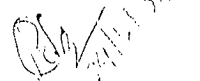
EME C/o 99 A.P.O. as the Inquiry Officer to inquire into the charge framed against me in exercise of powers conferred by Sub Rule (2) of Rule 14 of the CCS (CCA) Rules 1965, I am to state that his appointment letter No Issued vide 10401/169/Civ dt. 30/8/2001 has been received by me, of late, on 27/4/2002, after a lapse of a long period of around 8 months which ought to have been promptly communicated to me as per rules.

4. That, in this connection, it is very pertinent to point out here that Sri Bedyot Panging AEE, of 306 Stn Wksp EME C/o 99 APO is personally connected/concerned with all the matters/affairs relating to the instant Departmental Inquiry. Since he is the only subordinate officer under the Disciplinary Authority (Lt Col J S Bains), the Officer Commanding 306 Stn Wksp, EME C/o 99 APO, directly dealing with day-to-day official works including my service, covered by the period of charges framed against me and he is rather deemed to be witness in the instant Disciplinary Proceedings being conducted against me, and as such, he can not be the Inquiry Officer in the instant inquiry being conducted against me on grounds of bias.

5. That, I beg to further state that I emphatically assert my right of being heard in person duly helped and assisted by a defence counsel of my own choice for the ends of justice.

In the premises stated above, I earnestly request you that you would be kind enough to consider my case sympathetically, and stay the inquiry pending appointment of a fresh Inquiry Officer, in his place as per provision in para 87, P&T Manual, Vol-III and DG, P&T Letter No 7/28/72 - Disc. 1, Dated The 19th March 1973 below the Rule 14 of the CCS (CCA) Rules 1965. For this act of your kindness, I shall remain ever grateful to you.

Yours faithfully



(P. C. Das)
T. No. 169 VM(MV) U/S
Qtr No. DM 30/4
Deodgenline
Shillong Cantt.

Copy to :
Sri Bidyot Panging
AEE,
306 Stn Wksp EME
C/o 99 A.P.O.

----- for information please.

(P. C. Das)

CONFIDENTIAL

Regd by Post

Tele : 6177

306 Stn Wksp EME
C/O 99 APO

10401/169/Civ/Inq

09 Apr 2002

T/No 169 Civ VM (MV)
Shri PC Das
Qtr No DM-30/4
Deodgen Line
Shillong Cantt

**DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 169
VM SHRI PC DAS UNDER RULE 14 OF CCS (CCA) RULES 1965**

1. The following Daily Order Sheets alongwith deposition of the state witness are forwarded herewith for your information and necessary action :-

- (a) Daily Order Sheet No 10401/169/Civ/Inq dated 17 Jan 2002.
- (b) Daily Order Sheet No 10401/169/Civ/Inq dated 06 Feb 2002 alongwith copies of deposition made by SW-2 on 06 Feb 2002.
- (c) Daily Order Sheet No 10401/169/Civ/Inq dated 12 Mar 2002 alongwith copies of deposition made by SW-3 on 12 Mar 2002.
- (d) Daily Order Sheet No 10401/169/Civ/Inq dated 18 Mar 2002 alongwith copies of deposition made by SW-4 on 18 Mar 2002.
- (e) Daily Order Sheet No 10401/169/Civ/Inq dated 21 Mar 2002 alongwith copies of deposition made by SW-4 on 21 Mar 2002.
- (f) Daily Order Sheet No 10401/169/Civ/Inq dated 30 Mar 2002 alongwith copies of deposition made by SW-5 on 30 Mar 2002.
- (g) Daily Order Sheet No 10401/169/Civ/Inq dated 04 Apr 2002 alongwith copies of deposition made by SW-5 on 04 Apr 2002.

2. The next date of hearing has been fixed on 23 Apr 2002 at 1100 hrs in my office. The evidence on behalf of Disciplinary Authority has been closed. The proceedings will be resumed on 23 Apr 2002 for having defence evidence after the submission of written statement of defence by charged official. You are advised to present your self on the above date alongwith list of defence witness, if any.

Received
on 10/4/2002
Date 15/4/2002
P. S. 15/4/2002

B. P.
(Bidyot Panging)
AEE
Inquiry Officer

CONFIDENTIAL

36 -76- 102

CONFIDENTIAL

File No : 10401/Civ/169/Inq

Dated : 17 Jan 2002

DAILY ORDER SHEET

Disciplinary proceedings against T/No 169 Civ VM (MV) Shri P C Das to inquire into the charges levelled against vide memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001.

1. Proceedings on 17 Jan 2002.

Present (a) Shri Bidyot Panging AEE
Inquiring Authority

(b) JC- 722950E Nb Sub SKT (MT) Amar Singh
Presenting Officer

Absent (a) T/No 169 Civ VM (MV) Shri P C Das charged Official

2. The inquiry proceedings started at 1100 h on 17 Jan 2002, T/No 169 Civ VM (MV) Shri P C Das was not present even though a registered letter No 10401/169/Civ/INQ dated 21 Dec 2001 was sent to him duly intimating the date of inquiry but it is received undelivered because the charged Official had refused to accept the registered letter on 11 Jan 2002 as per remarks endorsed on the registered letter by the postal authority. He has already been given three opportunities on 09 Oct 2001, 22 Oct 2001 and 16 Nov 2001, it is seen that charged Official has been trying to delay the proceedings with one excuse or the other.

3. Since the charged Official is not present, there will not be any hearing on 17 Jan 2002.

4. The next hearing will be intimated separately.

[Signature]
Nb Sub Amar Singh
Presenting Officer

B.P.
(Bidyot Panging)
AEE
Inquiry Authority

CONFIDENTIAL

*Attested
Date
Advocate*

37
CONFIDENTIAL - 77-

192
File No : 10401/Civ/169/Inq

Dated : 06 Feb 2002

DAILY ORDER SHEET

Disciplinary proceedings against T/No 169 Civ VM Shri P C Das to inquire into the charges lended against vide memorandum No 21208/169/Est-Ind/LC dt 11 Jul 2001.

1. Proceedings on 06 Feb 2002.

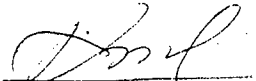
- Present (a) Shri Bidyot Panging AEE
Inquiring Authority
- (b) JC-722950E Nb Sub SKT (MT) Amar Singh
Presenting Officer
- (c) No 14577561N NK Puran Singh
State Witness - 2
- Absent (d) T/No 169 Civ VM Shri P C Das
Charged official
- (e) Defence Assistance

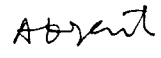
2. The inquiry proceedings started at 1100 h on 06 Feb 2002, T/No 169 Civ VM Shri P C Das was not present even though a registered letter No 10401/169/Civ/INQ dated 24 Jan 2002 was sent to him duly intimating the date of inquiry. He has already been given four opportunities on 09 Oct 2001, 22 Oct 2001, 16 Nov 2001, and 17 Jan 2002, it is seen that individual has been trying to delay the proceedings with one excuse or the other.

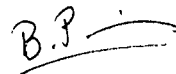
3. Inquiry Officer proceeded to take the statement of No 14577561N NK Puran Singh, SW-2 and his statement has been taken.

4. Copies of deposition made by the state witness-2 before me have been handed over to the presenting officer and its copies for the charged official will be sent by registered by post.

5. The next hearing will be intimated separately.


Presiding Officer
Presenting


Charged Officer


Inquiry Authority


Defence Assistance

CONFIDENTIAL

*Attorney
for
Advocate*

(Typed true copy)

SW-2
306 Stn Wksp EME
C/O 99 APO
Dated 06 Feb 2002

No. 14577561N Nk Puran Singh after having been duly warned states.

On 01 Jun 2001, I was performing the duties of driver of Car Ambassador BA No. 83B29886P. After parking the car near telecom shop, I was sitting near the main gate. I saw Nb Sub RC Nath going towards the recreation room. He told me to come along with him so that there may not be any untowards incident. I accompanied him. There were already Nk SC Singh, Hav J Khushwaha, Hav Lalan Shah with him. He went to recreation room and told civilian employees, who were sitting in the civilian recreation room to go to the shop floor. They all left the recreation room, except T No. 169 VM Shri PC Das and T No. 172 Elect (MV) Shri Bihari Singha. Nb Sub RC Nath have advised both of them to move to the shop floor, but they refused to go out from the recreation room. Shri Bihari Singha got up and picked up a file and told Nb Sub RC Nath that he is telling them to do work but they have to do a lot of Union work and their welfare is not being looked after. He took out a file and started using very abusing language about Ex OC. Lt. Col NK Tiwari. He said "Yeh Col Tiwari Gandu officer Tha, jisne is letter ko sign kiya Hai, Hamara Medical claim Pass Nahi Hua" and the words to that effect. Shri PC Das also repeated that "Hamara Koi claim Pass Nahi Ho Rahi Hai, Hum Kam Nehi Karenga, Yaha Par Sub Gandu officer Aur JCO Hain, Hum Bharat Varash ka Employee Hai, Jahan Par Dil Karenga Bethenge". Shri PC Das again raised his hand to hit Nb Sub RC Nath and said that "Aap Chor Ho, Apne Bahut Chori Ki Hai, Aur FIP Ka paisa Khaya Hai." He made a gesture to hit Nb Sub RC Nath, but he ducked. Meanwhile Shri Bihari Singha made a violent gesture with both hands to hit Nb Sub RC Nath, but he stepped

*Attestd
Sgt.
Advocate*

- 79 -

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back. Then Shri Bihari Singha hit the table with both hands repeatedly to sound anger and violent behaviour. All of us kept listening and came out to escape from his violent behaviour. After this incident Nb Sub RC Nath went to OC Office to report the matter to him.

Cross-Examination by the Defence Assistant

Cross-Examination could not be done due to absence of Defence Assistance and the charged official is not willing to speak anything without Defence Assistance been giving them sufficient time through registered letter as under: -

- (a) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 20 Sep 2001.
- (b) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 03 Oct 2001.
- (c) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 20 Oct 2001.
- (d) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 23 Oct 2001.
- (e) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 21 Dec 2001.
- (f) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 24 Jan 2002.

Re-Examination

Nil

Questions by the Inquiry Officer

Question No. 1:- How did T No. 169 Shri PC Das assault Nb Sub RC Nath?

Answer: - He raised his hand to hit Nb Sub RC Nath and said "Aap Chor Ho, Apne Bahut Chori Ki Hai, Aur FIP Ka Paisa Khaya Hai." He made a gesture to hit Nb Sub RC Nath, but he ducked.

Question No. 2:- What was your reaction after that?

Answer: - After seeing this, I lost my temper and about to charge Shri PC Das and Shri Bihari Singha but Nb Sub RC Nath had controlled me.

Question No. 3: - Did he reported to shop floor after the incident?

Answer: - I don't think he had reported to the shop floor, because after some time I saw him roaming around the wksp without doing any work.

Question No. 4: - Did you see them doing work earlier?

Answer: - No, I have never seen Shri P C Das and Shri Bihari Singha doing work. They used to roam around or read newspaper in their recreation room. They also keep playing with cards and have been terrorizing people.

Question No. 5:- What other activities of these personnel are known to you?

Answer:- Shri Bihari Singha has been a money lender and Shri PC Das is used to be with him as witness and helping him on collection of money. 6 to 7 Civilian and few combatants had also taken loan from Shri Bihari Singha on heavy interest.

Sd/-

Inquiry Officer

Read over to the witness in the language he understand in the presence of the of the Government servant and admitted as correct.

Sd/- Illegible
(No. 14577561 N Nk
Puran Singha)

Sd/- Illegible
(Inquiry Officer)

File No : 10401/Civ/169/Inq

Dated : 12 Mar 2002

DAILY ORDER SHEET

Disciplinary proceedings against T/No 169 Civ/VM (MV) Shri PC Das to inquire into the charges lendled against vide memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001.

1. Proceedings on 12 Mar 2002

Present

(a) Shri Bidyot Panging AEE
Inquiring Authority(b) JC- 722950E Nb Sub SKT (MT) Amar Singh
Presenting Officer(c) JC-753913P Nb Sub K Jaya Prakasan
State witness - 3

Absent

(d) T/No 169 Civ/VM(MV) Shri PC Das
Charged Official

(e) Defence assistance

2. The inquiry proceedings started at 1100 h. on 12 Mar 2002, T/No 169 Civ VM (MV) Shri PC Das was not present even though a registered letter No 10401/Civ/169/INQ dated 22 Feb 2002 was sent to him duly intimating the date of inquiry. He has already been given five opportunities on 09 Oct 2001, 22 Oct 2001, 16 Nov 2001, 17 Jan 2002 and 06 Feb 2002, it is seen that individual has been trying to delay the proceedings with one excuse or the other.

3. Inquiry officer proceeded to take the statement of JC-753913P Nb Sub K Jaya Prakasan, SW-3 and his statement has been taken

4. The cross examination of SW-3 was not done due to absence of Defence Assistance and charged official been given sufficient time through registered letter as under :-

- (a) 306 Station Wksp EME letter No 10401/Civ/169/INQ dated 20 Sep 2001
- (b) 306 Station Wksp EME letter No 10401/Civ/169/INQ dated 03 Oct 2001
- (c) 306 Station Wksp EME letter No 10401/Civ/169/INQ dated 20 Oct 2001
- (d) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 23 Oct 2001
- (e) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 21 Dec 2001
- (f) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 24 Jan 2002
- (g) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 08 Feb 2002
- (h) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 12 Feb 2002

...2/-

Attested
Shri PC Das
AEE

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CONFIDENTIAL

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5. Questions by the inquiry officer on SW-3 was deferred to the next date of hearing on 14 Mar 2002.
6. Copies of deposition made by the state witness - 3 before me have been handed over to the presenting officer and its copies for the charged official will be sent by registered post, since the charged official and defence assistance was absent.
7. The next hearing will be on day after tomorrow (i.e. 14 Mar 2002) at 1100 hrs, as mentioned in our letter No 10401/Civ/169/INQ dated 12 Feb 2002.


Presenting Officer

Absent
Charged Official

B.P.
Inquiry Authority

Absent
Defence Assistance

CONFIDENTIAL

Annexure- 23 (Series)

(Typed true copy)

SW-3
306 Stn Wksp EME
C/O 99 APO
12 Mar 2002

Deposition of JC- 753913P Nb Sub K Jaya Prakasan aged about 29 years S/o Late Shri Narayan K R/O 306 Stn wksp EME.

Profession: - Junior Commissioned Officer in the Corps of EME.

I, JC- 753913P Nb Sub K Jaya Prakasan R/O 306 Stn wksp EME after having been duly warned state that, I have been in this wksp since 05 Nov 2000 and I have been performing the duties of I/C 'B' Veh repair bay. Since the time, I have reported to this wksp, I have never seen T/No. 169 VM Shri PC Das performing any duties. They have been roaming around I this wksp without performing any duties. Whenever I tried to give him some work, he used to reply back that he is busy in welfare work and will not perform any trade work. Whenever, I or any other supervisory staff tried to give him some work, he used to simple refuse and used to raised his voice. He used to tell that he has not done any trade work till date and he will not do it even now. I had reported the matter to Maj Babu Geogre, then OC, 306 Stn Wksp but he did not pay attention. He never used to report to shop floor and use to either sit in civilian rest room or roam around. He used to be out from the wksp premises after launch break and this can be verified from register. Shri PC Das was even promoted as VM during the year 2000 by previous OC Maj Babu George, though he had been absenting from place of work and refusing to obey any orders of supervisory staff. After taking the command by the new OC, we have been maintaining a section wise daily register from 01 Feb 01 to keep the record of work output of the Industrial personal of this wksp. Then also T/No. 169 VM Shri PC Das was absent from the place of work on all working days and this can be verified from that daily

*Attested
Jain
Ahorate*

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register. I have never seen such irregular and irresponsible civilian Industrial person in my service.

Cross-Examination by the Defence Assistant

Cross-Examination could not be done due to absence of charged official and Defence Assistance been giving them sufficient time through registered letter as under: -

- (a) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 20 Sep 2001.
- (b) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 03 Oct 2001.
- (c) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 20 Oct 2001.
- (d) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 23 Oct 2001.
- (e) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 21 Dec 2001.
- (f) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 24 Jan 2002.
- (g) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 08 Feb 2002.
- (h) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 12 Feb 2002.

Re-Examination

Nil

Questions by the Inquiry Officer

Deferred to the next date of hearing on 14 Mar 2002 at 1100 hrs.

Sd/-
Inquiry Officer

Read over to the witness in the language he understand in the presence of the of the Government servant and admitted as correct.

(Deponent)

Sd/- Illegible
(Inquiry Officer)

*Attested
Shri Advocate*

File No : 10401/Civ/169/Inq

Dated : 14 Mar 2002

DAILY ORDER SHEET

Disciplinary proceedings against T/No 169 Civ/VM (MV) Shri P C Das to inquire into the charges lended against vide memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001.

1. Proceedings on 14 Mar 2002 :-

Present

(a) Shri Bidyot Panging AEE
Inquiring Authority

(b) JC- 722950E Nb Sub SKT (MT) Amar Singh
Presenting Officer

(c) T/No 169 Civ/VM(MV) Shri PC Das
Charged Official

(d) JC-753913P Nb Sub Tech 'B' Veh
K Jaya prakasan
State Witness - 3

Absent

(e) Defence Assistance.

2. The inquiry proceedings started at 1100 h on 14 Mar 2002, T/No 169 Civ VM (MV) Shri PC Das came without any defence assistance saying "Hum Kahanse defence assistance layenge". He delivered me a letter No nil dated 09 Mar 2002 requesting for reconsider to engage Shri M P Singha UDC of 222 ABOD as defence assistance, which was already have been rejected by the undersigned vide letter as under :-

(a) 306 Stn Wksp EME letter No 210401/169/Civ/INQ dated 08 Feb 2002, recd by the charged official on 14 Feb 2002.

(b) 306 Stn Wksp EME letter No 210401/169/Civ/INQ dated 12 Feb 2002, recd by the charged official on 25 Feb 2002.

However, his request have been considered by the undersigned but has been Rejected. Charged official have been once again advised by the undersigned to engage a defence assistance from any local unit in Shillong and not to delay the proceedings, which was already started ex-parte wef 16 Nov 2001.

3. On continuation of the deposition of State Witness-3 recorded in the proceedings on 12 Mar 2002, the charged official was asked for any cross examination after statement of SW-3 was read out to him in the language he understand by the inquiry officer. But the charged official is not willing to speak anything without defence assistance. Cross examination by defence assistance could not be done due to

*Allex
Jain
Advocate*

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CONFIDENTIAL

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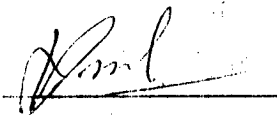
absence of defence assistance. Though the charged official have been given sufficient time to engage a defence assistance vide registered letter as under :-

- (a) 306 Station Wksp EME letter No 10401/Civ/169/INQ dated 20 Sep 2001
- (b) 306 Station Wksp EME letter No 10401/Civ/169/INQ dated 03 Oct 2001
- (c) 306 Station Wksp EME letter No 10401/Civ/169/INQ dated 20 Oct 2001
- (d) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 23 Oct 2001
- (e) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 21 Dec 2001
- (f) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 24 Jan 2002
- (g) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 08 Feb 2002
- (h) 306 Station Wksp EME letter No 10401/169/Civ/INQ dated 12 Feb 2002

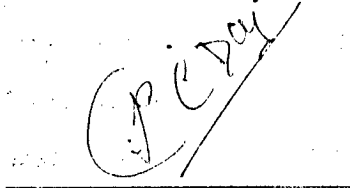
4. Inquiry officer proceeded to process the remaining task of the deposition of SW-3 and his deposition have been completed and read over to the witness in the language, he understand.

5. Copies of depositions made by the State Witness-3 before me have been handed over to the presenting officer and the charged officer.

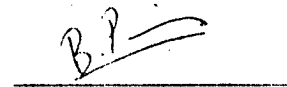
6. The next hearing will be on 18 Mar 2002 at 1100 hrs in my office, thereafter on every alternative date as mentioned in my letter No 10401/169/Civ/INQ dated 12 Feb 2002.



Presenting Officer



Charged Officer



Inquiry Authority

*Not yet engaged by
the charged official*

Defence Assistance

CONFIDENTIAL

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Annexure- 23 (Series)

(Typed true copy)

Record of Deposition/cross-ExaminationSW-3

306 Stn Wksp EME
C/O 99 APO
14 March 2002

Deposition of JC-753913P Nb Sub K Jaya Prakasan aged 39 years S/o Late Shri Narayan K. R/306 Stn Wksp EME.

Profession: - Junior Commissioned Officer in the Corps of EME.

Statement of state witness- 3 have already been recorded in deposition of SW-3 on 12 March 2002.

Cross-Examination by the Defence Assistant

Cross-Examination could not be done due to absence of defence assistance and the charged official is not willing to speak anything without defence assistance. Though the charged official have been given sufficient time to engaged a defence assistance vide registered letter as under:-

- (a) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 20 Sep 2001.
- (b) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 03 Oct 2001.
- (c) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 20 Oct 2001.
- (d) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 23 Oct 2001.
- (e) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 21 Dec 2001.
- (f) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 24 Jan 2002.
- (g) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 08 Feb 2002.
- (h) 306 Stn Wksp letter No. 10401/Civ/169/INQ dt 12 Feb 2002.

Re-Examination

Nil

Questions by the Inquiry Officer

*Attested
Jaya
Advocate*

Q. 1:- Who used to detail work to the vehicle mechanics ?

Ans:- Being I/C 'B' veh section I used to detail work to both civilian and combatant vehicle mechanics by 0900 hrs. In my absence other JCO used to detail work to them.

Q.2:- Was any work have been given to him ?

Ans:- Whenever I tried to give him work he refused to do so saying he is busy in welfare work. He used to be absent from the place of work and used to roam around the wksp after mustering in without doing any work on all working days. He used to be out from the workshop premises after lunch break on all working days.

Q.3:- Did you reported the matter to OC ?

Ans:- I reported this on numbers of occasion to Maj Babu George, then OC, 306 Stu wksp. But he did not pay any attention After taking the command by the new OC, again I reported this to him. Then we were told to maintain a section wise register to record the output of industrial personal and this has been implemented with effect from 01 Feb 2001. Then also Shri P C Das was absent from the place of work.

Q.4:- Did you detailed him for work after 01 Feb 2001 ?

Ans:- Yes, firstly, Shri P C Das never used to report to the shop floor after 01 Feb 2001 also. Secondly, whenever I found him inside to wksp premises I tried to give him work but he used to refused saying I have not done any trade work till date and I will not do it even now. He used to say he is busy in the welfare work.

Read over to the witness in the presence of the Government servant and admitted as correct.

Sd/- Illegible
(Deponent)

Sd/- Illegible
(Inquiry Officer)

CONFIDENTIAL

File No : 10401/Civ/169/Inq

Dated : 18 Mar 2002

DAILY ORDER SHEET

Disciplinary proceedings against T/No 169 Civ/VM (MV) Shri P C Das to inquire into the charges levelled against vide memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001.

1. Proceedings on 18 Mar 2002 :-

- Present (a) Shri Bidyot Panging AEE
Inquiring Authority
- (b) JC- 722950E Nb Sub SKT (MT) Amar Singh
Presenting Officer
- (c) T/No 169 Civ/VM(MV) Shri PC Das
Charged Official
- (d) No 14591478F NK S C Singh
State Witness - 4

Absent (e) Defence Assistance.

2. The inquiry proceedings started at 1100 h on 18 Mar 2002, T/No 169 Civ VM (MV) Shri PC Das, charged official came without any defence assistance saying "I will not attend the inquiry today" and he left the place of inquiry at 1115 hrs on 18 Mar 2002 after delivering a letter No Nil dated 18 Mar 2002.

3. Inquiry officer proceeded to take the statement of No 14591478F NK S C Singh, State Witness-4 and his statement has been taken.

4. The cross examination of SW-4 was not done due to absence of defence assistance and the charged officer.

5. Questions by the inquiry officer on statement of SW-4 was deferred to the next date of hearing on 21 Mar 2002 at 1100 hrs in my Office.

6. Copies of deposition made by the state witness-4 before me have been handed over to the presenting officer and its copies for the charged official will be sent by registered by post, since the charged official refused to attend inquiry and left the place of inquiry at 1115 hrs on 18 Mar 2002.

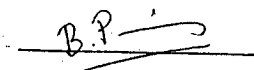
7. The next hearing will be on 21 Mar 2002 at 1100 hrs in my office.



Presenting Officer

*Refused to attend inquiry
and left the place of inquiry
after 15 minutes.*

Charged Officer



Inquiry Authority

Absent

Defence Assistance

*Attested
Fair
Advocate*

CONFIDENTIAL

Annexure- 23 (Series)

(Typed true copy)

SW-4
306 Stn Wksp EME
C/O 99 APO
18 Mar 2002

Deposition of No. 14591478F Nk SC Singh aged about 35 years S/O Late Shri Raj Bahadur Singh R/o 306 Stn Wksp EME.

Profession: - Recovery Mechanic

I, No. 14591478F Nk SC Singh R/o 306 Stn Wksp EME after having been duly warned state that I have been in this wksp since 04 Jul 99. On 01 Jun 2001, I was performing the duties of Office runner. At around 9-30 am I was called by Nb Sub RC Nath to accompany to him to civilian rest room. There I found Shri PC Das sitting with few other civilian employees of their wksp. Seeing us all of them except Shri PC Das and Shri Bihari Singha had left the civilian rest room. Nb Sub RC Nath told them to go for work but they refused. Shri Bihari Singha got up and picked up a file and told Nb Sub RC Nath that he is telling them to do work but he have to do a lot of Union work and their welfare is not being looked after. He took out a file containing a letter sign by Lt. Col NK Tiwari, Ex OC Wksp and saying loudly that "Yeh Col Tiwari Gandu officer Tha, Jisne is letter ko sign kiya Hai, Hamara Medical claim Pass Nahi Hua". Shri PC Das also repeated that "Hamara Koi claim Pass Nahi Ho Raha Hai, Hum Kam Nehi Karenga, Yaha Par Sub Gandu officer Aur JCO Hain, Hum Bharat Varash ka Employee Hai, Jahan Par Dil Karenga Bethenge". Shri PC Das then raised his hand to hit Nb Sub RC Nath saying "Aap Chor Ho, Apne Bahut Chori Ki Hai, Aur FIP Ka paisa Khaya Hai." Then Shri PC Das made a gesture to hit Nb Sub RC Nath, but Nb Sub RC Nath ducked and went back. Meanwhile Shri Bihari Singha made a violent gesture with both hands to hit Nb Sub RC Nath, then hit the table with both hand repeatedly to sound his anger and violent behaviour.

*Attested
True
Advocate*

Seeing all this we were became agitated but Nb Sub RC Nath has controlled us and we left the civilian rest room.

Cross-Examination by the Defence Assistant

Cross-Examination could not be done due to absence of Defence Assistance and the charged official.

Re-Examination

Nil

Questions by the Inquiry Officer

Deferred to the next date of hearing on 21 Mar 2002 at 1100 hrs.

Sd/- Illegible

(Inquiry Officer)

Read over to the witness in the language he understand in the presence of the of the Government servant and admitted as correct.

Sd/- Illegible

(Deponent)

Sd/- Illegible

(Inquiry Officer)

CONFIDENTIAL

File No : 10401/Civ/169/Inq

Dated : 21 Mar 2002

DAILY ORDER SHEET

Disciplinary proceedings against T/No 169 Civ VM Shri P C Das to inquire into the charges lendled against vide memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001.

1. Proceedings on 21 Mar 2002.

- Present (a) Shri Bidyot Panging AEE
 Inquiring Authority
- (b) JC-722950E Nb Sub SKT (MT) Amar Singh
 Presenting Officer
- (c) No 14591478F Nk SC Singh
 State Witness - 4
- Absent (d) T/No 169 Civ VM Shri P C Das
 Charged official
- (e) Defence Assistance

2. The inquiry proceedings started at 1100 h on 21 Mar 2002, the charged official and defence assistance was absent.

3. On continuation of the deposition of State Witness- 4 recorded in the proceedings on 18 Mar 2002, inquiry officer proceeded to process the remaining task of the deposition of state witness- 4 i.e. question by the inquiry officer and have been completed and read over to the witness in the language he understand.

4. In the course of examination JC-753913P Nb Sub Tech 'B' Veh K Jaya Prakashan, SW-3 a reference has been made to the daily register maintained by 'B' Veh section of 306 Station Workshop EME, to record the work output of industrial workers. This register is however not mentioned as a listed documents. The presenting officer has sought permission for production of this register on the plea that the evidence tendered by JC-753913P Nb Sub K Jaya Prakashan, SW-3 has been cited as a witness only to prove the allegations through the daily register in question. I, therefore, permit production of the daily register of 'B' Veh section of 306 Station Workshop EME which will be offered for inspection to the charged official and his defence assistance in the next hearing on 30 Mar 2002 at 1100hrs.

CONFIDENTIAL

....2/-

*Attested
by
Advocate*

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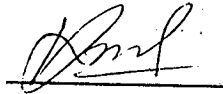
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CONFIDENTIAL

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5. Copies of deposition made by the state witness—4 before me have been handed over to the presenting officer and its copies for the charged official will be sent by registered post since the charged official was absent.

6. The next hearing will be on 30 Mar 2002 at 1100 h in my office.



Presenting Officer

Absent

Charged Officer

B.P.

Inquiry Authority

Absent

Defence Assistance

CONFIDENTIAL

Annexure- 23 (Series)

(Typed true copy)

Record of Deposition/Cross-Examination

SW-4

306 Stn Wksp EME

C/O 99 APO

21 Mar 2002

Deposition made by No. 14591478F Nk SC Singh aged about 35 years S/O Late Shri Raj Bahadur Singh R/O 306 Stn Wksp EME.

Profession: - Recovery Mechanic.

Statement of state witness- 4 have already been recorded in Deposition of SW- 4 on 18 March 2002.

Cross Examination by Defence Assistance

Cross-Examination could not be done due to absence of Defence Assistance and the charged official.

Re-Examination

Nil

Questions by the Inquiry Officer

1 Q:- How did Shri PC Das assault Nb Sub RC Nath?

Ans: - Shri PC Das raised his hand to hit Nb Sub RC Nath saying "Aap Chor Ho, Apne Bahut Chori Ki Hai, Aur FIP Ka Paisa Khaya Hai" and he made a gesture to hit Nb Sub RC Nath, but Shri RC Nath ducked and went back.

2 Q:- What was your reaction after that?

Ans: - We were became agitated after seeing their misbehaviour, but Nb Sub RC Nath had controlled me.

3. Q:- Are they gone to the shop floor after the incident ?

*Attestd
Shri Advocate*

*15/4/05
875708*

Ans:- They had not gone to the shop floor and I saw him roaming around with Shri Bihari Singha after the incident.

4: Q- Did you saw him doing work earlier?

Ans:- Since I joined this unit, I have never seen him doing work. Shri PC Das and Shri Bihari Singha was used to roam around or sit in the civilian rest room without any work.

Sd/-

(Inquiry Officer)

Read over to the witness in the language he understand in the presence of the of the Government servant and admitted as correct.

Sd/- Illegible
(Deponent)

Sd/- Illegible
(Inquiry Officer)

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CONFIDENTIAL - 96 - 128

File No : 10401/Civ/169/Inq

Dated : 30 Mar 2002

DAILY ORDER SHEET

Disciplinary proceedings against T/No 169 Civ/VM (MV) Shri P C Das to inquire into the charges lended against vide memorandum No 21208/169/Est-Ind/LC dt 11 Jul 2001.

1. Proceedings on 30 Mar 2002 :-

- Present (a) Shri Bidyot Panging AEE
Inquiring Authority
(b) JC- 722950E Nb Sub SKT (MT) Amar Singh
Presenting Officer
(c) No 14581821L Hav J Kushwaha
State Witness -5
Absent (d) T/No 169 Civ/VM (MV) Shri P C Das
Charged official
(e) Defence Assistance.

2. The inquiry proceedings started at 1100 h on 30 Mar 2002, the charged official and defence assistance was absent.

3. Presenting officer submitted the daily register which was asked for inspection during the proceedings on 21 Mar 2002. The same was inspected by the inquiry officer and the charged official was found either absent or not reported on all working days from 01 Feb 2001(i.e. from the day of opening the register) till the date of suspension. This register was not able to offered for inspection to the charged official and his defence assistance because both of them was absent. This daily register of 'B' veh section of 306 Station Wksp EME was brought on record.

4. Inquiry officer proceed to take statement of No 14581821L Hav J Kushwaha, State Wtiness-5 and his statement has been taken.

5. Cross examination of SW-5 was not done due to absence of defence assistance and charged official.

6. Question by the inquiry officer on statement of SW-5 was deferred to the next date of hearing on 04 Apr 2002 at 1100 hrs.

7. Copies of depositions made by the State Witness-5 before me have been handed over to the presenting officer and its copies for the charged Official will be sept by registered by post.

8. The next hearing will be on 04 Apr 2002 at 1100 hrs in my office.

Amr
Presenting Officer

Absent
Charged Officer

B.P.
Inquiry Authority

Absent
Defence Assistance

CONFIDENTIAL

*Attestd
Supt.
Advocate*

Annexure- 23 (Series)

(Typed true copy)

Record of Deposition/Cross-Examination

SW-5

306 Stn Wksp EME

C/O 99 APO

30 Mar 2002

Deposition made by No. 14581821L Hav J Kushwaha aged about 38 years
S/O Late Shri Birbal Kushwaha R/o 306 Stn Wksp EME.

Profession: - Recovery Mechanic.

I, No. 14581821L Hav J Kushwaha R/o 306 Stn Wksp EME, after having been duly warned state that I have been in this wksp since 22 Oct 2000. On 01 Jun 2001, I was performing the duties of 1 Ton NSN of Ex 337 Rec Coy and after parking the vehicle I was standing there. Then I was called by Nb Sub RC Nath to accompany him to civilian rest room. There I saw Shri PC Das along with other civilian employee were sitting in the civilian rest room. After seeing us all of other civilian employees except Shri Bihari Singha and Shri PC Das and had left the civilian rest room. Nb Sub RC Nath advised both of them to the shop floor but they refused. Shri Bihari Singha got up and picked up a file and told Nb Sub RC Nath that he is telling them to do work but he have to do a lot of Union work and their welfare is not being looked after. He took out a file and saw us a letter signed by Lt. Col NK Tiwari, Ex OC Wksp and he said "Yeh Col Tiwari Gandu officer Tha, Jisne is letter ko sign kiya Hai, Hamara Medical claim Pass Nahi Hua". Shri PC Das also repeated that "Hamara Koi claim Pass Nahi Ho Raha Hai, Hum Kam Nehi Karenga, Yaha Par Sub Gandu officer Aur JCO Hain, Hum Bharat Varash ka Employee Hai, Jahan Par Dil Karenga Bethenge". Shri PC Das then raised his hand to hit Nb Sub RC Nath saying "Aap Chor Ho, Apne Bahut Chori Ki Hai, Aur FIP Ka paisa Khaya Hai." He (Shri PC Das) made a gesture to hit Nb Sub RC Nath, but Nb Sub RC Nath ducked and went back to

*Attested
Sub. A. W. K.*

safe himself. Meanwhile Shri Bihari Singha made a violent gesture with both hands to hit Nb Sub RC Nath, then hit the table with both hands repeatedly to sound his anger and violent behaviour. After seeing their behaviour we were became agitated but Nb Sub RC Nath controlled us and we left the civilian rest room. After that Nb Sub RC Nath went to OC's office to report the matter to him.

Cross Examination by Defence Assistance

Cross-Examination by Defence Assistance could not be done due to absence of charged official and Defence Assistance.

Re-Examination

Nil

Questions by the Inquiry Officer

Deferred to next date of hearing on 04 Apr 2002 at 1100 hrs.

Sd/-

(Inquiry Officer)

Read over to the witness in the language he understand in the presence of the of the Government servant and admitted as correct.

Sd/- Illegible
(Deponent)

Sd/- Illegible
(Inquiry Officer)

and then at 12:15 while still blind she made a violent gesture with both hands to get Mr. Smith to get up. Mr. Smith then got up and both hands repeated to sound his anger and violent behavior. After seeing their behavior we were moving quickly but Mr. Smith continued as and we left the room. As we went to the door Mr. Smith went to OC's office to report the matter to him.

Witness Examination by Defense Counsel

Witness Examination by Defense Counsel. As before, both Mr. Smith and Mr. Jones were asked to state what they saw and heard on the day of the incident.

Witness Examination

Mr. Smith

Witness Examination by Prosecution

Testimony of next day in hearing on April 10, 1961 at 11:00 am.

Mr. Smith

Witness Examination

Testimony of the witness in the language he understood in the presence of the Government and the witness as correct.

Mr. Smith
(Prosecution)

Mr. Smith
(Defense)

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CONFIDENTIAL

File No : 10401/Civ/169/Inq

Dated : 04 Apr 2002

DAILY ORDER SHEET

Disciplinary proceedings against T/No 169 Civ VM Shri P C Das to inquire into the charges lended against vide memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001.

1. Proceedings on 04 Apr 2002.

Present (a) Shri Bidyot Panging AEE
 Inquiring Authority

 (b) JC-722950E Nb Sub SKT (MT) Amar Singh
 Presenting Officer

 (d) No 14581821L Hav J Kushwaha
 State Witness - 5

Absent (d) T/No 169 Civ VM Shri P C Das
 Charged official

 (e) Defence Assistance

2. The inquiry proceedings started at 1100 h on 04 Apr 2002, the charged official and defence assistance was absent.

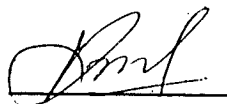
3. On continuation of the deposition of State Witness- 5 recorded in the proceedings on 04 Apr 2002, inquiry officer proceeded to process the remaining task of the deposition of state witness- 5 i.e. question by the inquiry officer and have been completed and read over to the witness in the language he understand.

4. Presenting Officer declared that he has produced sufficient state witness to prove the charges against the charged official and remaining state witness need not to be produced for inquiry.

5. Evidence on behalf of the Disciplinary Authority was closed.

6. Copies of deposition made by the state witness-5 before me have been handed over to the presenting officer and its copies for the charged official will be sent by registered post since the charged official was absent.

7. The next hearing will be on 23 Apr 2002 at 1100 h in my office.



Presenting Officer
Presenting

Absent

Charged Officer

B.P.

Inquiry Authority

Absent

Defence Assistance

CONFIDENTIAL

*Attested
Jal
Advocate*

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58-126
(Typed true copy)

Annexure- 23 (Series)

Record of Deposition/Cross-Examination

SW-5
306 Stn Wksp EME
04 Apr 2002

Deposition made by No. 14581821L Hav J Kushwaha aged about 38 years
S/O Late Shri Birbal Kushwaha R/O 306 Stn Wksp EME.

Profession: - Recovery Mechanic

Statement of state witness- 5 have already been recorded in Deposition of
SW-5 on 30 March 2002.

Cross Examination by Defence Assistance

Cross-Examination by Defence Assistance could not be done due to
absence of charged official and Defence Assistance.

Re-Examination

Nil

Questions by the Inquiry Officer

1 Q:- How did Shri PC Das assault Nb Sub RC Nath?

Ans: - Shri PC Das raised his hand to hit Nb Sub RC Nath saying "Aap Chor Ho,
Apne Bahut Chori Ki Hai, Aur FIP Ka Paisa Khaya Hai" and he made a
gesture to hit Nb Sub RC Nath, but Shri RC Nath ducked and went back.

2 Q:- What was your reaction after that?

Ans: - After seeing this we were became agitated but Nb Sub RC Nath had
controlled us.

3. Q:- Are they gone to the shop floor after the incident ?

*Attested
Jus. Anwar*

- 101 -

59 127

Ans:- No, I saw him roaming around with Shri Bihari Singha without doing any work after the incident.

4. Q:- Did you saw him doing work earlier?

Ans:- I have never seen him doing work since I joined this wksp. They used to roam around or sit in the civilian rest room without doing any work.

Sd/-

(Inquiry Officer)

Read over to the witness in the language he understand in the presence of the of the Government servant and admitted as correct.

Sd/- Illegible
(Deponent)

Sd/- Illegible
(Inquiry Officer)

52
47
To

The Officer Commanding (Lt. Col JS Bains)
306 Station Workshop EME.
C/O 99 APO.

128 (53)
Annexure-24(series)
Dated : Shillong.
The 02 Sept 2002

Sub : Forwarding of Appeal/Petition.

Sir,

I have the honour to submit herewith 2 (Two) Sets of Appeal/Petition addressed to the Directorate General of EME (Civ) Master General of Ordnance Branch, Army Headquarters, DHQ PO, New Delhi - 110011, of which one set is to be transmitted to him (DGEME) and another set is to be retained in your office for information and necessary action.

I would, therefore, request you that ^{you} would be kind enough to send one set of the aforesaid Appeal/Petition to the Directorate General of EME (Civ), Master General of Ordnance Branch, Army Headquarters, New Delhi - 110011, for which act of your kindness, I shall remain ever grateful to you.

Enclo : As stated above - 2 (Nos).

Yours faithfully

Pd 02/09/02

(P.C. Das)

T/No. 169 VM (MV) U/S

Qtr. No. DM 30/4

Deodgenline,

Shillong, Cantt.



SHILLONG GPO (793001)
SP EE851039395IN
Counter No:1, OP-Code:001
To: OFFICER COMMANDING,
99APO, PIN:100
From: P CDAS, SHG
Wt: 340grams,
Amt: 60.00, 03/09/2002, 12:02
Have a nice day



SHILLONG GPO (793001)
SP EE851035133IN
Counter No:1, OP-Code:001
To: DG EME,
NEW DELHI, PIN:110
From: P C DAS, SHG
Wt: 190grams,
Amt: 50.00, 06/09/2002, 15:02
Have a nice day

Attested
Advocate

SB
Before the Directorate General of EME (Civ)
Master General of Ordnance Branch
Army Headquarters
DHQ PO. New Delhi - 110011

- 103 - Annexure-25(series) 129
Dated : Shillong
The 2nd Sept. 2002

IN THE MATTER OF :

An Appeal/Petition against the orders No. 10401/169/Civ dt. 05/8/2002 and No. 10401/169/Civ dt. 09/8/2002 issued by the Officer Commanding, 306 Stn. Wksp EME C/O 99 APO, rejecting the representations of the Appellant/Petitioner dt 29/4/2002, dt. 18.5.2002dt. and 20/6/2002, against the appointment of Inquiry Officer on the grounds of bias.

- : AND :-

IN THE MATTER OF :

Prayer for review and fresh appointment of another person as the Inquiry Officer in place of Sri Bidyot Panging AEE, of 306 Stn Wksp EME C/O 99 APO, after setting aside and quashing the aforementioned Orders No. 10401/169/Civ dt 05/8/2002 and No. 10401/169/Civ dt. 09/8/2002 respectively.

- : AND :-

IN THE MATTER OF :

Shri P.C. Das, T/No.169
Veh. Mech. (MV) Qtr No. DM-30/4
Deodgenline, Shillong cantt.

..... Appellant/Petitioner.

Petition of the humble Appellant/Petitioner above named begs to state as hereunder :-

Most respectfully sheweth :-

1. That, your humble Appellant/Petitioner above named is a Defence Civilian, Serving as Veh.Mech. (MV) under EME Organisation and he is deemed to be a central Government employee and as such, he is entitled to all the reasonable opportunities provided under the CCS (CCA) Rules, 1965, read with Article 311 of the Constitution of India.
2. That, your humble Appellant/Petitioner is a citizen of India and as such, he is also entitled to all the rights and privileges guaranteed by the Constitution of India.

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2: -104-

3. That, your humble Appellant/Petitioner was initially recruited in the Defence Organisation on 14/4/82 as a Civilian Mazdoor Since his entry in service until the date of his suspension, your humble Appellant/Petitioner had been continuously rendering his duties in this esteemed Organisation most diligently and to the full satisfaction of all concerned and as such, there did not arise, at any material point of time during the entire period of his unblemished past service career, such an occasion whereupon he was asked to explain for any lapse on his part in the discharge of the duties assigned to him by the Authorities concerned and thereafter, he was promoted to the post of VM(MV) Mate and subsequently thereafter, he was promoted to the post of VM(MV) and he is holding the same post till date.

4. That, your humble Appellant/Petitioner was struck by surprise to receive the office order No. 10401/169/Civ dt. 1/6/2001 issued to him by the Officer Commanding (Lt. Col. JS Bains) 306 Stn. Wksp, EME. C/o 99 APO, whereby he was placed under suspension with immediate effect, pending disciplinary proceedings against him.

(A Xerox copy of order No. 10401/169/Civ dated 1/6/2001 is annexed hereto and marked as Annexure -I)

5. That, eventually, a Departmental Inquiry, not worth its name, was proposed to be initiated against the Appellant/Petitioner by the Unit Administration arbitrarily, illegally and haphazardly vide his Memo No. 21208/169/EST-IND/LC dt. 11/7/2001, in violation of all statutory norms of procedural law, in as much as, the Unit Administration, at the very outset, either willfully omitted or through gross negligence, failed to furnish the copies of the appointments of the Inquiry Officer and the Presenting Officer respectively, which are condition-precedent to the initiation of Departmental Inquiry as per mandatory provisions laid down in Rule 14 of the CCS (CCA) Rules, 1965, read with Article 311 of the Constitution of India.

(A Xerox copy of Memo No. 21208/169/EST-IND/LC dt. 11/7/2001 is annexed hereto and marked as Annexure -II)

Pd

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6.

That, ironically a letter was issued to the Appellant / Petitioner by Shri Bidyot Panging, AEE, 306 Stn. Wksp EME, C/O 99 APO, vide its No. 10401/Civ/169/ Inq dt. 20/9/2001, wherein he claimed that he was appointed as the Inquiry Officer of the instant Disciplinary Proceedings against the Appellant/ Petitioner by an Order passed by the Officer Commanding, 306 Stn. Wksp. EME vide his No. 10401/169/Civ dt. 30/8/2001. But the copy of the mandatory, appointment letter so claimed had never been made available to the Appellant/Petitioner nor was it shown to him by the said Shri Panging. The Departmental Authority too, was reluctant to supply the same to him, right from the beginning, in spite of his sincere requests on several occasions, either through personal approach or in writing for supply of the same. In this connection, he submitted a number of representations vide his applications dt. 07/12/2001, dt. 19/3/2002, dt. 21/3/2002, dt. 23/3/2002 and dt. 26/3/2002 dt. 09.4.2002 and dt. 17.4.2002 addressed to the Officer Commanding (Lt. Col. J.S. Bains), 306 Stn.. Wksp EME, with copies thereof endorsed to the said Shri Panging, requesting him thereby to supply a copy of the mandatory appointment letter of the Inquiry Officer aforesaid.

(Xerox copies of letter no. 10401/Civ/169/Inq dt. 20/09/2001 and Appellant/Petitioner's Applications dt. 07/12/2001, dt. 19/3/2002, dt. 21/3/2002, dt. 23/3/2002 and dt. 26/3/2002 dt. 09.4.2002 and 17.4.2002 are annexed hereto and marked as Annexure - III, IV, V, VI, VII, VIII, IX, AND X respectively)

7.

That, from the facts stated hereinabove, it is clear that the copies of orders of appointments of either the Inquiry Officer or the Presenting Officer, were not at all, initially supplied to the Appellant/Petitioner, and as such, the contention of the Unit Authority that the Appellant/Petitioner was intimated regarding appointments of both the Inquiry Officer and the Presenting Officer vide letter No. 10401/169 /Civ dt. 30/8/2001 through registered letter No. 3807 dt. 31/8/2001 is totally unfounded, false and biased on the ground that the intimation alleged to have been sent to the Appellant/Petitioner vide Registered letter No. 3807 dt. 31/08/2001 never reached him and the Unit Authorities miserably failed

to substantiate its claim with documentary evidence. However, apparently, under compelling situation, the said appointment letters, after having been kept secret for quite a long time, were issued to the Appellant/Petitioner by the Unit Authority vide No. 10401/169/Civ dt. 17/4/2002 which were received by him only on 27/4/2002 after a lapse of around 8 (Eight) months, which ought to have been communicated to the Appellant/Petitioner, at the first instance as a condition-Precedent to initiation of Departmental Inquiry as per rules.

(A Xerox copy of letter No 10401/169/Civ dt. 17/04/2002 is annexed hereto and marked as Annexure - XI)

8.

That, on receipt of the aforesaid appointment letters sent to the Appellant/Petitioner by the Unit Authority vide its letter (Annexure - XI) which was received by him on 27/4/2002, the Appellant/Petitioner promptly submitted an application to the Authorities concerned on 29/4/2002 against the appointment of Shri Bidyot Panging AEE, as the Inquiry Officer of the instant Departmental Inquiry proposed to be initiated against the Appellant/Petitioner on the grounds of bias, since the said Shri Panging was directly concerned / connected with the day-to-day official works, including service matters relating to the Appellant/Petitioner and as such, he is rather deemed to be witness in the instant Departmental Inquiry, and at the same time, requested the Authorities thereby to make a fresh appointment of another person as the Inquiry Officer in his place, and this was followed by a number of representations dt. 18/5/2002, and dt 20/6/2002. In this connection, the Appellant/Petitioner begs to state that there is no one other than the Charge Official (self) to reject an Inquiry Officer on the grounds of bias as per rules, in view of the fact that while the Appellant/Petitioner was working as Veh. Mech. (MV) in the office of the 306 stn. Wksp. EME C/o 99 APO, during the period from 01/2/2001 to 01/6/2001 covered by the charges, the said Shri Panging AEE, was very much holding the post of Wksp. Officer, barring a short break on temporary duty wef 07/5/2001 to 09/9/2001 and thereafter he is holding the same post after rejoining his duty. This apart, the

said Shri Panging is suspected of being prejudiced or biased against the Appellant/Petitioner (C.O.)

(Xerox copies of Appellant/Petitioner's representations dt. 29/4/2002 dt. 18/5/2002 and dt. 20.06.2002 are annexed hereto and marked as Annexure XII, XIII, XIV respectively.)

9.

That, after having been in a deep slumber for a long period of more than 4 (four) months, since the date of submission of his earlier representation on 29.4.2002 (vide Annexure XIII) the Authorities concerned have reluctantly complied with only one of his letters dt. 20.6.2002 (vide Annexure XIV), thereby rejecting the above representation of the Appellant/Petitioner vide its letters No. 10401/169/Civ dt. 5.8.2002 and No. 10401/169/Civ dt. 09.08.2002 respectively and hence this Appeal / petition.

(Xerox copies of letters no. 10401/169/Civ dt. 05.8.2002 and No. 10401/169/Civ dt. 09.8.2002 are annexed hereto and marked as Annexure - XV and XVI respectively).

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That, the Appellant/Petitioner further begs to state that Unit Administration, while issuing the aforesaid letter (vide Annexure - XV) deliberately used the term "Again" to the effect that JC 755107F Nb. Sub/SKT R.K. Kanwar has been detailed as the Presenting Officer in the Instant Inquiry vide his letter No. 10401/169/Civ dt. 04.4.2002. In fact the said letter was not at all sent to the Appellant/Petitioner earlier but, it was subsequently sent to him along with the said letter (Vide Annexure - XV), in this connection, it is pertinent to mention that the letter earlier referred to hereinabove (vide Annexure - XV) contained a letter of Appointment of Presenting Officer issued by the Officer Commanding (Lt. Col. J.S. Bains) vide his office No. 10401/169/Civ dt. 04.4.2002 whereby JC. 755107F NbSub/SKT RK Kanwar was appointed as the Presenting Officer in place of JC 722950 F

Nb.Sub/SKT (MT) Amar Singh in the instant Inquiry under Rule, 14 of CCS (CCA) Rules, 1965, being held against T.No. 172 Civ Elect. Shri Bihari Singha. It is not only interesting but also funny to find that a copy thereof was amongst others, endorsed to T.No. 169 Civ VM Shri P.C. Das (Appellant / Petitioner) which did not have any relation with him and as such, it is nothing but an another attempt to cover up its evil design by means of foul or fair. This will be evident from the fact that the Unit Administration failed to comply with the earlier representation submitted by the Appellant /Petitioner dt. 20.6.2002 (Annexure - XIV) in this regard.

11. That, the Officer Commanding (Lt. Col. J.S. Bains) while issuing his letter vide office No. 10401/169/Civ dt. 09.8.2002 (Annexure - XVI) referred to, the representation No. nil dt. 25.7.2002 of the Appellant/Petitioner. In this connection, the Appellant/Petitioner begs to make it abundantly cleaner that he had never sent a letter on 25.7.2002 as referred to. It is not understood, as to how the unit Authority could refer to an imaginary letter and create so many things out of it.

12. That, the Appellant/Petitioner emphatically assert that he is innocent and accordingly, he reserves his right of personnel hearing, duly helped and assisted by a Defence Counsel (Assistant) of his own choice in the event of any disciplinary proceeding, being conducted in future against him by the Appropriate Disciplinary Authority in accordance with the Provisions laid down in Rule 14 of CCS (CCA) Rules, 1965, read with Article 311 of the Constitution of India

13. That, the Appeal/Petition of the Appellant/Petitioner is preferred bonafied for the ends of justice.

In the premises stated hereinabove, it is most humbly prayed that your goodself would be graciously pleased to review the matter very sympathetically and further be pleased to cause order/ orders to be passed for fresh

appointment of another person as the Inquiry Officer in place of Shri Bidyot Panging AEE, 306 Station workshop EME C/O 99 APO after setting aside and quashing the orders Nos. 1040/169/Civ dt. 5.8.2002 and No. 10401/169/Civ dt. 09.8.2002 respectively as per provisions enshrined in the CCS (CCA) rules, 1965, read with Article 311 of the Constitution of India. For this act of your kindness, I shall remain ever grateful to you.

Enclo.: As stated above - 16 Nos.

Appellant/ Petitioner

Pd 02/09/02

(P.C. Das)
T/No.. 169 Vch.Mech. (MV),
U/S
Qtr. No. DM - 30/4
Deodgenline, Shillong Cantt

Copy to :-

The Officer Commanding

(Lt. Col. J.S. Bains)

306 Stn. Wksp. EME

C/o 99 APO - For Information and necessary action please.

Pd 02/09/02

(P.C. Das)

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24/11/02
CONFIDENTIAL

110
(54)
Annexure-25
136

Registered by Post

Tele : 6177

306 Stn Wksp EME
C/O 99 APO

10401/Civ/169/INQ

24 Oct 2002

T/No 169 Civ VM
Shri P C Das
Qtr No DF 18/1 & 2
Burma Lines
Shillong Cantt

**DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO169
VM SHRI PC DAS UNDER RULE 14 OF CCS (CCA) RULES 1965**

1. Refer to :-
 - (a) Daily order sheet No 10401/Civ/169/INQ dated 03 Jun 2002.
 - (b) Presenting Officer's letter No 755107/RKK/Pers dated 30 Aug 2002.
2. Written brief submitted by presenting officer vide his letter No 755107/RKK/Pers dated 30 Aug 2002 forwarded herewith for your information and in turn, you are requested to submit your written brief so as to reach the undersigned on or before 11 Nov 2002.

B.P.
(Bidyot Panging)
AEE
Inquiry Officer

Copy to :-

Nb Sub/SKT R K Kanwar - For information.
Presenting Officer
(By Hand)

CONFIDENTIAL

Attested
Law
Advocate

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Annexure 26 157

Tele : 6177

306 Station Wksp EME
C/O 99 APO

15510//RKK/Pers

30 Aug 02

AEE Sh. B. Panging
Inquiry Officer
306 Station Wksp EME
C/O 99 APOPRESENTATION OF WRITTEN BRIEF

1. Refer to your daily order Sheet No 10401/Civ/169/Inq dated 23 Apr 02, 10407/Civ/169/Inq dt 14 Jun 02 and 10401/Civ/169/Inq dt 28 Jun 02.

2. In connection with the disciplinary case mentioned above, I want to bring down the following few lines for your kind consideration.

(a) Ticket No 169 Civ/(VM) Sh PC Das of 306 Station Wksp EME was served with a memorandum by Officer Commanding 306 Station Wksp EME vide memorandum No 21208/169/Est-IND/LC dated 11 Jul 2001, under Rule 14 of the central civil Services (Clarification and appeal) Rule 1968. He was charged for the following offences Gross misconduct".

(i) On 01 Jun 2001, at about 0935h created a riotous and disorderly situation in the civilian rest room while being told to go to shop floor by JC-750768X Nb Sub (Now Sub) RC Nath.

(ii) Assaulting JC-750768X Nb Sub (Now Sub) RC Nath by raising both his hands to hit him on 01 Jun 2001 at 0935h approximately.

(iii) An act, subversive to discipline in using abusive and filthy language against JC-750768X Nb Sub (Now Sub) RC Nath, a Junior Commissioned Officer.

(iv) Continual and willful neglect of duty from 01 Feb 2001 to 01 Jun 2001 on all working days.

Attest
Jair
A. W. K.

(v) Continual and willful disobedience of orders for refusing to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of a Government servant and committed offences violating the provision of Rule 3 of CLS (Conduct) Rule 1964."

(b) That T. No 169 Civ(VM) Sh PC Das was directed to submit a written statement of his defence with in 10 days of receipt of memorandum.

(c) That T. No 169 Civ(VM) PC Das was also intimated vide para 43 of above memorandum that if he does not submit his written statement of defense on or before the date specified in para 2 of the memorandum or does not appear in person before the inquiring authority or otherwise fails or refuse to comply the provisions of Rule 14 of CCS (CC & A) Rules 1965 or the orders/directions issued in pursuance of the said rule the inquiring authority may hold the Inquiry against him ex-prate.

(d) That the list of documents by which the articles of charges framed against T. No 169 VM Sh PC Das were to be sustained were as under:-

- (i) Complaint given by JC-750768X Nb Sub (Now Sub) RC Nath on 01 Jun 01
- (ii) Reports of disobedience and no output given by section incharges

his residential address: C/o No 31/8 ...3/-

(b) That the charges of ...
...
...

(c) That the list of witness by whom the article of charges were proposed to be sustained was as under :-

(i) No 14577561N NK Puran Singh

(ii) JC-750768X Nb Sub (Now Sub) RC Nath

(iii) 14591478F NK SC Singh

(iv) 14581821L Hav J. Kushwaha

(v) 14558493W Hav Lalan Singh

(vi) 14624820X NK D Palani

(vii) JC-753913P Nb Sub Jai Parkasan

(viii) JC-750236X Nb Sub (Now Sub) MDC Ahmed

(ix) JC-754018W Nb Sub UP Mishra

(f) That AEE Sh. Bidyot Panging was appointed as inquiry officer by disciplinary authority vide order No 10401/169/CIV dated 30 Aug 2001.

(g) That JC-722950F Nb Sub/SKT(MT) Amar Singh of 306 Station Workshop EME was appointed as Presenting Officer by Disciplinary Authority vide 10401/169/Civ dated 30 Aug 2001 and copy of the same was forwarded to T. No 169 Civ/VM Sh. PC Das at his residential address Qtr No MES 30/4 Dudgeon Line, Shillong Cantt.

(h) That the charged official T. No 169 Civ/VM Sh. PC Das was directed to report to inquiry officer for preliminary hearing on 09 Oct 2001 at 1100 hrs in 306 Station Wksp EME, vide Daily order Sheet No 10401/Civ/169/Inq/DS dated 20 Sep 2001.

(j) That T. No 169 Civ/VM Sh PC Das was also directed to give the particular of Defense Assistance, if any, proposed to be nominated by him.

(k) That the inquiry proceedings could not proceed on 09 Oct 2001 as T. No 169 Civ/VM Sh. PC Das expressed his inability to arrange for defense assistance. Another date of 22 Oct 2001 at 1100 h in 306 Station Workshop FME was fixed for the next hearing vide Daily Order Sheet No 10401/Civ/169/Inq/DS dated 09 Oct 01.

(l) That inquiry proceedings could not proceed on 22 Oct 2001 as T. No 169 Civ/VM Sh. PC Das did not attend the inquiry and instead requested for engaging a lawyer as defense assistance as per daily order sheet No 10401/Civ/169/Inq dt 22 Oct 2001

(m) That the next date of hearing was fixed on 16 Nov 2001 in 306 Station Workshop FME.

(n) That the following witness were produced by the presenting Officer on the dates shown against each :-

- | | | |
|--------------------------------------|---|-------------------|
| (i) JC-750768X Nb Sub RC Nath | - | 16 Nov 2001-SW1 |
| (ii) No 14577561N NK Puran Singh | - | 06 Feb 2002 -SW2 |
| (iii) JC-753913P Nh Sub Iai Parkasan | - | 12 Mar 2002 - SW3 |
| (iv) No 14591478F NK SC Singh | - | 18 Mar 2002 - SW4 |
| (v) No 14581821L Hav J. Kushwaha | - | 30 Mar 2002 - SW5 |

(e) That creating a riotous and disorderly situation in the Workshop has been amply proved by SW1, SW2, SW4, and SW5. T. No 169 Sh. PC Das by refusing to obey the order of JC-750768X Nb Sub (Now Sub) RC Nath by using abusive language and assaulting him, JC-750768X Nb Sub (Now Sub) RC Nath is a Junior commissioned Officer. Had he not pacified the accompanying Jawans there would have been a very serious problem due to creation of disorderly and riotous situation by T. No 169 Civ / VM Sh. PC Das by his acts of violent behavior, using abusive language and assaulting a Junior commissioned Officer in Wksp premises.

(p) That assaulting and using abusive language against JC-750768X Nb Sub (Now Sub) RC Nath has been amply proved by SW1, SW-2, SW4 and SW5 in their statement and cross-examination T No. 169 Civ/VM Sh. PC Das raised both his hands to hit JC-750768X Nb Sub (Now Sub) RC Nath, a junior commissioned officer who saved himself by ducking being a soldier, otherwise he would have been hit T. No 169 Civ/VM Sh PC Das used abusive and filthy language against the JCO, "Aap Chor ho, Apne Bahut Chori Ki hai, Aur FIP Ka Paisa Khaya hai."

(q) Continual wilful neglect of duty and disobedience of orders for refusing to proceed to place of work has also been amply proved by the statement of SW-3, SW1, SW2, SW4, SW5. SW3, JC-753913P Nb Sub Jaya Parkasan has been in this Workshop since 05 Nov 2000. T. No 169 Civ/VM PC Das has been continually and willfully neglecting his duty since the time JCO has been section incharge. All the witness have also proved this point, as section incharges have been keeping records in the registers, T No 169 Civ/VM Sh PC Das has been entering the workshop but has not proceeded to place of work and has been either roaming around in the workshop or reading newspaper. The words, "Mein Bharat Varsh Ka employee hoon, Jahan par Dil Karega Bethenge" amply proves his intentions and arrogance who has been taking the system for a ride.

-6-

3. As brought out above all my witnesses from SW1 to SW5 have proved all the charges given in the charge sheet. T. No 169 Civ/MV Sh. PC Das has attended the inquiry only on two days inspite of giving him sufficient notice as he has no defense.

4. In view of the above, I want to bring to the notice of honourable inquiry officer, that my witnesses have amply proved the charges against T. No 169 Civ(VM) Sh PC Das.

Rajinder

JC-185107F
(JC 755107F Nb/Sub
Rajinder Kumar Kanwar)
Presenting Officer

CONFIDENTIAL

Annexure-27

REGISTERED BY POST

Tele: 6177

306 Station Workshop EME
C/O 99 APO

10401/Sus/Civ

21 Nov 2003

T/No 169 Civ VM (Mate)
Shri P C Das
Qtr No DF 18/1 - 2
Burma Line
Shillong Cantt

FORWARDING OF INQUIRY REPORT : DISCIPLINARY PROCEEDINGS
UNDER RULE 14 OF CCS (CC & A) RULE 1965 AGAINST T/NO 169
CIV VM (MV) (NOW VM/MATE) SHRI P C DAS

1. Refer to

(a) Memorandum of Charge Sheet bearing No 21208/169/Est/Ind/LC dated 11 Jul 01

(b) Our letter No 10401/169/Civ dated 30 Aug 01

(c) Rule 15 (2) of CCS (CC&A) Rule 1965

2. A copy of inquiry report submitted by the Inquiry Officer is forwarded herewith for your information. You are hereby directed to submit your representation, if any with in 15 days of receipt of inquiry report.

Encls

17 pages

(J S Bains)

Lt Col

Officer Commanding

CONFIDENTIAL

Recd on

27-11-03

Attested
Fair
Advocate

INQUIRY REPORT
ON
THE DEPARTMENTAL ENQUIRY HELD AGAINST
T/NO 169 CIV VM SHRI P C DAS
OF
306 STATION WORKSHOP EME

Submitted by
Inquiry officer
Vide letter No 10401/Civ/169/Inq
Dated : - 07 Jul 2003

LIST OF EXHIBITED DOCUMENTS

S - 1 Daily attendance and output register of 'B' Veh section of 306 Station Workshop EME.

LIST OF WITNESSES

SW-1	JC-750768X Nb Sub (Now Sub) R C Nath
SW-2	14577561N NK Puran Singh J
SW-3	JC-753913P Nb Sub Jayaprakashan K J
SW-4	14591478F NK S C Singh ~
SW-5	14581821L Hav J Kushwah J

B.P.

Attested
by
Advocate

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-119-
CONFIDENTIAL

INQUIRY REPORT

In the case against
T/No 169 Civ VEH MECH Shri P C DAS
of 306 Station Workshop EME

1. Introduction

(a) Under sub-rule 2 of 14 of CCS (CC&A) Rules 1965, I was appointed by the Officer Commanding, 306 Station Workshop EME, C/O 99 APO as Inquiry Authority to inquire into the charges framed against T/No 169 Civ VM Shri P C Das vide his Memo No 21208/169/Est-Ind/LC dated 11 Jul 2001. I have since completed the inquiry and on the basis of documentary and oral evidences adduced before me prepared my Inquiry Report as under: -



(i) A copy of appointment of Presenting Officer under Sub Rule 5 (c) of Rule 14 of CCS Rule 1965 was sent to JC-722950F Nb SKT(MT) Amar Singh of 306 Station Workshop EME, T/No 169 Civ VM Shri P C Das, charged official and the undersigned vide 306 Station Workshop EME letter No 10401/169/Civ dated 30 Aug 2001

(ii) Order for change of Presenting Officer JC-722950F Nb SKT(MT) Amar Singh due to retirement was issued vide 10401/169/Civ dated 04 Apr 2002 and copies of the same were sent to JC-755107F Nb Sub SKT R K Kanwar of 306 Station Workshop EME and T/No 169 Civ VM Shri P C Das through registered letter.

CONFIDENTIAL

(iii) Date of hearing are as under:-

S.No	Date	Remarks
(i)	20 Sep 2001	The charged official has been directed to appear for preliminary hearing on 09-Oct 2001.
(ii)	09 Oct 2001	The inquiry proceedings could not proceed, as T/No 169 Civ VM Shri P C Das, charged official was absent. <i>Dismissed</i>
(iii)	22 Oct 2001	Adjourned because the charged official was absent. <i>Dismissed</i>
(iv)	16 Nov 2001	Charged official was absent, inquiry started ex-parte. Statement of State Witness No 1 - JC-750768X Nb Sub (now Sub) R C Nath has been taken. <i>Do not give order direct</i>
(v)	17 Jan 2002	Adjourned, since the charged official was absent and no witnesses has been produced.
(vi)	06 Feb 2002	Statement of No 14577561N Nk Puran Singh, State Witness (SW-2) has been recorded. Charged official is still absent.
(vii)	12 Mar 2002	Statement of JC-753913P Nb Sub K Jaya Prakasan, State Witness (SW-3) has been recorded. Charged official is still absent.
(viii)	14 Mar 2002	T/No 169 Civ VM Shri P C Das, charged official came for the first time for hearing with an application for reconsidering the appointment of Defence Assistance from outside Shillong. The application has been considered by the inquiry officer and has been rejected. Charged official has been advised to engage a defence assistance from Shillong and told him to attend the hearing regularly since ex-parte inquiry has already been started. The statements of State Witnesses recorded so far in the earlier hearings were shown to the charged official but he refused to see the statements without defence assistance. Deposition by JC-753913P Nb Sub K Jaya Prakasan, State Witness (SW-3) has been recorded.
(ix)	18 Mar 2002	Charged Official left the place of hearing just before its start saying "I will not attend the inquiry proceedings". Statement of 14591478F NK S C Singh, SW-4 has been recorded. Cross examination by Defence

		Assistance/Charged Official was not done and questions by the inquiry officer was postponed to the next hearing
(x)	21 Mar 2002	Charged official was absent and No 14591478F NK S C Singh (SW-4) was again produced by the presenting officer for questioning by the inquiry officer. The presenting officer sought permission for production daily register maintain by section in charge 'B' veh, which reference was made in the cross examination of SW-3 and SW-3 has been cited as a witness only, to prove the allegations through the said daily register. Permission has been granted to produce the same in the next hearing. ✓
(xi)	30 Mar 2002	Presenting officer submitted the daily register of 'B' veh section. Same has been inspected by the inquiry officer and was brought on record as Exhibit S-1. Statement of No 14581821L Hav J Kushwaha, SW-5 has been recorded. Cross examination by Defence Assistance/Charged Official was not done and questions by the inquiry officer was postponed to the next hearing
(xii)	04 Apr 2002	Charged official was absent and No 14581821L Hav J Kushwaha, SW-5 was again produced by the presenting officer for questioning by the inquiry officer. Presenting officer declared that he has produced sufficient state witnesses to prove the charges against the charged official and remaining state witnesses need not to be produced for inquiry. Evidence on behalf of Disciplinary Authority was closed.
(xiii)	23 Apr 2002	The charged official was told to submit his written statement of defence by 23 Apr 2002 vide my registered letter no 10401/169/Civ/INQ dated 09 Apr 2002. but the charged official was failed to submit the same. He was given one more opportunity to submit his written statement of defence by 03 Jun 2002, -falling which the evidence on behalf of T/No 169 Civ VM Shri P C Das will be treated as closed.

(xiv)	03 Jun 2002	T/No 169 Civ VM Shri P C Das, charged official was failed to submit his written statement of defence and also failed to appear in person before the inquiry officer. The evidence on behalf of the charged official was closed. The Presenting Officer was directed to submit his written brief so as to reach me before 15 Jun 2002 and he will also endorse a copy of the brief to the Charged Official. In turn the Charged Official has to submit his written brief by 29 Jun 2002. The case was declared closed.
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- (iv) 30 Aug 2002 : - Presenting Officer submitted his written brief and copy of the same has been forwarded to T/No 169 Civ VM Shri P C Das by the undersigned vide registered letter no 10401/169/Civ/INQ dated 24 Oct 2002. Vide this letter the charged official was also directed to submit his written brief so as to reach on or before 11 Nov 2002.
- (v) 02 Sep 2002 : - T/No 169 Civ VM Shri P C Das filed a appeal dated 02 Sep 2002 to the Directorate General of EME for review against the Order No 10401/169/Civ dt.05 Aug 2002 and No 10401/169/Civ dt 09 Aug 2002 issued by the Officer Commanding , 306 Stn Wksp EME C/O 99 APO, rejecting his representation dt 29 Apr 2002, dt 18 May 2002 and dt 20 Jun 2002, against the appointment of Inquiry Officer on the grounds of bias and pray for fresh appointment of another person as Inquiry Officer.
- (vi) 07 Feb 2003 : - The charged official was directed by the Army HQ to approach MG EME, HQ Eastern Command, who is the Appellate Authority in this case.
- (vii) 25 Jun 2003 : - The appeal dated 02 Sep 2002 filed by T/No 169 Civ VM Shri P C Das was rejected by Maj Gen UK Jha, MG EME, HQ Eastern Command and ordered to proceeds with the inquiry.

2. Charges that were framed - As per memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001, T/No 169 Civ VM Shri P C Das while functioning as

Civilian Vehicle Mechanic in 306 Station Workshop EME during the period 01 Feb 2001 to 01 Jun 2001 committed the following offences :-

- (a) On 01 Jun 2001 at about 0935 h created a riotous situation in the rest room while being instructed to go to the shop floor by JC-750768X Nb Sub (now Sub) R C Nath
- (b) Assaulting JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.
- (c) An act, subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (now Sub) R C Nath, a Junior Commissioned Officer.
- (d) Continual and wilful neglect of duty from 01 Feb 2001 to 01 Jun 2001 on all working days.
- (e) Continual and wilful disobedience of orders for refusing to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of Government Servant and committed offences violating the provisions of Rule 3 of CCS (Conduct) Rule 1964."

3. Charges that were admitted or dropped or not pressed :-

- (a) Charged official did not admit any charge vide his letter No Nil dated 28 Jul 2001.
- (b) No charges have been dropped.
- (c) All charges mentioned in charge sheet have been pressed.

4. Charges actually inquired into - All the charges mentioned in Para 2 (a) to 2 (e) above have been inquired into.

5. Brief statement of the case of disciplinary authority in respect of the charges inquired into :-

(a) Disciplinary authority through Presenting Officer has produced the following witnesses on the dates shown against each :-

- (i) JC-750768X Nb Sub (Now Sub) R C Nath 16 Nov 2001 SW-1
- (ii) 14577561N NK Purah Singh 06 Feb 2002 SW-2

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- (iii) JC-753913P Nb Sub Jayaprakashan K 12 Mar 2002 SW-3
& 14 Mar 2002
 - (iv) 14591478F NK S C Singh 18 Mar 2002 SW-4
& 21 Mar 2002
 - (v) 14581821L Hav J Kushwah 30 Mar 2002 SW-5
& 04 Apr 2002

(b) The presenting Officer through SW-1, SW-2, SW-4 and SW-5 has brought out that T/No 169 Civ VM Shri P C Das on 01 Jun 2001 at about 0930 h refused to obey the orders of JC-750768X Nb Sub (Now Sub) R C Nath. T/No 169 Civ VM Shri P C Das became violent and used abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath. Had the JCO not pacified the accompanying Jawans, there would have been a very serious problem due to violent behaviors of T/No 169 Civ VM Shri P C Das.

(c) Witness No Sw-1, SW-3, SW-4 and SW-5 through their statements and cross examination have brought out that T/No 169 Civ VM Shri P C Das used abusive language and assaulted JC-750768X Nb Sub (Now Sub) R C Nath. T/No 169 Civ VM Shri P C Das raised his hands to hit JC-750768X Nb Sub (Now Sub) R C Nath. T/No 169 Civ VM Shri P C Das made a gesture to hit JC-750768X Nb Sub (Now Sub) R C Nath but he saved himself by ducking being a soldier otherwise he would have been hit. T/No 169 Civ VM Shri P C Das also said "Yahan par sabhi gandu officer and JCO hain, Hum Bhart Varsh ke Employee hain, Jahan par dil karenga bethengr".

(d) T/No 169 Civ VM Shri P C Das had been willfully neglecting duty, absented from place of work and disobedient of orders from 01 Feb 2001 to 01 Jun 2001. SW-1, SW-2, SW-3, SW-4 and SW-5 have brought out the continual wilful neglect of duty and absence from place of work and disobedience of orders. T/No 169 Civ VM Shri P C Das had been reporting to 306 Station Workshop EME, marked his presence but did not report to place of work and kept sitting and roamed in the workshop from 01 Feb 2001 to 01 Jun 2001.

3. Brief Statement of facts and documents admitted - The brief statement of facts and documents submitted by PO (Presenting Officer) are as under :-

(a) T/No 169 Civ VM Shri P C Das of 306 Station Workshop EME was served with a memorandum by Officer Commanding, 306 Station Workshop EME vide memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001 under Rule 14 (2) of CCS (Classification, Control and Appeal) Rule 1965. He was charged with the following offences i.e. Gross misconduct :-

(i) On 01 Jun 2001 at about 0935 h created a riotous situation in the rest room while being instructed to go to the shop floor by JC-750768X Nb Sub (now Sub) R C Nath

(ii) Assaulting JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.

(iii) An act, subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (now Sub) R C Nath, a Junior Commissioned Officer.

(iv) Continual and willful neglect of duty from 01 Feb 2001 to 01 Jun 2001 on all working days.

(v) Continual and willful disobedience of orders for refusing to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of Government Servant and committed offences violating the provisions of Rule 3 of CCS (Conduct) Rule 1964."

(b) The list of documents by which the articles of charges framed against T/No 169 C/v VM Shri P C Das where to be sustained were as under :-

(i) Complaint given by JC-750768X Nb Sub (Now Sub) R C Nath dated 01 Jun 2001.

(iii) Report of disobedience and no output given by section in-charges.

(c) That the list of witnesses by whom the article of charges were proposed to be sustained were as under :-

(i) No 14577561N NK Puran Singh

(ii) JC-750768X Nb Sub (now Sub) R C Nath

(iii) No 14591478F NK S C Singh

(iv) No 14558493W Hav Lalan Sah

(v) No 14581821L Hav J Kushwaha

(vi) No 14624820Y NK D Palani

(vii) JC-753913P Nb Sub Jayaprakasan K

(viii) JC-750236Y Nb Sub (Now Sub) MDC Ahmed

(ix) JC-754018W Nb Sub U P Mishra

7. Points for determination and issues to be decided - The following issues needs to be decided:-

- (a) Whether T/No 169 Civ VM Shri P C Das created a riotous like situation in rest room of civilians on 01 Jun 2001 at 0930 h when being instructed by JC-750768X Nb Sub (Now Sub) R C Nath ?
- (b) Did T/No 169 Civ VM Shri P C Das assaulted JC-750768X Nb Sub (Now Sub) R C Nath on 01 Jun 2001 at 0930 h approximately ?
- (c) Whether T/No 169 Civ VM Shri P C Das used abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath ?
- (d) Was T/No 169 Civ VM Shri P C Das continually neglecting duty, absence from place of work from 01 Feb 2001 to 01 Jun 2001 ?
- (e) The issue of disobedience of orders from 01 Feb 2001 to 01 Jun 2001 given by supervisory staff from 01 Feb 2001 to 01 Jun 2001.

8. Brief statement of case of Govt Servant :-

- (a) T/No 169 Civ VM Shri P C Das was presented with a memorandum by Officer Commanding, 306 Station Workshop EME vide their registered letter No 21208/169/Est-Ind/LC dated 11 Jul 2001.
- (b) Inquiry Officer and Presenting Officer were appointed vide 306 Station Workshop EME registered letter No 10401/169/Civ dated 30 Aug 2001 and of even No dated 30 Aug 2001 respectively.
- (c) T/No 169 Civ VM Shri P C Das was intimated by me vide registered letter No 10401/169/Inq dated 20 Sep 2001 (registered No 4449 dated 21 Sep 2001) for preliminary hearing on 09 Oct 2001 at 1100 h in Office of Workshop Officer at 306 Station Workshop EME. He was also intimated to give particulars of defence assistance by 01 Oct 2001.
- (d) T/No 169 Civ VM Shri P C Das vide his letter No Nil dated 27 Sep 2001 intimated that he is unable to manage defence assistance within a short span and asked for 30 days more time to arrange for defence assistance.
- (e) T/No 169 Civ VM Shri P C Das was given fresh date of preliminary hearing on 22 Oct 2001 at 1100 h at the Office of Workshop Officer of 306 Station Workshop EME. He was also intimated to give particulars of defence assistance if any. Registered letter No 10401/Civ/169/Inq dated 03 Oct 2001 refers.

(f) T/No 169 Civ VM Shri P C Das vide his letter No Nil dated 13 Oct 2001 requested for common proceedings with T/No 169 Civ Elect(MV) Shri Bihari Singha and requested for engaging a civil lawyer.

(g) Officer Commanding, 306 Station Workshop EME, the Disciplinary Authority, vide registered letter No 10401/Civ/169 dated 19 Oct 2001 rejected the plea of common proceedings as all the charges were not common. He also rejected the plea of Charged Official for employ a lawyer as defence assistance since the Presenting Officer was not a legally qualified officer.

(h) T/No 169 Civ VM Shri P C Das was advised by the undersigned to attend the inquiry and resist from delaying tactics vide registered letter No 10401/Civ/169 dated 20 Oct 2001 (Registered No 176 dated 23 Oct 2001). He was also informed that if he continues to use delaying tactics, the inquiry will start ex-parte.

(j) Next date of hearing was fixed on 16 Nov 2001 at 1100 in 306 Station Workshop EME and T/No 169 Civ VM Shri P C Das was intimated vide registered letter No 10401/Civ/169/Inq dated 23 Oct 2001 sent through registered post No 243 dated 25 Oct 2001. The charged official was also intimated that if he fails to appear in person on 16 Nov 2001, ex-parte inquiry would be started.

(k) Since the charged official was remained absent on 16 Nov 2001, ex-parte inquiry were started and statement of JC-750768X Nb Sub R C Nath, state witness no 1 was recorded.

(l) T/No 169 Civ VM Shri P C Das requested for 15 days more time to engage a defence assistance vide his letter dated 23 Nov 2001.

(m) Next date of hearing was fixed on 17 Jan 2002 at 1100 in the Office of 306 Station Workshop EME vide registered letter No 10401/Civ/169/Inq dated 21 Dec 2001 (Registered No 5666 dated 22 Dec 2001). Charged Official was also intimated that since ex-parte inquiry has been started from 16 Nov 2001, charged official was once again advised to attend inquiry which will be held on every alternative day except Sundays and Holidays with effect from 17 Jan 2002

(n) T/No 169 Civ VM Shri P C Das continued delaying tactics by engaging in infructuous correspondence. His letters dated 07 Dec 2001 and 24 Dec 2001 refers.

(o) T/No 169 Civ VM Shri P C Das returned back registered letter No 10401/Civ/169/Inq dated 21 Dec 2001 did not accept the letter and letter was returned back undelivered by Postal Authority with the remark "Refused to Accept". The letter was for fixing next date of hearing on 17 Jan 2002.

(p) T/No 169 Civ VM Shri P C Das gave the name of UDC, Shri M P Singha of 222 ABOD at Guwahati for engaging the defence assistance vide his letter No Nil dated 21 Jan 2002.

(q) T/No 169 Civ VM Shri P C Das was intimated vide registered letter No 10401/Civ/169/Inq dated 08 Feb 2002 that all his letters have been replied. He was also intimated that he has not forwarded the consent of Shri M P Singha, UDC of 222 ABOD at Guwahati, whom he wanted to engage as defence assistance. He was also intimated vide registered letter No 10401/Civ/169/Inq dated 08 Feb 2002 (registered No 931 dated 09 Feb 2002) that he was again trying to delay the proceedings as he has not attached the consent of UDC, Shri M P Singha of 222 ABOD at Guwahati, which is at a distance of more than 100 Kms. His request for engaging a defence assistance from outside station was not agreed to due to long distance between place of inquiry and place of posting of the defence assistance. He was advised to engage a defence assistance from one of the local unit as sufficient time has already been given to him and ex-parte proceedings have been started.

(r) T/No 169 Civ VM Shri P C Das in connivance with Postal Authorities received the registered letters written by Inquiry Officer after one month at a distance of 1 Kilometer and tried to project that delay has been due to late receipt of letters.

(s) A registered letter No 10401/Susp/Civ dated 13 Feb 2002 was written to T/No 169 Civ VM Shri P C Das by Disciplinary Authority that he has been delaying the inquiry by delaying tactics and not receiving the registers letters in time or not accepting these letters. He was again advised to attend the inquiry.

(t) T/No 169 Civ VM Shri P C Das was intimated vide letter No 10401/Civ/169/Inq dated 22 Feb 2002 (registered No 2575 dated 22 Feb 2002) that he has been given five opportunities on 09 Oct 2001, 22 Oct 2001, 16 Nov 2001, 17 Jan 2002 and 06 Feb 2002. He was given one more chance to report to Inquiry Officer on 12 Mar 2002 at 1100 h in office of 306 Station Workshop EME.

(u) T/No 169 Civ VM Shri P C Das vide his letter dated 09 Mar 2002 stated that no suitable Central Govt worker is available in Shillong for

defence Assistance and he be permitted to engage Shri M P Singha, UDC of 222 ABOD at Guwahati.

(v) T/No 169 Civ VM Shri P C Das vide his letter dated 18 Mar 2002 and 21 Mar 2002 addressed to appointing authority requested to permit engage a defence assistance from outside Shillong.

(w) Disciplinary authority of 306 Station Workshop EME vide letter No 10401/Civ/169 dated 04 Apr 2002 (registered No 3557 dated 05 Apr 2002) rejected the appeal of charged official for engaging a defence assistance from outside station due to long distance. The charged official was also intimated in detail the delaying tactics adopted by him since starting of inquiry. He was advised to engage a defence assistance from about 1000 Central Govt Workers located at Shillong. The disciplinary authority upheld the decision of Inquiring Authority for rejecting the defence assistance from outside Shillong.

(x) T/No 169 Civ VM Shri P C Das after a lapse of 9 months after receiving the memorandum again wrote to Disciplinary Authority for some documents of appointment of inquiring authority, Presenting Officer. He further asked the inquiring authority for security check at the gate. His letter dated 21 Mar 2002 refers.

(y) Similar letters were again written on 23 Mar 2002 and 26 Mar 2002.

(z) Disciplinary authority vide letter No 10401/169/Civ dated 17 Apr 2002 (registered No 3956 dated 19 Apr 2002) intimated the charged official that copies of the appointment of inquiry officer and presenting officers were sent to the charge official by Registered AD post and the same was returned by the postal authority with a remarked that "Refused to accept". As per Govt of India instruction to Rule 30 of CCS (CCA) Rules 1965, documents sent by Registered AD Post, if not accepted by the addressee and is returned by the post office to the sender, further, action may be taken as if the documents has been served. He had been corresponding with inquiring authority from the very beginning and was fully aware of who is the inquiring authority. He had also attended the inquiry on 14 Mar 2002 and 18 Mar 2002 as is evident from the gate passes. However, zerox copies of detailment of Inquiry Officer, Presenting Officer were again sent to him.

(aa) T/No 169 Civ VM Shri P C Das vide his letter dated 29 Apr 2002 again raised the following issue just to delay the procedures :-

(i) That he does not know the detailment of Inquiry Officer and Presenting Officer.

- (ii) That he received the letters of appointment of Inquiry Officer on 27 Apr 2002 after a lapse of 8 months.
- (iii) That Inquiry Officer is connected with all matters and is subordinate to disciplinary authority, he can not be inquiry officer.
- (ab) T/No 169 Civ VM Shri P C Das again raised the same issues vide letter dated 20 Jun 2002.
- (ac) Officer Commanding, 306 Station Workshop EME vide registered letter No 10401/169/Civ dated 05 Aug 2002 (registered No 3131 dated 05 Aug 2002) replied and the gist is as under: -
- (i) That charged official was supplied with the copies of Appointment of Inquiry Officer and Presenting Officer vide letter No 140101/169/Civ dated 30 Aug 2001 through registered letter. Charged Official was also mentioned that he had been corresponding with inquiry officer and have actually attended the inquiry on 14 Mar 2002 and 18 Mar 2002.
- (ii) As that charged official was told that he has no authority to reject inquiry officer and no bias has been mentioned by him. The inquiry officer was not even present on 01 Jun 2001 in the workshop as he was on temporary duty at 311 Stn Wksp EME wef 07 May to 09 Sep 2001.
- (iii) The appeal of the charged official for bias against the inquiry officer was also rejected vide para 3 of the aforesaid letter.
- (iv) That JC-722950F Nb Sub SKT (MT) Amar Singh was replaced as Presenting Officer by JC-755107F Nb Sub SKT RK Kanwar due to retirement of JC-722950F Nb Sub SKT (MT) Amar Singh.
- (v) Charged official was also intimated to collect his subsistence allowances which he has not been collecting.
- (vi) He was also advised to appoint a defence assistance.
- (ad) T/No 169 Civ VM Shri P C Das again wrote a letter on 05 Jul 2002 with the same old allegations and delaying tactics.
- (ae) T/No 169 Civ VM Shri P C Das vide registered letter No 10401/169/Civ dated 09 Aug 2002 (registered No 3336) was intimated the following by Officer Commanding, 306 Station Workshop EME :-

(i) That plea of charged official has already been rejected as no bias has been mentioned. Moreover, the inquiry officer was not even present in the unit on 01 Jun 2001 as he was on temp duty at 311 Stn Wksp EME wef 07 May 2001 to 09 Sep 2001. The plea of staying the inquiry was also rejected.

(ii) That the change of appointment of presenting officer has already been intimated to charged official vide 10401/Civ/169 dated 04 Apr 2002 and of even No dated 05 Aug 2002.

(iii) That charged official was told to engage a defence assistance from about 1000 Central Govt Workers located at Shillong.

(iv) That charged official was also intimated that he had been attending the inquiry on 14 Mar 2002, and 18 Mar 2002 and has been absenting after 21 Mar 2002.

(af) That Daily Order Sheets were regularly sent to charged official vide registered letter Nos :-

(i) 10401/169/Civ/Inq dated 23 Oct 2001.

(ii) 10401/169/Civ/Inq dated 04 Jan 2001.

(iii) 10401/169/Civ/Inq dated 09 Apr 2002.

(iv) Daily Order Sheet dated 14 Mar 2002 was received by the charged official by hand after the proceedings.

(v) 10401/Civ/169/INQ dated 24 Oct 2002.

(ag) That Charged Official continued making representation to inquiry office, Disciplinary Authority and DGEME, Army Headquarters, New Delhi. The main gist has been rejection of inquiry officer.

(ah) T/No 169 Civ VM Shri P C Das was intimated to submit his written brief by 11 Nov 2002 vide letter No 10401/169/Civ/Inq dated 24 Oct 2002. The copy of brief of presenting officer was also sent to him.

(aj) That no reply regarding written brief has been recd.

(ak) That T/No 169 Civ VM Shri P C Das sent a copy of appeal addsd to DGEME dated 02 Sep 2002. The gist of appeal was 'Bias against inquiry officer'.

(al) That Army Headquarters vide letter No 21892/24/EME Civ-3 dated 07 Feb 2003 intimated the charged official to send the appeal to MGEME East Command, Kolkata.

(am) Charged Official did not send the appeal to MG EME, Eastern Command, the appellate authority.

(an) The appeal of bias against the inquiry officer was rejected by Brig SK Kakar, offg MG EME, East Comd vide order no 332230/2/PCD/EME Civ dated 23 May 2003.

(ao) The order was however cancelled vide HQ East Comd letter No 332230/2/PCD/EME Civ dated 09 Jun 2003.

(ap) Maj Gen UK Jha, MG EME, East Comd, the appellate authority rejected the appeal of charged official vide order no 332230/2/PCD/EME Civ dated 23 Jun 2003.

9. Assessment of Evidence in respect of each point - Assessment of evidence in respect of each point is discussed below in respect of T/No 169 Civ VM Shri P C Das:-

(a) T/No 169 Civ VM Shri P C Das was charged for "Gross Misconduct" as per sub clause (i) of Article-I ie "On 01 Jun 2001, at about 0935 h created a riotous situation in the rest room while being instructed to go to shop floor by JC-750768X Nb Sub (now Sub) R C Nath". The main point of the charge is creating a riotous situation in the rest room. The meaning of word 'riot' as given in the dictionary is disorder, uproar, disturbance of peace & noisy festivity. Presenting Officer through SW-1, SW-2, SW-4 and SW-5 has amply proved disorderly and riotous situation in the workshop on 01 Jun 2001 at about 0935 h. T/No 169 Civ VM Shri P C Das refused to obey the orders of JC-750768X Nb Sub (Now Sub) R C Nath and became violent and used abusive language against the JCO. The violent behavior of T/No 169 Civ VM Shri P C Das would have created more serious situation had the JCO not pacified the accompanying jawans. T/No 169 Civ VM Shri P C Das had become so violent as he even started abusing the officers and JCOs and used words like "Yaha par sdb gandu officer our JCO hain". The above has been brought out by all the above witnesses. T/No 169 Civ VM Shri P C Das did not attend the inquiry on one pretext or the other except attending it on 14 Mar 2002 and 18 Mar 2002. He signed the proceedings on 14 Mar 2002 but refused to sign on 18 Mar 2002. Charged official did not cross examine any witnesses.

(b) The next charge against T/No 169 Civ VM Shri P C Das was assaulting JC-750768X Nb Sub (Now Sub) R C Nath on 01 Jun 2001 at about 0935 h approximately. The dictionary meaning of word assault is hostile attack, a rush against, to make a violent attack. The presenting officer through SW-1, SW-2, SW-4 & SW-5 has brought out that T/No 169 Civ VM Shri P C Das raised his hand to hit JC-750768X Nb Sub (Now

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Sub) R C Nath and made a gesture to hit him. The JCO saved himself by ducking being a soldier; otherwise, he would have been hit. The charge of assault on JC-750768X Nb Sub (Now Sub) R C Nath has been sufficiently proved by above-witnesses. T/No 169 Civ VM Shri P C Das did not offer any defence and absented himself from the inquiry proceedings except attending the inquiry on 14 Mar 2002 & 18 Mar 2002. He refused to cross examine any witnesses.

(c) The next charge on T/No 169 Civ VM Shri P C Das is "an act subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath. Presenting Officer through witness No SW-1, SW-2, SW-4 & SW-5 has brought out that T/No 169 Civ VM Shri P C Das used abusive language against the JCO and used words like "Aap Chor hain aur FIP ka paisa khaya hai", "Yahan par sabhi gandhu officer aur JCO hain". The use of such filthy language by T/No 169 Civ VM Shri P C Das has been proved by above witnesses. T/No 169 Civ VM Shri P C Das did not offer any defence and did not attend the inquiry except on 14 Mar 2002 but refused to cross-examine any witnesses.

(e) Continual and wilful neglect of duty and absence from place of work from 01 Feb 2001 to 01 Jun 2001 has been amply proved by the statements of SW-1, SW-2, SW-3, SW-4 & SW-5. JC-753913P Nb Sub Tech 'B' Vek K Jaya Prakasan, SW-2 has brought out that T/No 169 Civ VM Shri P C Das had been absent from place of work from 01 Feb 2001 to 01 Jun 2001 after marking his presence. The charged official has been roaming around in the workshop or sitting in rest room all this time. The same is also clear from the attendance register produced by the Presenting Officer on 30 Mar 2002. As the charged official has been absenting from place of work on all working days from 01 Feb 2001 to 01 Jun 2001, his output has been shown nil in the register. The register has been marked as an Exhibit S-1. The presenting officer has thus amply proved by above witnesses the continual and wilful neglect of duty and absence from 01 Feb 2001 to 01 Jun 2001 on all working days.

(f) Continual wilful disobedience of orders given by supervisory staff to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 has also been proved by SW-1 & SW-2. JC-753913P Nb Sub Tech 'B' Vek K Jaya Prakasan, SW-2 has been continually ordering the charged official to proceed to place of work but he always refused making excuses. The JCO has been maintaining a register of output of all workers working under him. The charged official did not attend the inquiry even after giving him sufficient time except attending 14 Mar 2002. The register has been attached as Exhibit S-1.

CONFIDENTIAL

FINDING OF EACH CHARGES

10. In view of the assessment of evidence on each point, statement of witnesses, cross examination of each witness and brief submitted by the Presenting Officer, the findings on each charge are record as under :-

(a) T/No 169 Civ VM Shri P C Das of 306 Station Workshop EME is found guilty of "Gross Misconduct" i.e

(i) Creating a riotous situation in the rest room of civilian workers of 306 Station Workshop EME on 01 Jun 2001 at about 0935 h when ordered to go to shop floor by JC-750768X Nb Sub (Now Sub) R C Nath of the same workshop.

(ii) Assaulting JC-750768X Nb Sub (Now Sub) R C Nath of 306 Station Workshop EME on 01 Jun 2001 at about 0935 h in civilian rest room of 306 Station Workshop EME.

(iii) An act subversive to discipline, in that using abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath of 306 Station Workshop EME.

(v) Continual wilful neglect pf duty and absence form place of work on all working days wef 01 Feb 2001 to 01 Jun 2001.

(vi) Continual and wilful disobedience of orders of supervisory staff to proceed to place of work on all working days form 01 Feb 2001 to 01 Jun 2001.

On the basis of documentary and oral evidence adduced in the case before me and in view of the reasons given above, I hold that all the six charges against T/No 169 Civ VM Shri P C Das.

B.P.
(Bidyot Panging)
Inquiry Officer

*Attested
Law
Advocate*

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Annexure-29 (60)
 Date: Shillong
 29 Nov. 2003

To

The Officer Commanding (Lt.Col.J.S Bains)
 306 Station Workshops. EME
 C/o 99 APO.

Sub:- Representation submitted quite in keeping with the letter No. 10401/SUS/Civ Dt. 21-11-2003 forwarding the enquiry report pertaining to non est factum Disciplinary proceedings under rule 14 of CCS (CC&A) Rule 1965 as received 27/11/2003.

IN THE MATTER OF :

Shri P.C. Das, T/No.169 Veh. Mech. (MV) Qtr No.
 DF 18/1&2 Burma line, Shillong cantt.

Petition of the humble Petitioner above named most respectfully sheweth :-

1. That, your humble Petitioner above named is a Defence Civilian, Serving as Veh.Mech. (MV) under EME Organisation and he is deemed to be a central Government employee and as such, he is entitled to all the reasonable opportunities provided under the CCS (CCA) Rules, 1965 read with Article 311 of the Constitution of India.
2. That, your humble Petitioner is a citizen of India and as such, he is also entitled to all the rights and privileges guaranteed by the Constitution of India.
3. That, your humble Petitioner was initially recruited in the Defence Organisation on 14/4/82 as a Civilian Mazdoor. Since his entry in service until the date of his suspension, your humble Petitioner had been continuously rendering his duties in this esteemed Organisation most diligently and to the full satisfaction of all concerned and as such, there did not arise, at any material point of time during the entire period of his unblemished past service career, such an occasion whereupon he was asked to explain for any lapse on his part in the discharge of the duties assigned to him by the Authorities concerned and there after he was promoted to the post of VM(MV) Mate and subsequently thereafter, he was promoted to the post of VM(MV) and he is holding the same post till date.
4. That, your humble Petitioner was struck by surprise to receive the office order No. 10401/169/Civ dt. 1/6/2001 issued to him by the Officer Commanding (Lt. Col. JS Bains) 306 Stn. Wksp, EME. C/o 99 APO, whereby he was placed under suspension with immediate effect, pending disciplinary proceedings against him.

Attested
 Shri P.C. Das

That, eventually, a Departmental Inquiry, not worth its name, was proposed to be initiated against the Petitioner by the Unit Administration arbitrarily, illegally and haphazardly vide his Memo No. 21208/169/EST-IND/LC dt. 11/7/2001, in violation of all statutory norms of procedural law, in as much as, the Unit Administration, at the very outset, either willfully omitted or through gross negligence, failed to furnish the copies of the appointments of the Inquiry Officer and the Presenting Officer respectively, which are condition-precedent to the initiation of Departmental Inquiry as per mandatory provisions laid down in Rule 14 of the CCS (CCA) Rules, 1965, read with Article 311 of the Constitution of India.

That, ironically a letter was issued to the Petitioner by Shri Bidyot Panging, AEE, 306 Stn. Wksp EME, C/O 99 APO, vide its No. 10401/Civ/169/ Inq dt. 20/9/2001, wherein he claimed that he was appointed as the Inquiry Officer of the instant Disciplinary Proceedings against the Petitioner by an Order passed by the Officer Commanding, 306 Stn. Wksp. EME vide his No. 10401/169/Civ dt. 30/8/2001. But the copy of the mandatory appointment letter so claimed had never been made available to the Petitioner nor was it shown to him by the said Shri Panging. The Departmental Authority too, was reluctant to supply the same to him, right from the beginning, in spite of his sincere requests on several occasions, either through personal approach or in writing for supply of the same. In this connection, he submitted a number of representations vide his applications dt. 07/12/2001, dt. 19/3/2002, dt. 21/3/2002, dt. 23/3/2002 and dt. 26/3/2002 dt. 09.4.2002 and dt. 17.4.2002 addressed to the Officer Commanding (Lt. Col. J.S. Bains), 306 Stn.. Wksp EME, with copies thereof endorsed to the said Shri Panging, requesting him thereby to supply a copy of the mandatory appointment letter of the Inquiry Officer aforesaid.

That, from the facts stated hereinabove, it is clear that the copies of orders of appointments of either the Inquiry Officer or the Presenting Officer, were not at all, initially supplied to the Petitioner, and as such, the contention of the Unit Authority that the Petitioner was intimated regarding appointments of both the Inquiry Officer and the Presenting Officer vide letter No. 10401/169 /Civ dt. 30/8/2001 through registered letter No. 3807 dt. 31/8/2001 is totally unfounded, false and biased on the ground that the intimation alleged to have been sent to the Petitioner vide Registered letter No. 3807 dt. 31/08/2001 never reached him and the Unit Authorities miserably failed to substantiate its claim with documentary evidence. However, apparently, under compelling situation, the said appointment letters, after having been kept secret for quite a long time, were issued to the Petitioner by the Unit Authority vide No. 10401/169/Civ dt. 17/4/2002 which were received by him only on 27/4/2002 after a lapse of around 8 (Eight) months, which ought to have been communicated to the Petitioner, at the first instance as a condition-Precedent to initiation of Departmental Inquiry as per rules.

8. That, on receipt of the aforesaid appointment letters sent to the Petitioner by the Unit Authority vide its letter which was received by him on 27/4/2002, the Petitioner promptly submitted an application to the Authorities concerned on 29/4/2002 against the appointment of Shri Bidyot Panging AEE, as the Inquiry Officer of the instant Departmental Inquiry proposed to be initiated against the Petitioner on the grounds of bias, since the said Shri Panging was directly concerned / connected with the day-to-day official works, including service matters relating to the Petitioner and as such, he is rather deemed to be witness in the instant Departmental Inquiry, and at the same time, requested the Authorities thereby to make a fresh appointment of another person as the Inquiry Officer in his place, and this was followed by a number of representations dt. 18/5/2002, and dt. 20/6/2002.

In this connection, the Petitioner begs to state that there is no one other than the Charge Official (self) to reject an Inquiry Officer on the grounds of bias as per rules, in view of the fact that while the Petitioner was working as Veh. Mech. (MV) in the office of the 306 stn. Wksp. EME C/o 99 APO, during the period from 01/2/2001 to 01/6/2001 covered by the charges, the said Shri Panging AEE, was very much holding the post of Wksp. Officer, barring a short break on temporary duty wef 07/5/2001 to 09/9/2001 and thereafter he is holding the same post after rejoining his duty. This apart, the said Shri Panging is suspected of being prejudiced or biased against the Petitioner.

9. That, after having been in a deep slumber for a long period of more than 4 (four) months, since the date of submission of his earlier representation, on 29.4.2002 the Authorities concerned have reluctantly complied with only one of his letters dt. 20.6.2002 thereby rejecting the above representation of the Petitioner vide its letters No. 10401/169/Civ dt. 5.8.2002 and No. 10401/169/Civ dt. 09.08.2002 respectively.

10. That, the Petitioner further begs to state that Unit Administration, while issuing the aforesaid letter deliberately used the term "Again" to the effect that JC 755107F Nb. Sub/SKT R.K. Kanwar has been detailed as the Presenting Officer in the instant Inquiry vide his letter No. 10401/169/Civ dt. 04.4.2002. In fact the said letter was not at all sent to the Petitioner earlier but, it was subsequently sent to him along with the said letter in this connection it is pertinent to mention that the letter earlier referred to hereinabove contained a letter of Appointment of Presenting Officer issued by the Officer Commanding (Lt. Col. J.S. Bains) vide his office No. 10401/169/Civ dt. 04.4.2002 whereby JC. 755107F NbSub/SKT RK Kanwar was appointed as

the Presenting Officer in place of JC 722950 F Nb.Sub/SKT (MT) Amar Singh in the instant Inquiry under Rule, 14 of CCS (CCA) Rules, 1965, being held against T.No. 172 Civ Elect. Shri Bihari Singha. It is not only interesting but also funny to find that a copy thereof was amongst others, endorsed to T.No. 169 Civ VM Shri P.C. Das (Petitioner) which did not have any relation with him and as such, it is nothing but another attempt to cover up its evil design by means of foul or fair. This will be evident from the fact that the Unit Administration failed to comply with the earlier representation submitted by the Petitioner dt. 20.6.2002 in this regard.

11. That, the Officer Commanding (Lt. Col. J.S. Bains) while issuing his letter vide office No.10401/169/Civ dt. 09.8.2002 referred to, the representation No. nil dt. 25.7.2002 of the Petitioner. In this connection, the Petitioner begs to make it abundantly cleaner that he had never sent a letter on 25.7.2002 as referred to. It is not understood, as to how the unit Authority could refer to an imaginary letter and create so many things out of it.
12. That, the Petitioner emphatically assert that he is innocent and accordingly, he reserves his right of personnel hearings duly helped and assisted by a Defence Counsel (Assistant) of his own choice in the event, it is deemed to be necessary and essential for the ends of justice.
13. That, the petitioner had filed an Appeal addressed to Directorate General of EME (civ.) Master General of Ordnance Branch Army HQ. DHQ P.O. New Delhi-110011, praying that :-
- (a) Order Nos. 10401/169/Civ. Dt. 05/08/2002 and 10401/169/Civ Dt.09/08/2002 being illegal and contrary to provisions of CCS (CCA) Rules 1965 be set aside.
 - (b) Inquiry Officer Shri Bidyot Panging, AEE be replaced.
 - (c) The case be reviewed and suitable orders passed.
14. That, aforesaid Appeal was herewith rejected vide order dt. 24/05/2003. issued by Brig. S.K.Kakar offg MGEME HQ Eastern Command, Kolkata-21. vide Memo No.332230/2/PCD/EME Civ.dt. 24/05/2003 and similar order passed in case of Shri Bihari Singha has since been cancelled vide letter No.332230/2/SBS/EME Civ. Dt. 09/06/2003, but in case of petitioner has not been served with such cancellation order and it is presumed that the same has been rejected alike Shri Bihari Singha

and in view of that consideration Appeal filed on 02/09/2002. is deemed to be pending till it was again reissued under the signature of Maj.Gen. U.K. Jha MGEME HQ Eastern Command Kolkata-21 which goes to show that the entire proceeding is vitiated by malafide deeds and action of the Departmental Authorities.

15. That the Petitioner herein challenged the order dt 24/05/03. issued by the Brig.SK.Kakar offg. MGEME HQ Eastern Command Kolkata-21, by filing an application before the Central Administrative Tribunal at Guwahati Bench Guwahati bearing OA No. 150/2003 dt. 25/07/2003 which is till date pending for disposal.
16. That, upon perusal of the related Inquiry Report, the Petitioner could come to learn that Inquiry Report was submitted on 07/07/2003. and copy whereof was neither supplied to the Petitioner nor otherwise brought to the record of OA No. 150/2003, dt 25/07/2003 filed in Honorable C.A.T Guwahati Bench Guwahati in spite of the fact that written statement was filed on behalf of the Respondent and the statement was made categorically to the effect that enquiry was over and the Inquiry Report however now been sent after lapse of around 5(five) months, in the application, which is highly unethical and unwarranted for, on the ground of playing a dubious role of keeping the material fact in secrecy.
17. That, the list of witnesses shown in the Memo Charge sheet and the Inquiry Report of the biased Inquiry Officer are contradictory, it is clearly shown in list of witnesses in the charge sheet, that there were 9 (nine) witnesses viz.
- (a) 14577561N NK.Puran Singh.
 - (b) JC-750768X Nb Sub RC Nath.
 - (c) 14591478F Nk SC Singh.
 - (d) 14581821L HavJ Kushwaha.
 - (e) 14558493 Hav Lalan Sah.
 - (f) 14624820Y Nk D Palani.
 - (g) JC-753913P Nb Sub Jai Prakasan.
 - (h) JC-750236Y Nb Sub (now Sub) MDC Ahmed.
 - (i) JC-754018W Nb Sub UP Mishra.

Where as per list of witnesses shown in the Inquiry Report, the witnesses are 5 (five) numbers Viz.

SW-1	JC-750768X Nb Sub (NowSub) RC Nath
Sw-2	14577561N Nk Puran Singh
Sw-3	JC-753913P Nb Sub Jayaprakashan K.
Sw-4	14591478F Nk SC Singh.
Sw-5	14581821L Hav J.Kushwah

18. That, the statements of witnesses not being recorded in presence of Petitioner and duly appointed Inquiry Officer are illegal and **non est** in the eye of law.
19. That, the Petitioner was not afforded with the reasonable opportunity to cross examine the witnesses.
20. That, random dates were fixed by the biased Inquiry Officer for personal hearing without giving prior notice to the Petitioner at any material point of time.
21. That, most of the enquiry dates fixed by the Inquiry Officer were communicated after the respective date.
22. That, ex-parte enquiry ought not to be continued while objection were raised about its bonafide legal existence.
23. That, Subsistence Allowance was also not paid to the Petitioner regularly and subsequently stopped w.e.f.Oct-2003 without ground what so ever.
24. That, in the name of so-called inquiry the Petitioner was deliberately inflicted untold ill-treatment and physical harassment to the extend that he was forced to be confined to a very narrow room without drinking water and responding to the call of nature, which stretched over several hours. The Petitioner has been also subjected to be kept naked without any garments, this apart, he was manhandled and dragged by force, in front of other colleagues including juniors, as if he was hard core criminal, in as much he was forced upon to sign the Daily Order Sheet which was irregular, illegal and against the spirit of human dignity. No action has however been taken against such misdeeds while the attention of the Authorities at all levels were drawn.

25. That, ironically, numbers of letters with different dates were sent by the so-called Inquiry Officer together in one envelop and host of similar others were made available to the Petitioner at a time, which is irregular, illegal, unwarranted, uncalled for, biased, arbitrary and in view of that consideration the proceeding is vitiated by product of conspiracy.
26. That, Inquiry Report by itself is irregular, illegal, arbitrary and beyond the provision of law.
27. That, the entire exercise made in the process of Departmental Inquiries shall not stand in the eye of law and it is liable to be dropped.
28. That, this representation is filed bonafide for the end of justice.

In view of the facts stated hereinabove, it is humbly prayed that you would be graciously pleased to:-

- (I) Drop the entire Departmental proceedings by re-calling all the illegal orders/directions so far passed/ or recorded.
- (II) Reinstate the Petitioner in service treating the period of suspension as on duty, with all consequential benefits and payments of arrears due at an early date.
- (III) Pass such other relief or relief's as may be due and admissible, for which act of your kindness, the Petitioner shall ever pray.

Humble Petitioner.

Pd
29/11/03

(P.C. Das)

T/No.. 169 Vch.Mech. (MV), U/S
Qtr. No. DF-18/1&2

Burmaline, Shillong Cantt.

Tele: 6177

on 19/04/05

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Annexure-30
Station Workshop EME
(Ex-306 Stn Wksp EME)
Shillong

168

10401/ 169/Civ/Inq/2005

15 Apr 05

T/No 169 Civ/VM(Mate)

Shri PC Das

Qtr No : DP 18/1&2 Burma line

Shillong Cantt

**FORWARDING OF : DISMISSAL ORDER IN DEPTL INQUIRY AGAINST T/NO 169
CIV/VM(MATE) SHRI PC DAS OF STATION WORKSHOP EME, SHILLONG**

1. Please find attached herewith order dated 15 Apr 2005, passed by OC Stn Wksp EME, Shillong in respect of your above case.

[Signature]
(PS Kushwaha)
Lt Col
Officer Commanding

Encls : 03

Copy to :-

Directorate General of EME (Civ)
Master General of Ordnance Branch
Army Headquarters, DHQ PO,
New Delhi - 110011

HQ East Comd (EME)
Fort William, Kolkata-21

HQ 101 Area (EME)
C/O 99 APO

for info alongwith a copy above
dismissal order please.

CONFIDENTIAL

*Attestd
Law
Advocate*

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ORDERS OF DISCIPLINARY AUTHORITY UNDER RULE 15(4)
OF CCS (CCA) 1965 IN RESPECT OF T/NO 169 CIV/VM(MATE)
SHRI PC DAS OF STATION WKSP EME, SHILLONG

169

WHEREAS T/NO 169 Civ VM(Mate) Shri PC Das of Station Wksp EME, Shillong was issued with a memorandum of charges vide this office letter No 21208/169/Est ind/LC dt 11 Jul 2001 on Five specific counts mentioned therein, disclosing gross misconduct in violation of provisions of rule 3 of CCS (conduct) rules 1964. And that the said Shri PC Das did not admit any of the charges vide his letter dt 28 Jul 2001. The Disciplinary authority under the provisions of rule 14 of CCS (CCA) 1965 appointed an Inquiry Officer who inquired into the matter and the same proceedings commenced during 20 Sep 2001 to 25 June 2003 which has been duly recorded in detail consisting of statements of witnesses, Exhibits, correspondence details, details of said Shri PC Das's representations and various appeals and its disposal thereof and the findings arrived at by the said inquiry officer.

Whereas the said Shri PC Das was found guilty of all the five charges by the inquiry officer and the said inquiry report there after was put up to undersigned for necessary decision under Rule 15 of CCS (CCA) 1965.

Whereas the case was also examined at the Min of Def in terms their letter No 014 718168/D(Lab) dt 25 Mar 1968 respecting the Union activities if in any and the same was found non existing vide Army HQ letter No 37215/24/EME Civ 3 dt 31 Dec 04

Whereas a copy of said inquiry report, under the provisions of Rule 14 of CCS (CCA) 1965 was forwarded to said Shri PC Das by the inquiry officer vide letter No 10401/Sus/Civ (i) dt 21 Nov 2003 which was represented upon by him vide his letter No Nil dt 29 Nov 2003.

Whereas having gone through the Inquiry Officer's report, record of the Inquiry and representation received from said Shri PC Das, the evaluation of disciplinary authority on each article of charges are as under: -

- (a) T/No 169 Civ/VM (Now VM Mate) Shri PC Das was charged for "Gross Misconduct" as per sub clause (i) of Article (i) i.e " On 01 Jun 2001, at about 0935H created a riotous and disorderly situation in the rest room while being told to go to shop floor by JC-750768 Nb/Sub (Now Sub) RC Nath". Inquiry Officer through the statements of SW-1, SW-2, SW-4 and SW-5 has come to the conclusion that Shri PC Das refused to obey the orders of JC-750768X Nb Sub (Now Sub) RC Nath. It has been brought out by SW-1, SW-2, SW-4 and SW-5 that Shri PC Das used abusive language against the JCO. From the records of Inquiry it reveals that situation would have become serious, had Sub RC Nath not pacified the accompanied Jawans. Shri PC Das through his representation dated 29 Dec 03 has not brought out any defence for disobeying the orders and creating a riotous situation. He is silent on the ingredients of alleged offence. He has not opted to cross examine witness No SW-1, SW-2, SW-4 and SW-5. In view of above T/No 169 Civ/VM (Now VM Mate) Shri PC Das is thus found guilty of the said charge.

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(b) The next charge against Shri PC Das was "Assaulting Junior Commissioned Officer JC-750768X Nb Sub (Now Sub) RC Nath of the same workshop on 01 Jun 2001 at about 0930h in civilian rest room of 306 Station Workshop EME. Inquiry Officer on the basis of statements of SW-1, SW-2, SW-4 and SW-5 has come to the conclusion that Shri PC Das tried to hit the JCO with his hands but he saved himself by ducking being a soldier. The Charged Official did not offer any defence during the inquiry as well as in his representation dated 29 Nov 03. He has also not cross examined witness No SW-1, SW-2, SW-4 and SW-5. Therefore Shri PC Das is found guilty of the said charge.

(c) The next charge against Shri PC Das was "An act subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (Now Sub) RC Nath of 306 Station Workshop". The Inquiry Officer on the basis of statements of SW-1, SW-4, SW-5 has found the Shri PC Das 'guilty' of the charge. Shri PC Das has not brought out any point of defence in his representation dated 29 Nov 03 and has also not cross examined witnesses. Therefore, Shri PC Das is found guilty of said charge.

(d) The next charge against Shri PC Das was "Continual and willful absence from place of work on all working days wef 01 Feb 2001 to 01 Jun 2001". The Inquiry Officer on the basis of statements of SW-1, SW-2, SW-4 and SW-5 has found the Shri PC Das guilty of the above charge. From the records of Inquiry, it reveals that Shri PC Das had been found absent from place of work on all working days from 01 Feb 2001 to 01 Jun 2001 even though he had been reporting to the workshop but kept roaming around or kept sitting in rest room. He has not brought any point in his defence in the representation dated 29 Nov 2003 and he has also not cross examined any witnesses. He has also not disputed attendance register (Exh S1). Shri PC Das is therefore, found guilty of the said charge.

(e) The next charge against Shri PC Das was "Continual and willful disobedience of orders given by supervisory staff from 01 Feb 2001 to 01 Jun 2001 on all working days". The Inquiry Officer has found the Charge Official guilty of the said charged and Charged Official has also not brought any point of his defence in his representation dated 29 Nov 2003. In view of all above, said Shri PC Das is found guilty of the said charge.

Whereas under the authority of disciplinary authority in terms of rule 15 of CCS (CCA) rules 1965 in view of all above and the fact that Shri PC Das who while attending inquiry neither opted to cross examine any witness nor submitted any line of defence thereof. Instead adopted delay tactics by forwarding baseless representations to inquiry officer and other superior officers thereto, I have concluded that findings of guilty as recorded by the inquiry officer are consistent to the evidence and are thus just and legal. His retention in service is undesirable and detrimental in the interest of Govt service. I therefore, award Penalty in terms of rule 11(IX) of CCS (CCA) 1965 and dismiss said No 169 VM (Mate) (Civ) Shri PC Das from the service with immediate effect.

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CONFIDENTIAL

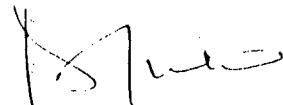
3

It is directed that said Shri PC Das who is under suspension since 01 June 2001 under the authority of this office letter No 10401/169/Civ dt 01 June 2001 be treated as dismissed from service subsequent to his suspension from the date of this order.

Case No. 10401/169/Civ/129/Ch

Place: Shillong

Date: 15 Apr 2005


(P S Kushwaha)
Lt Col
Officer Commanding

CONFIDENTIAL

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Annexure-31(series)

Dated : Shillong.

06 Dec. 2005.

To

The Officer Commanding(Lt.Col PS Kushwaha)
Station Workshop EME
Shillong.

Sub :- FORWARDING OF APPEAL/PETITION.

Sir,

I have the honour to submit herewith 2(two) sets of Appeal/Petition addressed to the MGEME, HQ Eastern Command (EME Branch) Fort William, Kolkata - 21, of which one set is to be transmitted to him(MGEME) and another set is to be retained in your office for information and necessary action.

I would, therefore, request you that you would be kind enough to send one set of the aforesaid Appeal/petition to the MGEME, HQ Eastern Command(EME Branch), Fort William Kolkata - 21., for which act of your kindness, I shall remain ever grateful to you.

Enclo :- AS stated above - 2 Nos.

Your's faithfully.

(Signature)
06/12/05

(P.C Das)

T/No. 169 Civ VM(HV) U/S

ptr No. DF- 18/182

Burna Line

Shillong Cantt.

Recd on 08/12/05

(Signature)

(Signature) S. C. Barman

भारतीय डाक



SHILLONG GPO (793001)

SLAD B 9881

Counter No:2, OP-Code:ROYNE

To:MGEME, HQ E C EME

KOLKATA, PIN:21

Wt:40grams,

PS:30.00, , 07/12/2005 , 14:49

WESTERN UNION MT DONE HERE

(Signature)
Advocate

To

Before the MGEME
HQ Eastern Command(EME Branch)
Fort William, Kolkata-21

Dated : Shillong.

06 Dec. 2005.

123

IN THE MATTER OF :

An Appeal/ Petition against the impugned Order passed by Lt. Col. PS Kushwaha, the Officer Commanding, Station Workshop EME Shillong, dismissing the service of the Appellant/ Appellant/ Petitioner vide case no. 10401/ 169/ Civ/ Inq/ 05 dtd.15/04/2005 most illegally and arbitrarily during the pendency of related Writ Petition No.03(SH) 2004 in the Shillong Bench of Hon'ble Gauhati High Court.

AND

IN THE MATTER OF :

Prayer for setting a side and quashing the Impugned Memo No. 10401/169/Civ/Inq/05 dtd.15/04/2005 and reinstate the Appellant/ Appellant/ Petitioner with all the consequent benefit.

AND

IN THE MATTER OF :

Shri P.C. Das, T/No.169 Veh. Mech. (MV)
Qtr No. DF 18/1&2 Burma line, Shillong
Cantt.

..... Appellant/
Petitioner

The humble Appellant/ Petitioner above named
Most Respectfully Sheweth :-

1. That, your humble Appellant/ Petitioner above named is a Defence Civilian, Serving as Veh.Mech. (MV) under EME Organisation and he is deemed to be a central Government employee and as such, he is entitled to all the reasonable opportunities provided under the CCS (CCA) Rules, 1965 read with Article 311 of the Constitution of India.
2. That, your humble Appellant/ Petitioner is a citizen of India and as such, he is also entitled to all the rights and privileges guaranteed by the Constitution of India.

3. That, the Appellant / Petitioner is actively associated with various Trade Union activities. He is the Vice President of Station Workshop Civilian Workers' Union Shillong. The union is registered under the Trade Union act 1926 and affiliated to All India Defence Employees Federation.
4. That, your humble Appellant/ Petitioner was initially recruited in the Defence Organisation on 14/4/82 as a Civilian Mazdoor. Since his entry in service until the date of his suspension, your humble Appellant/ Petitioner had been continuously rendering his duties in this esteemed Organisation most diligently and to the full satisfaction of all concerned and as such, there did not arise, at any material point of time during the entire period of his unblemished past service career, such an occasion whereupon he was asked to explain for any lapse on his part in the discharge of the duties assigned to him by the Authorities concerned and there after he was promoted to the post of VM(MV) Mate and subsequently thereafter, he was promoted to the post of VM(MV) and he is holding the same post till date.
5. That, your humble Appellant/ Petitioner was struck by surprise to receive the office order No. 10401/169/Civ dt. 1/6/2001 issued to him by the Officer Commanding (Lt. Col. JS Bains) 306 Stn. Wksp, EME. C/o 99 APO, whereby he was placed under suspension with immediate effect, pending disciplinary proceedings against him.
5. That, eventually, a Departmental Inquiry, not worth its name, was proposed to be initiated against the Appellant/ Petitioner by the Unit Administration arbitrarily, illegally and haphazardly vide his Memo No. 21208/169/EST-IND/LC dt. 11/7/2001, in violation of all statutory norms of procedural law, in as much as, the Unit Administration, at the very outset, either willfully omitted or through gross negligence, failed to furnish the copies of the appointments of the Inquiry Officer and the Presenting Officer respectively, which are condition-precedent to the initiation of Departmental Inquiry as per mandatory provisions laid down in Rule 14 of the CCS (CCA) Rules, 1965, read with Article 311 of the Constitution of India.
6. That, ironically a letter was issued to the Appellant/ Petitioner by Shri Bidyot Panging, AEE, 306 Stn. Wksp EME, C/O 99 APO, vide its No. 10401/Civ/169/ Inq dt. 20/9/2001, wherein he claimed that he was appointed as the Inquiry Officer of the instant Disciplinary Proceedings against the Appellant/ Petitioner by an Order passed by the Officer Commanding, 306 Stn. Wksp. EME vide his, No. 10401/169/Civ dt. 30/8/2001. But the copy of the mandatory appointment letter so claimed had never been made available to the Appellant/ Petitioner nor was it shown to him by the said Shri Panging. The Departmental Authority too, was reluctant to supply the same to him, right from the beginning, in spite of his sincere requests on several occasions, either through personal approach or in writing for supply of the same. In this connection, he submitted a number of representations vide his applications dt.

07/12/2001, dt. 19/3/2002, dt. 21/3/2002, dt. 23/3/2002 and dt. 26/3/2002 dt. 09.4.2002 and dt. 17.4.2002 addressed to the Officer Commanding (Lt. Col. J.S. Bains), 306 Stn. Wksp EME, with copies thereof endorsed to the said Shri Panging, requesting him thereby to supply a copy of the mandatory appointment letter of the Inquiry Officer aforesaid.

7. That, from the facts stated hereinabove, it is clear that the copies of orders of appointments of either the Inquiry Officer or the Presenting Officer, were not at all, initially supplied to the Appellant/ Petitioner, and as such, the contention of the Unit Authority that the Appellant/ Petitioner was intimated regarding appointments of both the Inquiry Officer and the Presenting Officer vide letter No. 10401/169 /Civ dt. 30/8/2001 through registered letter No. 3807 dt. 31/8/2001 is totally unfounded, false and biased on the ground that the intimation alleged to have been sent to the Appellant/ Petitioner vide Registered letter No. 3807 dt. 31/08/2001 never reached him and the Unit Authorities miserably failed to substantiate its claim with documentary evidence. However, apparently, under compelling situation, the said appointment letters, after having been kept secret for quite a long time, were issued to the Appellant/ Petitioner by the Unit Authority vide No. 10401/169/Civ dt. 17/4/2002 which were received by him only on 27/4/2002 after a lapse of around 8 (Eight) months, which ought to have been communicated to the Appellant/ Petitioner, at the first instance as a condition-Precedent to initiation of Departmental Inquiry as per rules.

8. That, on receipt of the aforesaid appointment letters sent to the Appellant/ Petitioner by the Unit Authority vide its letter which was received by him on 27/4/2002, the Appellant/ Petitioner promptly submitted an application to the Authorities concerned on 29/4/2002 against the appointment of Shri Bidyot Panging AEE, as the Inquiry Officer of the instant Departmental Inquiry proposed to be initiated against the Appellant/ Petitioner on the grounds of bias, since the said Shri Panging was directly concerned / connected with the day-to-day official works, including service matters relating to the Appellant/ Petitioner and as such, he is rather deemed to be witness in the instant Departmental Inquiry, and at the same time, requested the Authorities thereby to make a fresh appointment of another person as the Inquiry Officer in his place, and this was followed by a number of representations dt. 18/5/2002, and dt. 20/6/2002.

In this connection, the Appellant/ Petitioner begs to state that there is no one other than the Charge Official (self) to reject an Inquiry Officer on the grounds of bias as per rules, in view of the fact that while the Appellant/ Petitioner was working as Veh. Mech (MV) in the office of the 306 Stn. Wksp. EME C/o 99 APO, during the period from 01/2/2001 to 01/6/2001 covered by the charges, the said Shri Panging AEE, was very much holding the post of Wksp. Officer, barring a short break on temporary duty wef 07/5/2001 to 09/9/2001 and thereafter he is holding the same post after rejoining his duty. This apart, the said Shri Panging is suspected of being prejudiced or biased against the Appellant/ Petitioner.

9. That, after having been in a deep slumber for a long period of more than 4 (four) months, since the date of submission of his earlier representation on 29.4.2002 the Authorities concerned have reluctantly complied with only one of his letters dt. 20.6.2002 thereby rejecting the above representation of the Appellant/ Petitioner vide its letters No. 10401/169/Civ dt. 5.8.2002 and No. 10401/169/Civ dt. 09.08.2002 respectively.
10. That, the Appellant/ Petitioner further begs to state that Unit Administration, while issuing the aforesaid letter deliberately used the term "Again" to the effect that JC 755107F Nb. Sub/SKT R.K. Kanwar has been detailed as the Presenting Officer in the instant Inquiry vide his letter No. 10401/169/Civ dt. 04.4.2002. In fact the said letter was not at all sent to the Appellant/ Petitioner earlier but, it was subsequently sent to him along with the said letter in this connection it is pertinent to mention that the letter earlier referred to hereinabove contained a letter of Appointment of Presenting Officer issued by the Officer Commanding (Lt. Col. J.S. Bains) vide his office No. 10401/169/Civ dt. 04.4.2002 whereby JC. 755107F NbSub/SKT RK Kanwar was appointed as the Presenting Officer in place of JC 722950 F Nb.Sub/SKT (MT) Amar Singh in the instant Inquiry under Rule, 14 of CCS (CCA) Rules, 1965, being held against T.No. 172 Civ Elect. Shri Bihari Singha. It is not only interesting but also funny to find that a copy thereof was amongst others, endorsed to T.No. 169 Civ VM Shri P.C. Das (Appellant/ Petitioner) which did not have any relation with him and as such , it is nothing but an another attempt to cover up its evil design by means of foul or fair. This will be evident from the fact that the Unit Administration failed to comply with the earlier representation submitted by the Appellant/ Petitioner dt. 20.6.2002 in this regard.
11. That, the Officer Commanding (Lt. Col. J.S. Bains) while issuing his letter vide office No10401/169/Civ dt. 09.8.2002 referred to, the representation No. nil dt. 25.7.2002 of the Appellant/ Petitioner. In this connection, the Appellant/ Petitioner begs to make it abundantly cleaner that he had never sent a letter on 25.7.2002 as referred to. It is not understood, as to how the unit Authority could refer to an imaginary letter and create so many things out of it.
12. That, the Appellant/ Petitioner emphatically assert that he is innocent and accordingly, he reserves his right of personnel hearings duly helped and assisted by a Defence Counsel (Assistant) of his own choice in the event, it is deemed to be necessary and essential for the ends of justice.
13. That, the petitioner had filed an Appeal addressed to Directorate General of EME (civ.) Master General of Ordnance Branch Army HQ DHQ P O New Delhi-110011, praying that :-
 - (a) Order Nos 10401/169/Civ. Dt. 05/08/2002 and 10401/169/Civ Dt.09/08/2002 being illegal and contrary to provisions of CCS (CCA) Rules 1965 be set aside.

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- (b) Inquiry Officer Shri Bidyot Panging, AEE be replaced.
(c) The case be reviewed and suitable orders passed

14. That, aforesaid Appeal was herewith rejected vide order dt. 24/05/2003 issued by Brig. S.K.Kakar offg MGEME HQ Eastern Command, Kolkata-21 vide Memo No.332230/2/PCD/EME Civ.dt. 24/05/2003 and similar order passed in case of Shri Bihari Singha has since been cancelled vide letter No.332230/2/SBS/EME Civ. Dt. 09/06/2003, but in case of petitioner has not been served with such cancellation order and it is presumed that the same has been rejected alike Shri Bihari Singha and in view of that consideration Appeal filed on 02/09/2002. is deemed to be pending till it was again reissued under the signature of Maj.Gen. U.K. Jha MGEME HQ Eastern Command Kolkata-21 which goes to show that the entire proceeding is vitiated by malafide deeds and action of the Departmental Authorities.
15. That the Appellant/ Petitioner herein challenged the order dt 24/05/03. issued by the Brig. S. K. Kakar offg. MGEME HQ Eastern Command Kolkata-21, by filing an application before the Central Administrative Tribunal at Guwahati Bench Guwahati bearing OA No. 150/2003 dt. 25/07/2003 which is till date pending for disposal.
16. That, upon perusal of the related Inquiry Report, the Appellant/ Petitioner could come to learn that Inquiry Report was submitted on 07/07/2003. and copy whereof was neither supplied to the Appellant/ Petitioner nor otherwise brought to the record of OA No. 150/2003, dt 25/07/2003 filed in honorable C.A.T Guwahati Bench Guwahati in spite of the fact that written statement was filed on behalf of the Respondent and the statement was made categorically to the effect that enquiry was over and the Inquiry Report however now been sent after lapse of around 5(five) months, in the application, which is highly unethical and unwarranted for, on the ground of playing a dubious role of keeping the material fact in secrecy.
17. That, the list of witnesses shown in the Memo Charge sheet and the Inquiry Report of the biased Inquiry Officer are contradictory, it is clearly shown in list of witnesses in the charge sheet that there were 9 (nine) witnesses viz.
- (a) 14577561N NK Puran Singh.
 - (b) JC-750768X Nb Sub RC Nath.
 - (c) 14591478F Nk SC Singh.
 - (d) 14581821L HavJ Kushwaha.
 - (e) 14558493 Hav Lalan Sali
 - (f) 14624820Y Nk D Palani
 - (g) JC-753913P Nb Sub Jai Prakashan
 - (h) JC-750236Y Nb Sub (now Sub) MDC Ahmed
 - (i) JC-754018W Nb Sub UP Mishra

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Where as per list of witnesses shown in the Inquiry Report, the witnesses are 5 (five) numbers Viz.

SW-1	JC-750768X Nb Sub (NowSub) RC Nath
Sw-2	14577561N Nk Puran Singh
Sw-3	JC-753913P Nb Sub Jayaprakashan K.
Sw-4	14591478F Nk SC Singh
Sw-5	14581821L Hav J. Kushwah

18. That, the statements of witnesses not being recorded in presence of Appellant/ Petitioner and duly appointed Inquiry Officer are illegal and non est in the eye of law.
19. That, the Appellant/ Petitioner was not afforded with the reasonable opportunity to cross examine the witnesses.
20. That, random dates were fixed by the biased Inquiry Officer for personal hearing without giving prior notice to the Appellant/ Petitioner at any material point of time.
21. That, most of the enquiry dates fixed by the Inquiry Officer were communicated after the respective date.
22. That, ex-parte enquiry ought not to be continued while objection were raised about its bonafide legal existence.
23. That, Subsistence Allowance was also not paid to the Appellant/ Petitioner regularly and subsequently stopped w.e.f. Oct-2003 without ground what so ever.
24. That, in the name of so-called inquiry the Appellant/ Petitioner was deliberately inflicted untold ill-treatment and physical harassment to the extend that he was forced to be confined to a very narrow room without drinking water and responding to the call of nature, which stretched over several hours. The Appellant/ Petitioner has been also subjected to be kept naked without any garments, this apart, he was manhandled and dragged by force, in front of other colleagues including juniors, as if he was hard core criminal, in as much he was forced upon to sign the Daily Order Sheet which was irregular, illegal and against the spirit of human dignity. No action has however been taken against such misdeeds while the attention of the Authorities at all levels were drawn.
25. That, ironically, numbers of letters with different dates were sent by the so-called Inquiry Officer together in one envelop and host of similar others were made available to the Appellant/ Petitioner at a time, which is irregular, illegal, unwarranted, uncalled for, biased, arbitrary and in view of that consideration the proceeding is vitiated by product of conspiracy.
26. That, Inquiry Report by itself is irregular, illegal, arbitrary and beyond the provision of law.

27. That, the entire exercise made in the process of Departmental Inquiries shall not stand in the eye of law and it is liable to be dropped.
28. That, the Appellant/Appellant/ Petitioner could not file the Appeal in view of the pendency of the Writ Petition filed before the Shillong Bench of Hon'ble Gauhati High Court bearing No.03(SH) 2004 decreeing against the order of C.A.T. Gauhati passed in OA No. 150/2003.
29. That, subsequently thereafter, the service of Appellant/Appellant/ Petitioner was dismissed vide impugned Order No.10401/Civ/Inq/05 dtd. 15/04/2005 passed by Lt. Col PS Kushwaha the Officer Commanding, Station Workshop EME Shillong and the Appellant/Petitioner has filed a Petition before the Shillong Bench of Hon'ble Gauhati High Court which was registered as Misc Case NO. 76 (SH) 2005, which is Pending for disposal and as such the Appellant/Appellant/ Petitioner could not file an Appeal believing bonafide that the Writ Petition which is ready for hearing would be disposed of, but the Writ Petition is not disposed of mainly because of the fact that Division Bench is constituted rarely with long gap.
30. That, normally an Appeal is required to be preferred within a 45 days from the date of which a copy of the order Appeal against is delivered, in fact the Order of dismissal was received by the Appellant/Appellant/ Petitioner on 18/04/2005 and as such within and by 3rd June 2005 and now the Appeal is filed on 06 Dec. 2005 and as such, the delay is made around 183 days (Approx).
31. That, the Appellant/ Petitioner begs to state that he is confronted with substantial point of Law and procedure and normally the Appellant is not expected to be well acquainted of the complexities of the issues involved in spite of the fact that he is keen to protect his interest and hence there has been delay which can be condoned for the ends of Justice.
32. That, the Appellant/ Petitioner shall suffer irreparable loss and injury unless the Appeal is admitted for consideration:-
 - (i) Whether the procedure laid down in the rules has been complied with and if not whether such non-compliance has resulted in the violation of any provision of the Constitution or in the failure of justice.
 - (ii) Whether the findings of the Disciplinary Authority are warranted by the evidence on the record of the case and
 - (iii) Whether the Penalty, on the enhanced penalty imposed is adequate, inadequate or severe.
33. That, this Appeal is filed bonafide for the end of justice

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180

In view of the facts stated hereinabove, it is humbly prayed that you would graciously be pleased to call for the case record and consider the submission of the Appellant/Appellant/ Petitioner and set aside the impugned order No.10401/169/Civ/Inq/05 dtd. 15/04/2005 passed by Lt. Col PS Kushwaha the Officer Commanding Station Workshop EME Shillong and reinstate the Appellant/Appellant/ Petitioner in service with all consequential benefits. For this act of your kindness, I shall remain ever grateful to you.

Humble Appellant/ Petitioner.

(P.C. Das)
06/12/05

T/No.. 169 Vch.Mech. (MV), U/S
Qtr. No. DF-18/1&2
Burmeline, Shillong Cantt.

Copy forwarded to :-

The Officer Commanding (Lt.Col PS Kushwaha)
Station Workshop EME.
Shillong.

- For information and necessary action please.

(P.C. Das)

*Attested
Sub
Signature*

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Annexure-31 (serial)
121

To.

Dated : Shillong
18 Feb. 2006

The MGEME
HQ Eastern Command (EME Branch)
Fort William, Kolkata -21

Sub:- **Prayer for disposal of the Appeal dated 06/12/2005 at an early date, taking into consideration of the present follow-up submissions for reinstatement in service with all consequential benefits.**

Sir,

In continuation to Appeal dated 06/12/2005, your humble Appellant/Petitioner beg to state as follows :-

1. That, infact, your humble Appellant/Petitioner is actively associated with various trade Union activities .He is the Vice President of station Workshop civilian workers union Shillong . The Union is registered under the trade union act 1926 and affiliated to All India Defence Employees' Federation .
2. That, your humble Appellant/Petitioner would like to present a vivid Picture of the entire gamut of increasing sour relationship between the Union and the Unit Administration that surfaced due to anti Defence Civilian attitude of the Unit Authority right from the date of taking over charge of the office of the Officer Commanding 306 Str. Wksp EME,c/o 99APO by Lt. Col. J.S.Bains on 31/01/2001
3. That, to begin with, the earlier harmonious relationship between the Union and the Unit Administration began to get slowly eclipsed, Welfare activities for the Defence Civillians of the 306 Station Workshop, came to a grinding halt and various other types of suppressive and oppressive activities have been meted out towards the Defence Civillians in general and the Union leaders, in particular.

Contd Pg No. 2

SHILLONG GPO (793001)
SP EE85839 3166 IN
Counter No:1,OP-Code:ROYNE
To:M G EME,F WILLIAM
CALCUTTA, PIN:21
From:P C DAS, SHILLONG
Wt:100grams,
Amt:30.00, 21/02/2006, 12:19
Have a nice day



*Attested
Jain
Advocate*

4. That, the Office Bearers of the Union including the Vice President approached the Unit Administration on several occasions, either through personal contacts or in writing for settlement of the long standing grievances as well as the burning welfare issues of the Union.
5. That, but, the Unit Administration, virtually declined to concede to the demands of the Union. This has manifestly reflected when it openly came out with the threatening that the leaders of the Union would be kept isolated from all other members of the Union and exemplary punishments inflicted upon them.
6. That, notably, the Unit Authority, by an order circulated vide its Special part - II Order dt. 17/04/2001, took up the issue of formation of a Welfare Committee, consisting of members of his own choice who happened to be at his back and call against the wishes of the members of the Union, which however, instantly proved futile.
7. That, subsequently, the Vice President along with other Union leaders, approached the Unit Authority (Lt. Col. J.S Bains) on a number of occasions with regard to SDA recovery in protest against the order issued by the CDA Gauhati, under its No. Pay/Tech/SDA/CAT/11 dt. 06/11/2000 and infavour of the judgement which was passed by the Hon'ble CAT, Gauhati Bench, on 22/12/2000 in OA No. 149 of 1999 against recovery of SDA in respect of similarly placed employees.
8. That, but, surprisingly enough, when the Union leaders personally contacted the Unit Administration on 30/04/2001 and handed over a letter of the Union to it, vide Union letter No. SWCWU/15/2001 dt. 30/04/2001, requesting him to

keep in abeyance the recovery of SDA, but, the Unit Authority (Lt. Col. J.S Bains), straight way, refused to concede to the genuine grievances of the Union.

9. That, being highly aggrieved by the adamant stand of the Unit Authority (Lt. Col. J.S Bains) for implementing the recovery of the SDA, the Vice President(self) along with Four other members of the Union, namely, Shri B.Singha, Shri. S.N. Das, Shri. T.C. Das, and Shri. D. Deka, approached the Hon'ble Gauhati High Court, Shillong Bench on 01/05/2001, seeking justice and instantly, the said Hon'ble High Court passed an order staying the operation of the impugned letter dt. 06/11/2000, until further orders of this Hon'ble Court.
10. That, paradoxically, the Unit Authority (Lt. Col. J.S Bains) completely declined to honour and obey the judgment and order passed by the Hon'ble Gauhati High Court, Shillong Bench on 01/05/2001 in W.P. (C) No. 89 (SH) of 2001 staying the operation of the CDA Gauhati's order dt. 06/11/2000.
11. That, finding no alternative to it, the Vice President(self) along with the General Secretary as desired by the Executive Committee of the Union, hurriedly took up the matter with all concerned including the Secy. to the Govt. of India Ministry of Defence, New Delhi, the Gen. Secy. AIDEF, Kirkee Pune- 3, the ALC (Central), Gauhati etc. vide the Union letters No. SWCWU/22/2001, dt.02/05/2001 No.SWCWU/23/2001 dt.02/05/2001, No.SWCWU/28/2001 dt.06/05/2001 and as well as telegram dt. 02/05/2001.
12. That, apparently, in the long run, the Unit Authority (Lt. Col. J.S Bains), being pressurized by some Higher Authorities concerned failed to stick to its earlier adamant stands and finally had to stop it(recovering of SDA arrears) while

obeying the said Court Order. This might have caused a deep sense of unhappiness in its mind, which become a prestige issue for all time to come.

13. That, on a subsequent occasion, the Vice President(self) along with the General Secretary as desired by the Executive Committee, issued a circular vide No. SWCWU/40/2001 dt. 24/05/2001, informing the members of the Union about the decision taken in its earlier Executive Committee meeting held on 18/05/2001, in response to the Call given by AIDEF, on its agitational programme to realise the 32 demands of the Defence Civilian Employees and also additional demands urging the Govt. of India to withdraw the anti-employees announcements made in the budget, being scheduled wef. 18/06/2001 to 21/07/2001.
14. That, on 29/05/2001, there took place a crucial discussion between the Unit Authorities (Lt. Col J.S Basin) and the Union leaders including Vice President,(self) about the difficulties faced by the Defence civilians on 28/05/2001 due to Khashi Student's Union (KSU) office picketing. During the discussion the said Union leaders, requested the Unit Administration inter-alia, to grant Special Casual Leave to those who could not attend their duties on the aforesaid day of office picketing, as has been granted to all the employees working under the Government of Meghalaya as well as other Central Government Organisation stationed in Meghalaya, and at the same time to Condone, as a very special case, the 2 (two) hours' absence (ie. 1400h to 1600h) of those members who could, somehow, attend the workshop office at 0800 hrs and worked for half a day and were out for lunch at 1300 hrs, after which they became unable to report back to the office for attending their duties, during the other half, due to KSU picketing, coupled with threatening of

Contd Pg No. 5

life risk. In this connection, a letter of request was also handed over to the Unit Administration, by the said Union leaders on the following day, vide Union letter No. SWCWU/43/2001 dt. 30/05/2001. But, the Unit Authority (Lt. Col J.S Bains) flatly refused to concede to their request and at the same time, it (Lt. Col. J.S Bains) threatened the said Union leaders that they would not be spared from now on, and also said "**Abhi tum log ko chorega nahi**", "**Phasaiga**" etc.

15. That, this apart, the Unit Authority (Lt. Col. J.S Bains) started Utilising the Defence Civilian Workers' Welfare fund left and right, by keeping the said Defence Civilian workers' in the dark, which still needs to be properly investigated into. Being highly aggrieved by it and as desired by the Executive Committee of the Union, the leaders including Vice President(self) took up the matter with all concerned including the Secretary to the Government of India, Ministry of Defence, New Delhi, and the General Secretary, AIDEF, Kirkee, Pune - 3 Vide Union letter No. SWCWU/44/2001/ dt. 31/05/2001 for remedial steps in this regard.

16. That, the matter reached its climax on 1st June 2001, during Tea-Break in the Civilian Recreation Room in between 1030 hrs to 1045 hrs wherein Shri. P.C. Das, the Vice President(self) and Shri. Bihari Singha, the General Secretary were busy with the most important works of the Union, mainly on the issue of long standing medical re-imburement claims of the members of the Union, which was initiated by Astd. Labour Commissioner (central), Gauhati. In the nick of time all of a sudden like a tornado, the Officer Commanding (Lt. Col. J.S Bains) along with Nb Sub R.C. Nath and the staff car driver Nk. Puran Singh rushed into the said Civilian Recreational Room (at around 1045h) compelling all other Defence Civilians, present therein, instantly to scuttle away.

Contd Pg No. 6

from the said room out of fear except Shri. P.C. Das, the Vice President(self) and Shri. Bihari Singha, the General Secretary. Having seen both of them in such an un-staggered position there, the Officer Commanding (Lt. Col. J.S Bains) seemed to have lost his temper beyond his control, for reasons best known to him only. However, both Shri. P.C. Das, the Vice President(self) and Shri. Bihari Singha, the General Secretary, while wishing him, (Lt. Col. J.S Bains), politely informed him about the aforesaid burning issues of the Union and at the same time, tried to show him a letter received from the ALC (central), Gauhati out of the Union file in this regard. But ironically, in stead of reciprocating it, the said Officer Commanding started behaving like a person not commensurate with his official status and that was evident from his unparliamentary and un-ethical words, like, **"Go to Hell your Union", " Abhi tum log ko suspend karta hoan"** etc. and in no time, he (O.C. Wksp.) threw away the said union file and practically he did what he uttered - i.e. both Shri. P.C. Das, the Vice President(self) and Shri. Bihari Singha, the General Secretary were instantly placed under suspension on this very day of 1st June 2001. Only God knows, how things could so happen and that too, so quickly, if there was no preponderance.

17. That, in his bid to fulfill his pre-planned evil designs, he (O.C. Wksp) purposely distorted the reality of the incident that took place in between him (O.C. Wksp) and the said Union leaders in the Civilian Recreation Room on 1st June 2001 and half-heartedly brought out a completely different kind of picture in its place. With his determined evil intent to inflict severe penalties upon both Shri. P.C. Das, the Vice President(self) and Shri Bihari Singha the General Secretary, he (Lt. Col J.S Bains) deliberately suppressed the real fact and Nb

Sub R.C. Nath, one of the silent spectators present in the Civilian Recreation Room during the said incident, was made to play the Key role in the stage managed drama, of the so called Inquiry duly supported by Nk. Puran Singh, Nk D. Palani, Nk Rajan J, Nk S.C Singh, Hav. J. Kushwaha, Hav. Lalan Sah, Nb Sub Jai Prakasan, Nb. Sub (Now Sub) MDCAhmed, Nb. Sub U.P. Mishra etc (witnesses) as side-characters.

18. That, in order to keep its terror tactics going, he addressed a letter also to Shri. K.M. Nath, President of this Union vide his letter no. 10402/Civ. Dt. 16.06.2001, with a reference to our Union letter dt. 24.5.2001 whereby he was advised as follows:-

- (a) No gate meeting/cadre meeting during working hours will be permitted.
- (b) No Slogan shouting during mastering in/mustering out inside the workshop and in front of the workshop, adjacent to HQ 101 Area will be permitted.
- (c) No strike ballot in the workshop premises will be permitted.
- (d) You are also advised not to create a law and order problem.

19. That, however, to the utter dismay of the Unit Authority (Lt. Col J.S Bains), the all India programme referred to herein above was successfully implemented as scheduled, but, it resulted in the forms of issue of Explanation call, Showcause Memo etc, to Shri. K.M. Nath, the President and Shri. P.K. Das, the Organising Secretary respectively, including one day pay cut in respect of Shri. K.M Nath, the President, Shri. P.C Das, the Vice President(self), Shri. Bihari Singha, the General Secretary, Shri. P.K. Das, the Organising Secretary, Shri. D.K. Gurung and Shri. P. Ghosh, the Executive Members for their absence of only 2(two) hours on 28.05.2001 due to KSU office picketing.

20. That, being highly aggrieved, your humble Appellant/Petitioner has submitted his representation vide dated 18/10/2002 to all concerned including Higher Authorities, but unheard /unattended for, till to date.

(A xerox copy of representation dated 18/10/2002 is annexed hereto and marked as Annexure A.)

21. That, in this connection, the Station Workshop Civilian Workers' Union Shillong has taken several resolution and subsequently brought to the notice of all Higher Headquarters vide its No. SWCWU/07/2002 dated 09/04/2002 and No.SWCWU/ 21/2002 dated 15/11/2002. But no favourable step was taken from any corner till to date.

(Xerox copies of Union representations dated 09/04/2002 and dated 15/11/2002 are annexed hereto and marked as Annexure B and C respectively.)

22. That, the submission made hereinabove, may be deemed to be part of the Appeal dated 06/12/2005.

23. That, your humble Appellant/Petitioner has reserved his right of personal hearing duly assisted by the Defence Assistant of his own choice in the instant Appeal at a time and date fixed by your kind self .

In view of the facts stated hereinabove, it is humbly prayed that you would graciously be pleased to call for case record and consider the submission of the Appellant/Petitioner made in the Appeal dated 06/12/2005 as well as this follow-up submissions and reinstate the Appellant/Petitioner in service with all consequential benefits . For this act of your kindness , I shall ever remain grateful to you

Your's faithfully

(P.C.Das)

T.No.169 Civ.VM(MV) U/S
Qtr No. DF 18/1&2
Burma Line, Shillong Cantt.

Enclo : As stated above-3Nos.

Attested
Advocate

Tele : 2796

- 163 -

Annexure-32(series)

Headquarters
Eastern Comd (FIAE)
PIN - 908542
C/o 99 APO

189

332229/2/EME Civ

09 May 06

T. No 169 VM(MV), U/S
Shri P C Das
Qtr. No DF-18/1&2
Burmaline,
Shillong Cantt

PRAYER FOR DISPOSAL OF APPEAL DATED 06/12/2005
IN RESPECT OF T. NO 169 CIV/VM(MV) SHRI P C DAS

1. Refer to your appeal dt 06 Dec 2005 and 18 Feb 2006.
2. Order by the appellate authority in respect of T. No 169 Civ/VM(Mate) Shri P C Das is fwd herewith for your further necessary action please.

(S. Chatterjee)
Col
AD EME (Avn)
for MG EME

Encls : (03)

Copy to :-

Dir Gen of EME (EME Civ)
MGO's Branch
Army HQ
New Delhi

HQ 101 Area (EME)
c/o 99 APO

Stn Wksp EME
Shillong

1. Ref Army HQ letter No B 03418.827 EME
Civ-2 dt 27 Feb 06.

2. A copy of above order is fwd herewith for your
further necessary action please.

for info alongwith a copy of ibid order.

Received
on 22/05/06

Attested
Law
Advocate

- 164 -

Annexure - 32 (series)

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ORDER BY THE APPELLATE AUTHORITY IN RESPECT OF APPEAL

FILED BY

T/NO 169 CIV/VM (MATE) SHRI PC DAS

ORDER

1. I have examined the appeal dated 06 Dec 2005 filed by T/No 169 Civ/VM (Mate) Shri PC Das of Stn Wksp EME, Shillong, against the order passed by disciplinary Authority for dismissing the services of T/No 169 Civ/VM (Mate) Shri PC Das and his prayer for setting aside the dismissal order No 10401/169/Civ/Inq/05 dated 15 Apr 2005 and for reinstating T/No 169 Civ/VM (Mate) Shri PC Das. I have also examined his prayer for disposal of the appeal dated 06 Dec 05 at an early date, taking into consideration the present follow up submissions for reinstatement in service with all consequential benefits submitted vide his letter No Nil dt 18 Feb 06. I have also examined his appeal for release of his subsistence allowance as stated at Annexure A to his appeal dated 18 Feb 06.

2. It is seen that the above appeal has not been preferred as per Rule 25 of the CCS (CCA) rules within a period of forty-five days from the date on which a copy of the order appealed against was delivered to the appellant T/No 169 Civ/VM (Mate) Shri PC Das. However, notwithstanding the period of limitation, the appeal is hereby disposed off as under.

3. The appellant has prayed for following redressals: -

(a) To set aside and quash the order of disciplinary authority issued vide case No 10401/169/Civ/Inq/05 dt 15 Apr 05 being illegal and arbitrary.

(b) To reinstate the appellant/petitioner with all consequent benefit.

(c) To release his subsistence allowance.

4. At Annexure A to your Appeal dt 18 Feb 06, the appellant has asked for release of the subsistence allowance due to him. The collection of subsistence allowance wef 03 Oct 2003 to Feb 2005 has been intimated to the appellant by Stn Wksp EME, Shillong letter No 50602/Civ dt 19 Nov 05. This has been repeated vide Stn Wksp EME, Shillong letter No 50602/Civ dt 08 Mar 06 (Copy att).

5. A perusal of letter No 10401/169/Civ/Inq/05 dated 15 Apr 05 shows that said disciplinary authority had examined all the issues involved therein at

*Attested
Law
Advocate.*

great length and disposed off all issues deliberately in detail. I have examined the contentions of the appellant against the order of the disciplinary authority in the light of connected records of the case and I find it being devoid of merit and warranting no interference at this count. The impugned order dated 15 Apr. 05 is comprehensive and entails no illegality. The procedure was followed in accordance with the provisions of law affording all the applicable privileges and rights to the appellant. The order was preceded by a detail inquiry, recommendation of inquiry officer, application of mind on the part of disciplinary authority and consideration of commensurating punishment under the provisions of Rule 11 of CCS(CCA) 1965 in shape of major penalty of dismissal from the service.

6. Further the contention of the appellant regarding biased approach on the part of the inquiry officer is not found justified as Shri Bidyot Penging, AEE (now EE), the inquiry officer, has no personal interest or bias of any kind in the case and at the time of incident the said officer was away from the unit. He, therefore, had no previous knowledge of the case and being impartial, was rightly appointed by the disciplinary authority. His appointment as inquiry officer was therefore just and fair.

7. I have also perused the records of the case and I am of the opinion that the process of disciplinary case against T/No 169 Civ/VM(Mate) Shri PC Das has correctly taken place as per provisions of CCS(CCA) Rules 1965 and the representation being devoid of merit does not warrant any consideration.

8. It is also seen that pendency of the writ petition, without any stay order or restraining the despondence in any manner for the subject matter, is no rider on the disciplinary authority for refraining to take disciplinary action under CCS (CCA) Rules 1965 for which they are legally competent and justified. There is also no restriction for the appellant not to prefer an appeal within the stipulated time frame of 45 days as specified vide Rule 25 of the CCS (CCA) Rules 1965.

9. It is further seen that there has not been any violation of procedure with respect to Defence Civilian Workers welfare Fund and that it is being managed efficiently and was always audited monthly at unit level and is also being quarterly audited at the formation level since quarter ending Dec 2001.

10. Further it is seen that SDA is being allowed at 12.5% of basic pay in accordance with current orders on the subject.

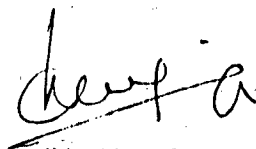
11. Further it is also seen that the case was also examined at the ministry of Defence in terms of their letter No 104718168/D(Lab) dt 25 Mar 1968 respecting the union activities, if any, and the contentions of the appellant in this regard were found non existing vide Army HQ letter No 37215/24/EME Civ-3 dt 31 Dec 04.

12. Whereas T/No 169 Civ/VM(Mate) Shri PC Das of Station Workshop EME, Shillong, was issued with a memorandum of charges vide letter No 21208/169/Est/Inq/LC dt 11 July 2001 on five specific counts mentioned therein, disclosing gross misconduct in violation of provisions of Rule 3 of CCS rules 1964 and that the said T/No 169 Civ/VM(Mate) Shri PC Das did not admit any of the charges vide his letter dated 28 July 2001. The disciplinary authority under the provisions of Rule 14 of CCS(CCA) 1965 appointed an inquiry officer who enquired into the matter and the proceedings conducted during 20 Sep 2001 to 25 Jun 2003 which has been duly recorded in detail consisting of statement of witnesses, exhibits, correspondence details, details of said T/No 169 Civ/VM(Mate) Shri PC Das representations and various appeals and its disposal thereof and the findings arrived at by the said inquiry officer wherein T/No 169 Civ/VM(Mate) Shri PC Das was found guilty of all the five charges by the inquiry officer.

Quote
13. I have perused the inquiry officers report, record of the inquiry and representation received from the charged official and the evaluation of the disciplinary authority on each article of charge and the subsequent order issued vide letter No 10401/169/Civ/Inq/05 dt 15 Apr 05 and I am of the opinion that the process of disciplinary case against T/No 169 Civ/VM(Mate) Shri PC Das has correctly been followed as per provisions of CCS (CCA) Rules 1965. I am also of the opinion that the findings of guilty are consistent to the evidence and are thus just and legal and the representation being devoid of merit does not warrant any consideration. Hence the appeal is rejected in the interest of Govt service.

Station : Kolkata

Dated : 08 May 06



(Harkirat Singh)

Maj Gen

MG EME

HQ Eastern Comd

27.11.2007
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
Guwahati Bench

QA NO 134/2006

Shri PC Das ... Applicant

-Versus-

Union of India & Others...Respondents

Written Statement submitted by the Respondent No. 1 to

1 (a) That I am Lt Col K Srinivas, S/O Shri M Venkateswararao and respondent No IC-41561K in the above 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 this written statements, the contentions and statements made in the application and authorized to file the written statement on behalf of all the respondents.

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

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

(d) That the present OA is hit by the principle of res-judicata. The applicant has already approached the Hon'ble Tribunal challenging the ex-parte disciplinary proceeding by way of filling OA No 150/2003.

PRELIMINARY OBJECTION

The applicant had approached the Hon'ble Tribunal by way of filling OA No. 150/2003 challenging the ex-parte enquiry proceeding. The Hon'ble Tribunal after considering the entire matter on records was pleased to dismiss the OA specifically observing as follows :-

"In this view of the matter the further ex parte proceedings if any, held by the respondents cannot be held to be arbitrary or against the relevant rules and sufficient opportunity of hearing had been afforded to the applicants which they chose not to avail. In the facts and circumstances of the case, we are unable to come to the conclusion that there has been any violation of the principles of natural justice or the relevant rules to warrant any interference in the matter on this ground also fails and is rejected."

३. करीब
Officer Commanding

उमान अधिकारी

in Wksp EME, Shillong

केन्द्र प्रशासनिक आयोग के एक के निमित्त

B
Sec. Shillong
27/11

(Records No. 12)

The applicant approached the Hon'ble Guwahati High Court challenging the judgment and order dated 20.11.2003 passed by the Hon'ble Tribunal but the Hon'ble High Court after hearing the parties to the proceeding was pleased to dismiss the writ petition No 3(SH)/2004.

The applicant in the instant OA has not disclosed the material facts before the Hon'ble Tribunal. The Hon'ble tribunal had already adjudicated upon the matter on merit and discussed the entire facts in the judgment and order dated 20.11.2003. The applicant has neither stated nor annexed the judgment passed by the Hon'ble Tribunal. The present OA is hit by principle of res-judicata hence on this ground alone, the Hon'ble Tribunal may pleased to dismiss the OA with cost.

2) That with regard to the statement made in paragraph 1 the OA; the respondents do not admit anything contrary to the case. The inquiries have been ordered as per Rule 14 of CCS (CCA) Rules 1965. The charge sheets have been given to the applicant as per Rule 14 of CCS (CCA) Rule 1965 for violations of Rule 3 and 7 of CCS (Conduct) Rules by the applicant. The applicant was served charge sheet vide Office Memorandum No 21208/172/Est-Ind/LC dated 11 July 2001. The memorandum was served on the applicant through registered letter. The same matter was also referred in OA 150/2003 where in the Hon'ble CAT has dismissed OA No 150/2003 of the applicant and up held the procedure followed by the Department. The applicant further appealed against the decision of the Hon'ble CAT of the same grounds and the Shillong Bench of the Hon'ble Guwahati High Court dismissed the same appeal on 20.11.2003. The Hon'ble Guwahati High Court has directed to complete the Disciplinary proceedings. In compliance of the direction passed by the Hon'ble High Court order dated 8.5.2006 has been passed after following the due process of law.

Copies of the order-dated 11 Jul 2001, 20.11.2003 passed by the Hon'ble High Court and order date 8.3.2006 are annexed as Annexure -1, 2 and 3 respectively.

3) That with regard to the statement made in paragraph 2,3,4.1 and 4.2 of the OA, the respondents beg to offer no comment.

4) That with regard to the statement made in paragraph 4.3 of the OA, the respondents while denying the contentions made therein beg to submit that the Station Wksp Shillong civilian workers union is an unrecognized union and office bearer of the union has been dissolved through the general body of the Union on 07.11.2003.

A copy of the letter dated 07 Nov 2003 is annexed as Annexure-4.

5) That with regard to the statement made in paragraph 4.4 of the OA, the answering respondents while denying the contentions made therein beg to submit that the copies of charge sheet served vide memorandum. 21208/169/EST-IND/LC dated 11 Jul 2001 is attached as per Annexure-1.

6) That with regard to the statement made in paragraph 4.5 of the OA, the answering respondents while denying all allegations made therein beg to submit that the employees of 306 Station Workshop EME attended the duty on 28 May 2001 during the Khasi Student Union Bund but due to inflammatory speech of the application 11 workers left their place of work at 0930 hrs without any leave or gate pass. The contentions of the applicants that workers could not come back after lunch break is denied as lunch break is from 1300 hrs to 1330 hrs. Para 4 of report of Assistant Labour Welfare Commissioner (Central) also say that some workers left their duty at 0930 hrs.

Copies of the visit report is and report given by Gate NCO I/C are annexed herewith and Marked as Annexure-5 and 6 respectively

7) That with regard to the statement made in paragraph 4.6 and 4.7 of the OA, the answering respondents beg to submit that no unwarranted action was initiated against the applicant but due to gross misconduct committed on 01 Jun 2001 and on earlier days. Lt Col J S Bains issued the memorandum as per provisions of law with out any prejudice and to up hold the law. His actions have been challenged by the applicant several times and at all levels the action taken by Lt Col J S Bains have been upheld including the appellate authority, the Hon'ble CAT and the Hon'ble High Court. Reply of MGEME, Eastern Command was decided based on the merits of the case.

A copy of the letter dated 23 Jun 2003 is Annexed herewith and marked as Anexure-7

8) That with regard to the statement made in paragraphs 4.8 of the OA, the answering respondents while denying the contentions made therein beg to submit that the applicant was given ample opportunity to improve himself. Which shows that the disciplinary action is taken after giving sufficient opportunity.

9) That with regard to the statement made in paragraph 4.9 of the OA, the answering respondents beg to state that the respondents received the reply and followed the laid down procedure and proceeded to take further action.

10) That with regard to the statement made in paragraph 4.10 and 4.11 of the OA, the answering respondents beg to submit that an inquiry as per CCS (CCA) Rules, 1965 was ordered against the applicant and Shri Bidyot Panging, AEE of this Workshop was appointed as Inquiry Officer vide order dated 30 Aug 2001 and Shri Amar Singh the presenting Officer vide 10401/169/Civ dated 30 Aug 2001. Inquiry was ordered as per Rule 14 of CCS (CCA) Rule 1965. The registered letter was however not accepted by the applicant and returned back by postal authorities on 15 September 2001 with remark "Refused". The returned letter has been kept intact for records. Shri Bidyot Panging had issued a letter vide 10401/Civ/169/Inq dated 20 September 2001 directing the applicant to present himself for preliminary hearing. T/No 169 Civ/VM the applicant vide his letter dated 27 September 2001 requested the Inquiry Officer for 30 days time for arranging a defence assistance and preparing the case. This is a sufficient proof that the applicant knew about the appointment for Inquiry Officer on 27 September 2001 and was addressing him as Inquiry Officer.

Copies of the letter dated 30 Aug 2001, letter appointing the presenting officer dated 30 Aug 2001, letter dated 31 Aug 2001 and letter dated 20 Sep 2001 are annexed herewith and marked annexure-8,9,10 and 11 respectively.

11) That with regard to the statement made in paragraph 4.12 of the OA, the respondents beg to submit that the pleas of engaging a legally qualified defence assistance by the applicant was rejected by disciplinary Authority as presenting officer was not legally qualified. As per Govt of India Instruction 22 to Rule 14 of CCS (CCA) Rules 1965, the assistance of a legal practitioner should not be refused if presenting officer is legally qualified. Since presenting officer was not legally qualified the Disciplinary Authority rejected the plea of the applicant and applicant was advised to engage defence assistance from Shillong itself. As regards the plea of engaging a defence assistance Shri M P Singha of 222 ABOD, Inquiry Officer also rejected the same due to Administrative reasons, as distance between Guwahati and Shillong is more 100 KMs and lies in another state. As per instructing 18 to Rule 14, it is up to the inquiry officer to grant engaging defence assistance from another station. However, as per the same instruction there is no provision of appeal against the refusal to engage defence assistance from outside the state. The applicant represented to the Disciplinary authority against the order of Inquiry Officer. Disciplinary authority upheld the pleas of inquiry officer. Disciplinary authority upheld the pleas of the inquiry officer and rejected the representation of the applicant. As per the same instruction, no appeal shall lie against the order of disciplinary authority.

A copy of the GOI Instruction No. 18 to Rule 14 Of CCS (CCA) Rules 1965 is annexed herewith and marked as Annexure-12.

12) That with regard to the statement made in paragraph 4.13 , 4.14, 4.15 and 4.16 of the OA, the answering respondents beg to submit that the letter was sent through the registered post but the applicant has been either returning the letters on showing these to be not received or receiving after 15 to 30 days in connivance with the postal authorities. A complaint to the effect was given to postal authorities vide 10401/Civ dated 22.2.2002. A reply has been received from postal authorities vide letter No CPT/Misc/RL/Feb/02 dated 14 March 2002. It is clear from the letter returned by postal authorities that the applicant was not present in his place of residence just to avoid receiving letters. The applicant was in the habit of refusing registered AD letters with malafide intention. The applicant also received a number of letters intentionally late by one month or more just to delay the proceedings.

Copies of the letters dated 22 Feb and 14 Mar 2002 are annexed herewith and Marked as Annexure- 13 and 14 respectively.

13) That with regard to the statement made in paragraph 4.17 and 4.18 of the OA, the respondents beg to submit that as the Govt. of India Instruction 22 to Rule 14 of CCS (CCA) Rules 1965, the assistance of a legal practitioner should not be refused of presenting officer is legally qualified. Hence the plea of engaging legally qualified defence assistance by the applicant was rejected by the Disciplinary Authority, as presenting officer was not legally qualified. Inquiry Officer was given sufficient time to select defence assistance from about 1000 workers posted in Shillong in various departments. The applicant appeared for the inquiries on 11 March 2002, 13 March 2002, 15 Mar 2002 and 20 March 2002 and also asked to cross-examine the SW-3 SW-4 & SW-5, which he refuse. The applicant wanted to delay the proceedings by first asking a legally qualified defence assistance and then defence assistance from outside the state. As per instructions 18 to Rule 14, there is no provision for appeal against the decision of Inquiry officer. The applicant had represented to the Disciplinary Authority, who also held the decision given by the inquiry officer as per the same instruction, no appeal lies against the order of Disciplinary Authority rejecting plea for defence assistance from another station. The inquiry officer and Disciplinary Authority acted with the provision of CCS (CCA) Rule 1965.

A copy of the GOI Instruction is annexed herewith and marked as Annexure-15.

14) That with regard to the statement made in paragraph 4.19 of the OA, the respondents beg to submit that the proceedings were started by Inquiry Officer on 20 September 2001 and the applicant attended inquiry on 11 March 2002, 13 March 2002, 15 March 2002 and 20 March 2002. In fact the applicant was aware of the appointment of inquiry officer and presenting officer and the applicant also was corresponding with inquiry officer. However copies of appointment of Inquiry officer were again sent to the applicant vide registered letter number 10401/169/Civ dated 18 April 2002.

A copy of the registered letter is annexed
herewith and marked as Annexure-16.

15) That with regard to the statement made in paragraph 4.20 of the OA, the respondents while denying the allegation made therein beg to submit that the applicant was only attempting to implead and delay the inquiry proceedings. The Unit is military establishment with a security gate and any visitor can meet the official after passing through security and entering the particulars in the visitor's book. He point regarding engaging the defence counsel is already replied and a repetition in the present OA. The disciplinary authority followed the provisions of law and replies to the applicant letters were given within the provisions of law.

16) That with regard to the statement made in paragraph 4.21 of the OA, the respondents submit that in the representation dated 29 April 2002, the applicant had submitted that inquiry officer is connected with all the mater/affairs relating to departmental inquiry. The respondents submit that the inquiry officer AEE (Now EE), Shri Bidyot Panging was not connected with the inquiry at all, as he was neither a witness nor connected with charges. He was not even present in the unit on 01 Jun 2001, as he was on temporary duty to 311 Station Workshop EME from 07 May 2001 to 09 September 2001. The plea of bias against the inquiry officer was rejected by Disciplinary Authority vide letter No 10401/169/Civ dated 03 Aug 2002 to the applicant. The applicant appealed against rejection of their pleas of change of inquiry officer to Director General of EME vide letter dated 30 Aug 2002. The appeal of the applicant was rejected by Major General UK Jha, MGEME, Eastern Command, Kolkata vide letter No 332230/2/PCD/EMECiv dated 23 Jun 2003.

A copy of the letter dated 23 June 2003 is
Annexed herewith and marked as Annexure -
17.

17) That with regard to the statement made in paragraph 4.22 & 4.23 of the OA, the respondents beg to submit that the inquiry officer detailed in a departmental inquiry is a class I Gazetted Officer and have no personal interest in the case. As per CCS (CCA) Rules, 1965, no such provision of having officer from outside the outside the department is given. Even the disciplinary authority can be inquiry officer when no other officer is available. The ex-parte inquiry proceedings were started by giving sufficient time to the applicant when he was using dilatory tactics and not attending the inquiries. The applicant was given the applicant sufficient time to look for a suitable defence assistance from Shillong. Ex-parte inquiry proceedings were started when applicant did not appear for preliminary hearing on 08 Oct 2001 and on his request another date was fixed on 20 Oct 2001. The applicant was again remained absent. Next date of hearing was fixed on 15 Nov 2001 and the applicant was intimated that if he fails to appear on 15 Nov 2001, ex-parte proceeding will start. As the applicant did not appear on 15 Nov 2001, ex-parte proceeding was started the applicant even attended the inquiry on 11 Mar 2002, 13 Mar 2002, 15 Mar 2002 and 25 Mar 2002. The respondents also submit that presenting officer JC-722950F Nb Sub Amar Singh was replaced by disciplinary authority vide letter No 10401/169/Civ dated 03 Apr 2002, due to his retirement and JC-755107F Nb Sub RK Kanwar was detailed as presenting officer and the same was intimated to the applicant through registered letter. The statements of witnesses were recorded in the presence of the applicant whenever he attendee the inquiry. As the applicant was employing dilatory tactics, ex-parte inquiry was held as per provisions of CCS (CCA) Rules, 1965 after giving sufficient time to the applicant. The applicant was given sufficient time to appear before the inquiry officer and the entire letter were sent through registered post. The applicant was either retuning the letters or receiving very late as they were found absent from his residence by Postal Authorities as mentioned above.

18. That with regard to the statement made in paragraph 4.24 of the OA, the respondents beg to submit that it was up to the presenting officer to produce as many witness out of total witnesses to frame the charges.

19. That with regard to the statements made in paragraph 4.25 of the OA, the respondents beg to submit that the appeal against rejection of his pleas of charges of inquiry officer to Director General of EME vide their letter dated 30 Aug 2002 by the applicant. The appeal of the applicant was rejected by Major General UK Jha, MGEME, Eastern Command, Kolkata vide letter No 332230/2/PCD/EME Civ dated 23 Jun 03.

20. That with regard to the statement made in paragraph 4.26 of the OA, the respondents beg to submit that inquiry report of the applicant was submitted on 10 July 2003. The disciplinary authority is required to study the inquiry report, apply mind to all rules and regulations and give his opinion rationally and independently, which requires time. Moreover the applicant is office bearer of a workers union (Un recognized) and his case is required to be referred to Ministry of Defence for advice. There was thus no deliberate delay on forwarding the copy of inquiry report to the applicant.

21. That with regard to the statement made in Paragraph 4.27 of the OA, the respondents beg to submit that the disciplinary authority intimated the applicant that he will be given subsistence allowance at half basic pay with usual allowances. The applicant was also intimated that he will have to give a non-employment certificate every month as per Sub-rule (2) of FR-53 to set the subsistence allowances. The applicant did not come to collect his subsistence allowance. A letter No 10401/Civ dated 18 Jul 2001 was written stating that he had not collected his subsistence allowance for the month of Jun 2001 and he was told to collect the same by 27 Jul for the month of Jun and subsequently on 1st of every month. Another letter No. 10402/Civ dated 30 Jul 2001 was written to the applicant, the letter was recorded as 'Refused'. The subsistence allowance was increased by 50% or half basic pay w.e.f. 01 September 2002.

The respondents also submit that the applicant collected his subsistence allowance on 10 Oct 2001 for the month of Jun 2001, September 2001, on 01 Nov 2001 for the month of Oct 2001, on 2nd and 3rd Aug 2001 for the month of Nov 200 and on 2nd and 3rd Jan 2002 for the month of Dec 2001. Besides this the applicant also collected his productivity link bonus and arrears of revised DA on 2nd and 3rd Jan 2002. The respondents submit that as the applicant was using dilatory tactics and delaying the inquiry, the subsistence allowance was again reduced and brought down to 50% of basic pay with usual allowance wef 01 Jan 2002. The applicant was intimated vide letter No 10401/169/Civ/Inq dated 31 Jan 2002. The applicant was intimated vide letter No 10401/169/Civ/Inq dated 31 Jan 2002. The applicant stopped collecting his subsistence allowance wef Jan 2002 in spite of writing him a number of letters by 306 Stn Wksp EME, and Dte Gen of EME, Army Headquarters. List of registered letters sent to applicant are as under :-

- (a) Our registered letter No. 10401/169/Civ/Inq dated 31 Jan 2002.
- (b) Army HQ letter No 21892/24/EME/Civ dated 27 Mar 2002.
- (c) Our registered letter No 10401/SUS/Civ dated 22 Jun 2002.
- (d) Our registered letter No 10401/SUS/Civ dated 30 Sep 2002.
- (e) Our registered letter No 10401/SUS/Civ dated 29 Nov 2002.
- (f) Our registered letter No 10401/Civ dated 11 Mar 2003.

Copies of the letters mentioned in (a), (b), (c), (d), (e) and (f) are annexed herewith and marked as Annexure - 18, 19, 20, 21, 22 and 23 respectively.

It is also submitted that the applicant has not submitted his non-employability certificate till date but 306 Stn Wksp EME is claiming his subsistence allowance regularly wef Jan 2002 and the amount is being deposited through a TR after 8 days when the applicant do not report to collect his subsistence allowance. The applicant is not collecting his subsistence allowance, his rent and allied charges cannot be deducted and are pending since Nov 2001. The applicant was intimated to pay his rent and allied charges, as he is not collecting his subsistence allowance.

22. That with regard to the statement made in paragraph 4.28 of the OA, the respondents beg to submit that the contention of the applicant against the order of the disciplinary authority in the light of connected records and impugned order dated 15 April 2005 is comprehensive and entails no illegality. The procedure was followed in accordance with the provision of law affording all the applicable opportunity, privileges and rights to the applicant. The order was proceed by a detail inquiry recommendation of Inquiry officer, application of mind on the part of the disciplinary authority and consideration of commiserating punishment under the provisions of Rule 11 of CCS (CCA) Rules, 1965. The case was also examined at the Ministry of Defence in term of their letter No 104718/68/D (Lab) dated 25 Mar 1968 respecting the Union activities if any, and the contentions of the applicant in this regard were found non existing vide Army HQ letter No 37215/24/EME Civ-3 dated 31 Dec 2004.

23) That with regard to the statement made in paragraph 4.29 of the OA, the respondents beg to submit that the disciplinary authority under the provision of Rule 14 of CCS (CCA) Rules, 1965 appointed an inquiry officer who inquired into the matter and the proceeding conducted during 20 Sep 2001 to 25 Jun 2003 which has been duly recorded in detail consisting of statement of witnesses, exhibits, correspondence details, details of said the representations filed by the applicant and various appeals and its disposal there of and the finding arrived at by the said inquiry officer. The applicant was given ample opportunity to improve him, which shows that the disciplinary action is taken after giving sufficient opportunity.

24) That with regard to the statement made in paragraph 4.29(1) of the OA , the respondents while reiterating and reaffirming the statement made above beg to submit that an inquiry as per CCS (CCA) Rules, 1965 was ordered against the applicant vide convening order dated 30 Aug 2001. Shri Bidyot Panging, AEE of this Workshop was appointed as inquiry officer and Shri Amar Singh was appointed the presenting officer vide order dated 30 Aug 2001. The copies of the appointment of Inquiry Officer and presenting officer were forwarded through registered letter dated 31 Aug 2001. The registered letter was however not accepted by the applicant and returned back by postal authorities on 15 Sep 2001 with the remark "refused". The returned letter has been kept intact for records. Shri Bidyot Panging had issued a letter vide letter dated 20 Sep 2001 directing the applicant to present himself for preliminary hearing. The applicant vide his letter dated 27 Sep 2001 requested the Inquiry Officer for 30 days time for arranging a defence assistance and preparing the case. This is a sufficient proof that the applicant knew about the appointment of Inquiry officer on 27 Sep 2001 and was addressing him as Inquiry Officer. Inquiry Officer started proceedings on 20 March 2001. In fact the petitioner was aware of the appointment of Inquiry Officer and presenting Officer and the applicant also was corresponding with Inquiry Officer. However copies of appointment of Inquiry Officer and presenting Officer were again sent to applicant vide registered letter number 10401/169/Civ dated 18 April 2002.

25) That with regard to the statement made in paragraph 4.29 (2), (3) and (4) of the OA, the respondents state that the letter were sent through the registered post but the applicant has been wither returning the letter on showing not received or receiving after 15 to 30 days in connivance with postal authorities. A complaint to the effect was also given to postal authorities vide 10401/Civ dated 22 Feb 2002. A reply has been received from postal authorities vide letter No CPT/Misc/RL/Feb/02 dated 14 March 2002. It is clear from the letter returned by postal authorities that the applicant was not in his place of residence just to avoid receiving letters. The applicant was in the habit of refusing registered AD letters for malafide intention. The applicant also received a number of letters intentionally late by one month or more just to delay the proceedings.

26) That with regard to the statement made in paragraph 4.29(6) & (7) of the OA, the respondents state that it was up to the presenting officer to produce as many witness out of total witnesses to frame the charge.

27) That with regard to the statement made in paragraph 4.29 (9) of the OA, the respondent state that inquiry report of the applicant was submitted on 10 July 2003. The disciplinary authority is required to study the inquiry report, apply mind to all rules and regulations and give his opinion rationally and independently, which requires time. Moreover the applicant is officer bearer of a workers union (Unrecognized) and his case is required to be referred to Ministry of Defence for advice. There was thus no deliberate delay in forwarding the copy of Inquiry report to the applicant.

28) That with regard to the statement made in paragraph 4.29 (10) of the OA, the respondents deny the contentions made therein and beg to submit that the order of the disciplinary in the light of connected records and impugned order dated 15 April 2005 is comprehensive and entails no illegality. The procedure was followed in accordance with the provision of law affording all the applicable rights and privileges to the applicant. The order was proceeded by detail inquiry, recommendation of inquiry officer, application of mind on the part of the disciplinary authority and consideration of commensurating punishment under the provisions of Rule 11 of CCS (CCA) 1965. The case was also examined at the Ministry of Defence in term of their letter No 104718/68/D (Lab) dated 25 March 1968 respecting the union activities, if any, and the contentions of he applicant in this regard were found non existing vide Army HQ letter No 37215/24/EME Civ-3 dated 31 Dec 2004.

29) That with regard to the statement made in paragraph 4.29 (11) of the OA, the respondent state that the application filed an appeal to the appellate authority, MGEME, East Command, Kolkata vide appeal dated 06 Dec 2005 and 18 Feb 2006. The appeals of the applicant have been rejected by Major General Harkirat Singh, MGEME, Eastern Command vide order dated 08 May 2006.

30) That with regard to the statement made in paragraph 4.30 and 4.31 of the OA, the respondents beg to state that the appeal was not preferred as per Rule 25 of the CCS (CCA) Rules 1965 within a period of 45 days from the date on which a copy off the order, against which the appeal was preferred, however not withstanding the period of limitation, the appeal was disposed off for the reasons as given in the order.

A copy of the order dated 08 May 2006 is annexed
Herewith and marked as Annexure-25

31) That with regard to the statement made in paragraph 4.32 of the OA, the respondents beg to submit that appointing authority and the disciplinary authority for all the civilian employees of Station Wksp EME, Shillong is the Officer Commanding. The authority is vested in the appointment and not in the applicant. Accordingly the dismissal order is in order and the appellate authority upholds the same, which is a Major General EME.

32) That with regard to the statement made in paragraph 4.33 and 4.34 of the OA, the respondents offer no comment.

33) That with regard to the statement made in paragraph 5.1 & 5.2 of the OA, the respondents beg to state that the inquiries has been ordered as per Rule 14 of CCS (CCA) Rules 1965. The charge sheets have been given to the applicant as per Rule 14 of CCS (CCA) Rules, 1965 for violation of Rule 3 and 7 of CCS (Conduct) Rules by the applicant. The applicant was served charge sheet vide Office memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001. The memorandum was served on the applicant through registered letter. The same matter was also referred in OA No 150/2003 where in the Honorable Tribunal has dismissed OA No 150/2003 of the applicant and upheld the procedure followed by the respondents. The applicant further appealed against the decision of the Hon'ble CAT on the same grounds and the Shillong bench of the Guwahati High Court dismissed the same appeal.

34) That with regard to the statement made in paragraph 5.3 & 5.4 of the OA, the respondents beg to reiterate and reaffirmed the statements made above.

35) That with regard to the statement made in paragraph 5.5, 5.6 and 5.7 of the OA, the respondents beg to submit that the letters were sent through registered post but the applicant has either returning the letters showing these to be not received or receiving after 15 to 30 days in connivance with postal authorities. A complaint to the effect was also given to the postal authorities vide letter dated 22 Feb 2002. A reply has been received from postal authorities vide letter dated 14 March 2002. It is clear from the letter returned by the postal authorities that the applicant was not present in his place of residence just to avoid receiving letters. The applicant was in the habit of refusing registered AD letters for malafide intention. The applicant also received a number of letters intentionally late by one month or more just to delay the proceedings.

36) That with regard to the statement made in paragraphs 5.8 & 5.9 of the OA, the respondents beg to submit that it was up to the presenting officer to produce as many witness out of total witnesses to frame the charge.

37) That with regard to the statement made in paragraphs 5.10, 5.11, 5.12 & 5.13 of the OA, the respondents while denying the contentions made therein beg to submit that the disciplinary authority under the provisions of Rule 14 of CCS (CCA) Rules, 1965 appointed an Inquiry Officer who enquired into the matter and the proceeding conducted during 20 Sep 2001 to 25 Jun 2003 which has been recorded in detail consisting of statements of witnesses, exhibits, correspondence details, details of the representations and the appeals preferred by the applicant and its disposal thereof and the finding arrived at by the said Inquiry Officer. The applicant was given ample opportunity to improve himself. Which shows that the disciplinary action is taken after giving sufficient opportunity.

38) That with regard to the statement made in paragraph 5.14 of the OA, the respondents beg to submit that the ex-parte inquiry proceedings were started by giving sufficient time to the applicant, when he was using dilatory tactics and not attending the inquiries. The applicant was given sufficient time to look for a suitable defence assistance from Shillong. Ex-parte inquiry proceedings were started when applicant did not appear for preliminary hearing on 08 October 2001 and on his request another date was fixed on 20 October 2001. The applicant again remained absent. Next date of hearing was fixed on 15 Nov 2001 and the applicant was intimated that if he fails to appear on 15 Nov 2001 ex-parte proceedings were started. The applicant even attended the inquiry on 11 March 2002, 13 March 2002, 15 Mar 2002 and 25 Mar 2002.

39) That with regard to the statement made in paragraph 5.15 of OA, the respondents submit that charge proved in dismissal order dated 15 April 2005.

40) That with regard to the statement made in paragraph 5.16 of the OA, the respondents beg to submit that the applicant was given ample opportunity to improve him. Which shows that the disciplinary action is taken after giving sufficient opportunity.

41) That with regard to the statement made in paragraph 5.17 of the OA, the respondents beg to submit that the disciplinary authority under the provisions of Rule 14 CCS (CCA) Rules, 1965 appointed an inquiry officer who enquired into the matter and the proceeding conducted during 20 Sep 2001 to 25 Jun 2003 which has been duly recorded in detail consisting of statement of witnesses. Exhibits, correspondence details of said T/No. 169 Civ/VM (Mate) Shri PC Das representation and various appeals and its disposal thereof and the finding arrived at by the said inquiry officer.

The applicant was given ample opportunity to improve himself. The case was also examined at the Ministry of Defence in terms of their letter dated 25 March 1968 respecting the union activities, if any and the contentions of the appellant in this regard were found non existing vide Army HQ letter No 37215/24/EME Civ-3 dated 31 Dec 2004.

42) That with regard to the statement made in paragraph 5.18 of the OA, the respondents beg to submit that the appeal was not preferred as per Rule 25 of CCS (CCA) Rules 1965 within period of 45 days from the date on which a copy of the order appealed against was delivered to the applicant, however notwithstanding the period of limitation, the appeal was disposed off for the reasons as given in the order.

43) That with regard to the statement made in paragraph 5.19 of the OA, the respondents beg to submit that the contentions of the applicant against the order of the disciplinary authority in the light of connected records and impugned order dated 15 April 2005 is comprehensive and entails no illegality. The procedure was followed in accordance with the provision of law affording all the applicable rights and privileges to the applicant. The order was preceded by a detail inquiry, recommendation of inquiry officer, application of mind on the part of the disciplinary authority and consideration of commensurating punishment under the provisions of Rule 11 of CCS (CCA) Rules, 1965. The case of the applicant was also examined at the Ministry of defence in term of their letter dated 25 March 1968 respecting the union activities, if any, and the contentions of the applicant in this regard were found non existing vide Army HQ letter dated 31 Dec 2004.

44) That with regard to the statement made in paragraph 6 of the OA respondents offer no comment.

45) That with regard to the statement made in paragraph 7 of the OA, the respondents submit that the applicant filed OA No 150/2003 challenging the legality and validity of the disciplinary proceeding, the Hon'ble Tribunal after hearing parties to the proceeding was pleased to dismissed the IA upholding the procedure followed by the respondents. The applicant took up the matter before the Hon'ble Guwahati High Court, Shillong Bench and it was dismissed upholding the decision of the Hon'ble CAT.

46) That with regard to the statement made in paragraph 8 to 8.4 of the OA, the respondents while reiterating and affirming the statements made above beg to submit that the Hon'ble Tribunal may be pleased to dismissed the OA with cost.

VERIFICATION

I, Lt Col K Srinivas aged about 46 Years at present working as Officer Commanding, Station Workshop EME, Shillong, who is one of the respondents, and taking steps in this case, being duly authorized and competent to sign this verification for all respondents, do hereby solemnly affirm and state that the statement made in paragraph 01 to 46 being matter of records, are true to my information derived there from and the rest are my humble submission before this Humble Tribunal. I have not suppressed any material fact.

And I sign this verification this fifth th day of June 2007 at Shillong


DEPONENT
उ. कर्मा
Officer Commanding
उत्तम अधिकारी
Stn Wksp EME, Shillong
वेगन वर्कशाप ई एम ई. शिल्लो

- 16- CONFIDENTIAL

ANNEXURE-1

(3)

STANDARD FORM FOR CHARGE SHEET FOR MAJOR PENALTIES
(UNDER RULE 14 OF CCS (CC & A) RULES, 1965)

BY REGD POST
306 Stu Wksp EME
C/O 99 APO

21207/169/EST-IND/LC

Jul 2001

MEMORANDUM

1. The undersigned proposes to hold an Inquiry against T.No 169 Trade Vch Mech Name Shri PC Das under Rule 14 of the Central Civil Services (Classification and Appeal) Rules, 1965. The substance of the imputations of mis-conduct, or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of charge (Annexure I). A statement of the imputations of mis-conduct or mis-behaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and list of witnesses by whom, the article of charges are proposed to be sustained are also enclosed (Annexure III & IV).
2. Shri PC 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 article of charge as are not admitted. He should therefore specifically admit or deny each article of charge.
4. Shri PC Das is further informed that if he does not admit 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 refuse to comply the provisions of Rule 14 of the CCS (CC & 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 PC Das is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt in these proceedings, it will be presumed that Shri PC Das is aware of such representation so that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.
6. The receipt of the Memorandum may be acknowledged.


(JS Bains)
Lt Col
Officer Commanding
(Disciplinary Authority)

Encls :- Annexure I to IV

T.No 169 Trade Vch Mech
Shri PC Das Q/No DM 30/4, Dudgeon,
Lhasa Shillong

CONFIDENTIAL

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(17)

CONFIDENTIAL

-1-

Annexure I

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST T.NO 169 TRADE
VEHICLE MECHANIC NAME SHRI PC DAS OF 306 STATION WKSP BMR, C/O 99 APO

ARTICLE OF CHARGE - I

That the said T.No 169 Shri PC Das while functioning as Veh Mech during the period Feb 2001 to Jun 2001 committed the following offences :-

"Gross misconduct" :-

- (i) On 01 Jun 2001, at about 0935h created a riotous and disorderly situation in the civilian rest room while being told to go to the shop floor by JC-750768X Nb Sub RC Nath.
- (ii) Assaulting JC-750768X Nb Sub RC Nath by raising both his hands to hit him on 01 Jun 2001 at 0935hrs approximately.
- (iii) An act subversive of discipline in using abusive and filthy language against JC-750768X Nb Sub RC Nath, a Junior Commissioned Officer.
- (iv) Continual and willful neglect of duty from 01 Feb 2001 to 01 Jun 2001 on all working days.
- (v) Continual and willful disobedience of orders for refusing to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus, the said T.No 169 Shri PC Das is unbecoming of a Government Servant and committed offences violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964."



Contd.....2/-

CONFIDENTIAL

(18)

(2)

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Annexure II

ARTICLE OF CHARGES PAMED AGAINST TNO 169 PRABHU BIKASH
NAME SHRI PC DAS

ARTICLE OF CHARGE I

1. On 01 Jun 2001, JC-750768X Nb Sub RC Nath of 306 Stn Wksp EME went to civilian rest room at 0830h and requested the workers to come to the shop floor for work. T.No 172 Shri Bihari Singha and T.No 169 Shri PC Das informed that they will not come out as they wanted to discuss about the picketting by KJansi Student Union on 02 Jun 2001. JC-750768X Nb Sub RC Nath returned back and waited for them for about one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub RC Nath again went to the civilian rest room alongwith Nk Purnan Singh, Nk SC Singh, Hav J Kushwaha and Hav Mahan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T.No 172 Shri Bihari Singha and T.No 169 Shri PC Das left for the work. They were going through some files. Shri PC Das shouted at Nb Sub RC Nath and said "Humara Koi Claim Pass Nahi Hota, Yahan Par Sab Gandu OM Aur JCO Hai, Hum Bhurat Varnish Ke Employee Hain Yahan Par Dil Karoge P. Bengi". Shri PC Das again raised his hands to hit Nb Sub RC Nath and said "AAP Chor Ho, Aur FIP Ka Police Bhayn Hai". He made a gesture to hit Nb Sub RC Nath with both hands but Nb Sub RC Nath ducked and saved himself.

2. Shri PC Das while working as Vehicle Mechanic in 306 Stn Wksp EME did not perform any duty on all working days from 01 Feb 2001 to 01 Jun 2001, through he used to be present in the workshop. He kept sitting in the civilian rest room. Thus he remained absent from place of work for 23 days in Feb 2001, 25 days in Mar 2001, 17 days in Apr 2001, 23 days in May 2001.

3. T.No 169 Veh Mech Shri PC Das did not obey the orders of I/C Shop floors from 01 Feb 2001 to 01 Jun 2001 on all working days when he was told to proceed to shop floor and remained sitting in civilian rest room or kept moving aimlessly. Nb Sub Jai Prakasm and Nb Sub MDC Ahmed tried their best to order him to move to shop floor but he refused and told them that he will go to shop floor whenever he feel like.

4. Thus T.No 169 Veh Mech Shri PC Das violated the provisions of rules 3 of CCS (Conduct) Rules 1964, Committed Offences as under :-

- (i) On 01 Jun 2001 at about 0935h created a riotous and disorderly situation in the civilian rest room while being told to go the shop floor by JC-750768X Nb Sub RC Nath.
- (ii) Assaulting JC-750768X Nb Sub RC Nath by raising both his hands to hit on 01 Jun 2001 at about 0935h. Nb Sub RC Nath, a Junior Commissioned Officer saved himself by ducking.

19-

(iii) T.No 169 Veh Mech Shri PC Das used abusive and filthy language on 01 Jun 2001 at about 0915h against JC-750768X Nb Sub RC Nath, a Junior Commissioned Officer and used words "Chor Ho, Apne Babut Chori Ki Hai Aur FIP Ka Paise Khaya Hai". He further said "Main Bharat Varash Ke Employee Hain, Yahan Dil Karega Bathenge,"

(iv) PC Das had been reporting for duty from 01 Feb 2001 to 31 May 2001 but did not report for duty at place of work and failed to perform and duty. Thus he remained absent from place of work in the shop floor for 23 days in Feb 2001, 25 days in Mar 2001, 17 days in Apr 2001 and 23 days in May 2001.

(v) T.No 169 Veh Mech PC Das did not obey the orders of section I/C shop floors from 01 Feb 2001 to 01 Jun 2001 for proceeding to place of duty on all working days when he was present.

Annexure III

1. List of documents by which the articles of charge framed against T.No 169 Trade Vehicle Mechanic Shri PC Das are proposed to be sustained.

- (a) Complaint given by JC-750768X Nb Sub RC Nath dt 01 Jun 2001
- (b) Reports of disobedience and no output given by Section incharges.

Annexure IV

1. List of witnesses by whom the articles of charges framed against T.No 169 Veh Mech Shri PC Das are proposed to be sustained.

- (a) T.No 7561N07 Puran Singh
- (b) JC-750768X Nb Sub RC Nath
- (c) T.No 7561N07 Nk SC Singh
- (d) 145318212 Hav J Kushwaha
- (e) 145318212 Hav Lalan Sah
- (f) T.No 7561N07 Nk D Palani
- (g) JC-753913P Nb Sub Jai Prakashan
- (h) JC-750236Y Nb Sub (Now Sub) MDC Ahmed
- (i) JC-754018W Nb Sub UP Mishra

Station : C/O 99 APO

Dated : 11 Jul 2001

(JS Bains)
Lt Col
Officer Commanding
(Disciplinary Authority)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 150 of 2003.

Date of Order : This the 20th Day of November, 2003.

The Hon'ble Mrs. Lakshmi Swaminathan, Vice-Chairman.

The Hon'ble Mr S.K. Naik, Administrative Member.

1. Sri Bihari Singha,
son of Late Kunjeswar Singha,
Qtr. No. MES - 93/2 Deodgenline,
Shillong Cantt.,
Shillong, Meghalaya.

2. Sri Prabhat Ch. Das,
son of late Gopal Chandra Das,
resident of Qtr. No. DF 18/1&2,
Burma Line, Shillong Cantt.,
Shillong, Meghalaya.

...Applicants

By Advocate S/Sri S. Dasgupta, S. Chakraborty.

- Versus -

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

2. Director General FME,
Master General of Ordinance Branch,
Army Head Quarters,
ADHQ, P.O. New Delhi-110011.

3. MGEME (Major General Electrical
Mechanical Engineering),
Head Quarters,
Eastern Command (FME Branch),
Fort William, Kolkata-21.

4. Officer Commanding,
306 Station Workshop FME,
C/o 99 APO.

5. A F E.,
306 Station Workshop FME,
C/o 99 APO,
(Inquiry Officer).

...Respondents

By Shri A. Deb Roy, Sr.C.G.S.C.

O R D E R (ORAL)

MRS LAKSHMI SWAMINATHAN (V.C)

In this application the applicants have prayed for the following main reliefs :

i) Set aside and quash the exparte enquiry proceeding held against the applicants.

ii) Set aside and quash the appointment of Inquiry Officer.

2/13

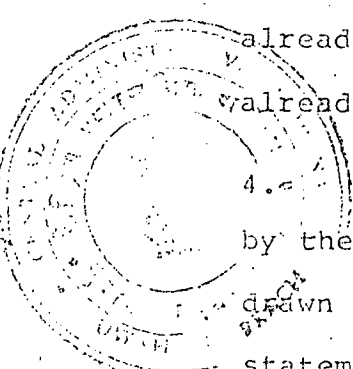
iii) Direct the respondents to conduct a fresh enquiry by appointing a new Inquiry Officer.

iv) Direct the respondents to pay the due subsistence allowance to the applicants alongwith the arrears.

2. During the hearing, learned counsel for the applicants has submitted that he does not press prayer in clause (iv). He has submitted that in pursuance of Tribunal's order dated 25.7.2003, the applicants have since received the due subsistence allowance from the respondents. We have heard Mr S. Chakrabarty, learned counsel for the applicants. It is also relevant to note that the submissions of Mr A. Deb Roy, learned Sr. G.C.S.C. for the respondents that the amount due to the applicants as subsistence allowance was not paid to the applicants earlier, not due to the fault of the respondents but the applicants did not accept the same. However, we note the submissions of both the learned counsel that this part of the prayer no longer survives.

3. With regard to the main claims of the applicants, two main grounds have been taken by the learned counsel for the applicants, namely, (i) that the appointment of the Enquiry Officer, Sri Bidyut Panging, had never been informed to the applicants. They have also submitted that as he is the officer in charge of maintaining the Daily Register of Attendance and was the Supervisory Officer of the applicants, he is biased and therefore, unfit to be appointed as the Enquiry Officer. In this regard, learned counsel for applicants has submitted that the applicants had submitted a number of representations to the respondents to change the Enquiry Officer and has submitted that the applicants have no objection if the proceedings are continued by any other

officer. The second ground taken by the learned counsel for the applicants is that they have been unfailry denied the assistance of one Sri M.P. Singha, UDA, who is admittedly working in 222 ABOD, Narengi, Guwahati. The learned counsel has submitted that it was only for the first time on 8.2.2002 that the respondents had informed the applicants that their request for availing of the service of Sri M.P. Singha, as Defence Assistant had been turned down on the ground that the officer's consent had not been attached with the letter and there was a long distance from the place of enquiry i.e., Shillong and the place of posting of the Defence Assistant at Guwahati. He was, therefore, advised to engage one of the officers at Shillong as Defence Assistant on the ground that sufficient time had already been granted to him and ex parte proceeding had already been started.



4. The respondents have controverted the averment made by the applicants. Sri A. Deb Roy, learned Sr. C.G.S.C. has drawn our attention to the averments made in the written statement and in particular, Paragraphs 10, 11 and 13. He has submitted that the contentions of the applicants that they were not informed about the commencement of the enquiry proceeding is not at all correct. He has submitted that they were intimated by registered letters at their residential addresses on 31.8.2001 about the same but these letters were returned undelivered by the postal authorities with the remarks "Refused". They have also annexed the copies of the letters sent by registered post to the applicants, including Annexures Q-1 and Q-2. He has also relied on the relevant instructions issued by the Government of India under Rule 38 of the CCS (CCA) Rules 1965.

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According to the respondents, the enquiry proceeding was started by the enquiry officer on 29.1.2001 and applicant No. 1 had attended the enquiry on 11.3.02, 13.3.02, 15.3.02 and 20.3.02. Applicant No. 2 had attended the enquiry proceeding on 14.3.02 and 18.3.02. Learned counsel for the applicants has not denied these facts but has submitted that applicant No. 1 has attended the enquiry proceedings on various dates in March 2002, only on receipt of the information to attend the enquiry proceedings from the Enquiry Officer but has repeatedly contended that at that time, they had not received the letter from the disciplinary authority informing them of the appointment of the Enquiry Officer and Presenting Officer dated 30.8.2001. Learned counsel for the respondents has also stressed on the fact that the Enquiry Officer, Sri Bidyut Panging, does not maintain the Attendance Register which is kept at the main gate and maintained by the Gate NCO, who is the Supervisory-in-charge. In the circumstances, the learned counsel has submitted that there is no infirmity either in the appointment of the enquiry officer or proceeding held ex parte against the applicants after they stopped attending the enquiry. According to the respondents, the applicants were deliberately trying to delay the proceedings which fact has been denied by the learned counsel for the applicants in the oral reply, though no written rejoinder has been filed.

5. We have carefully considered the pleadings, the submissions made by the learned counsel for the parties as well as the relevant documents on record.

6. It is noted from the submissions made by the learned counsel for the applicants that they do not deny receipt of the letter from the disciplinary authority dated 18.4.2002

(though the date does not appear in Annexure - E) which was repeatedly referred to by learned counsel for the applicants. In this letter, the respondents have clearly stated that Sri Bidyut Panging was appointed as Enquiry Officer vide order dated 30.8.2001. They have also submitted that the copies of the appointment of the Enquiry Officer and Presenting Officer were sent to the applicants vide registered post. It is also relevant to note that the applicants have admitted that on subsequent dates in March 2003, they have appeared before the Enquiry Officer, which according to them is on the intimation received from that Officer. The respondents have, on the other hand, clearly stated that they have sent the necessary communications to the applicant by registered post, which has been refused by the applicants as indicated by the postal authorities. In the facts and circumstances of the case, we have no reasons to come to the conclusion that the respondents have not in fact sent the communications to the applicants by registered post, which were not ^{refused} to be accepted by the applicants, for reasons best known to them. These facts have further been clarified in the aforesaid letters of respondents i.e., disciplinary authority, in which he has clearly stated in para 4 that "however, a xerox copy of appointment of EO and PO dated 30.8.2001 are again forwarded for information." He has also referred to the facts that the applicants had attended the enquiry proceedings on various dates in March 2002 and these facts are not denied by the applicants. It is further relevant to note from the copies of letters received by the applicants and annexed by themselves in O.A. show that time and again, the respondents have advised the applicants to co-operate with the enquiry officer for early finalisation of the enquiry proceedings initiated on

217. 11.7.2001 against them. In the circumstances of the case, the contention of the learned counsel for the applicants that they were not intimated about the appointment of the enquiry officer is baseless and contentions to the contrary are accordingly rejected.

7. In the circumstances of the case, we are also unable to agree with the contentions of the learned counsel for the applicants that the explanation given by the respondents that as the enquiry officer is not the person who is to make the entries in the Daily Attendance Register he should be replaced by another Enquiry Officer. The reasons given by the respondents for rejecting the request of the applicants for change of enquiry officer cannot be held to be either unreasonable or arbitrary to justify any interference in the matter at this stage. In the circumstances of the case this contention of the applicants is rejected.

8. With regard to the appointment of the defence assistant to assist the applicants in the enquiry proceeding, we also find the reasons given by the respondents neither arbitrary nor illegal to set aside that decision. They have stated, inter alia, that the applicants should nominate any other defence assistant from the same Station where the applicants are posted, i.e., Shillong. We do not find any merit in the submission of the learned counsel for the applicants that merely because there is only a distance of 100 Kms between Shillong and Guwahati, the stand taken by the respondents is any way unjustified in the circumstances of the case. Besides no prejudice has been shown to be caused to the applicants.

9. According to the learned counsel for applicants, against the order passed by the disciplinary authority rejecting their request for appointment of another enquiry officer in place of Sri Bidyut Panging, A.E., the applicants had submitted an appeal before the appellate authority, which was also rejected by the order dated 23.5.2003. Admittedly, the applicants did not file any appeal against the rejection by the disciplinary authority of their request for appointment of M.P. Singha as defence assistant. Apparently, they have also not made any further request for appointing any other officer from the same Station to assist them in the pending enquiry proceedings inspite of reminders from the respondents that they ought not to delay the pending proceedings. We find the stand taken by the respondents that the pending enquiry proceedings should be completed, in accordance with rules expeditiously, in which the co-operation of the applicants have been sought, unexceptionable.

10. From the documents on record we are unable to come to the conclusion whether after the rejection of the applicants' request for appointment of a defence assistant in the enquiry proceedings from what date the ex parte proceedings were continued. It is seen from the letter issued by the respondents dated 8.2.2002 that they had again advised the applicants to engage a defence assistant from one of the local units to avoid further delay in the enquiry proceedings. It is further relevant to note that this O.A. itself was filed in the Tribunal on 26.6.2003 i.e. more than one year after the rejection letter issued by the respondents on 8.2.2002. It is also relevant to note that the applicants have not filed any appeal before the higher authority with regard to replacement of the defence assistant.

219 in place of Sri M.P. Singha. Therefore, in the circumstances of the case, it appears that the applicants even after being informed that their request to engage Sri M.P. Singha as defence assistant was rejected did not take any further steps in the matter in accordance with the rules. In this view of the matter the further ex parte proceedings, if any, held by the respondents cannot be held to be arbitrary or against the relevant rules as sufficient opportunity of hearing had been afforded to the applicants which they chose not to avail. In the facts and circumstances of the case, we are unable to come to the conclusion that there has been any violation of the principles of natural justice or the irrelevant rules to warrant any interference in the matter on this ground also. Therefore, this ground also fails and is rejected.

11. In the facts and circumstances of the case, it is needless to add that the aforesaid pending disciplinary proceedings against the applicants should be completed in accordance with law, rules and instructions as expeditiously as possible and the applicants should also co-operate in the same.

12. In the result, for the reasons given above, we find no merit in the application. The O.A. accordingly fails and is dismissed. No order as to costs.

Sd/ VICE-CHAIRMAN

Sd/ MEMBER (A)

RECEIVED BY THE SECRETARY

22/12/13

22/12/13

15/12/13

ORDER BY THE APPELLATE AUTHORITY IN RESPECT OF APPEAL

FILED BY

T/NO 169 CIV/VM (MATE) SHRI PC DAS

ORDER

1. I have examined the appeal dated 06 Dec 2005 filed by T/No 169 Civ/VM (Mate) Shri PC Das of Stn Wksp EME, Shillong, against the order passed by the disciplinary Authority for dismissing the services of T/No 169 Civ/VM (Mate) Shri PC Das and his prayer for setting aside the dismissal order No 10401/169/Civ/Inq/05 dated 15 Apr 2005 and for reinstating T/No 169 Civ/VM (Mate) Shri PC Das. I have also examined his prayer for disposal of the appeal dated 06 Dec 05 at an early date, taking into consideration the present facts and submissions for reinstatement in service with all consequential benefits submitted vide his letter No Nil dt 18 Feb 06. I have also examined the prayer for release of his subsistence allowance as stated at Annexure A to the appeal dated 18 Feb 06.

2. It is seen that the above appeal has not been preferred as per Rule 25 of the CCS (CCA) rules within a period of forty-five days from the date on which a copy of the order appealed against was delivered to the appellant T/No 169 Civ/VM Shri PC Das. However, notwithstanding the period of limitation, the appeal is hereby disposed off as under.

3. The appellant has prayed for following redressals: -

(a) To set aside and quash the order of disciplinary authority issued vide order No 10401/169/Civ/Inq/05 dt 15 Apr 05 being illegal and arbitrary.

(b) To reinstate the appellant/petitioner with all consequent benefit.

(c) To release his subsistence allowance.

4. As per Annexure A to your Appeal dt 18 Feb 06, the appellant has asked for release of the subsistence allowance due to him. The collection of subsistence allowance from wef 03 Oct 2003 to Feb 2005 has been intimated to the appellant by Stn Wksp EME, Shillong letter No 50602/Civ dt 19 Nov 05. The appellant has also submitted a letter to Stn Wksp EME, Shillong letter No 50602/Civ dt 18 Feb 06 (Copy att).

5. The order No 10401/169/Civ/Inq/05 dated 15 Apr 05 shows that the disciplinary Authority had examined all the issues involved therein at

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great length and disposed off all issues deliberately in detail. I have examined the contentions of the appellant against the order of the disciplinary authority in the light of connected records of the case and I find it being devoid of merit and warranting no interference at this count. The impugned order dated 15 [unclear] is comprehensive and entails no illegality. The procedure was followed in accordance with the provisions of law affording all the applicable privileges and rights to the appellant. The order was preceded by a detail inquiry, a consultation of inquiry officer, application of mind on the part of disciplinary authority and consideration of commensurating punishment under the provisions of Rule 11 of CCS(CCA) 1965 in shape of major penalty of disqualification from service.

8. Further the contention of the appellant regarding biased approach on the part of the inquiry officer is not found justified as Shri Bidyot Penging, AEE (Gen Etl). The inquiry officer, has no personal interest or bias of any kind in the case. At the time of the incident the said officer was away from the unit. He therefore had no previous knowledge of the case and being impartial, was rightly appointed by the disciplinary authority. His appointment as inquiry officer is therefore just and fair.

9. I have examined the records of the case and I am of the opinion that the disciplinary case against T/No 169 Civ/VM(Mate) Shri PC Das has been taken place as per provisions of CCS(CCA) Rules 1965 and the order being devoid of merit does not warrant any consideration.

10. It is also seen that pendency of the writ petition, without any stay order or anything depending in any manner for the subject matter, is no rider on the disciplinary authority for refraining to take disciplinary action under CCS(CCA) Rules 1965 for which they are legally competent and justified. There is no prohibition for the appellant not to prefer an appeal within the prescribed time of 45 days as specified vide Rule 25 of the CCS (CCA) Rules 1965.

11. It is further seen that there has not been any violation of procedure with regard to the Civilian Workers welfare Fund and that it is being maintained properly and was always audited monthly at unit level and is also being quarterly audited at the formation level since quarter ending Dec 2001.

12. It is further seen that SDA is being allowed at 12.5% of basic pay in accordance with current orders on the subject.

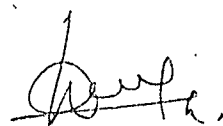
13. It is further seen that the case was also examined at the ministry of Defence in terms of their letter No 104718168/D(Lab) dt 25 Mar 1968 regarding the activities, if any, and the contentions of the appellant in the case. It is found non-existing vide Army HQ letter No 37215/24/EME dt 10/11/1968.

12. Whereas T/No 169 Civ/VM(Mate) Shri PC Das of Station Workshop EME, Kolkata, was issued with a memorandum of charges vide letter No 21209/169/Est/Inq/LC dt 11 July 2001 on five specific counts mentioned therein disclosing gross misconduct in violation of provisions of Rule 3 of CCS rules 1954 and that the said T/No 169 Civ/VM(Mate) Shri PC Das did not reply to the charges vide his letter dated 28 July 2001. The disciplinary authority under the provisions of Rule 14 of CCS(CCA) 1965 appointed an inquiry officer who enquired into the matter and the proceedings conducted during 20 Sep 2001 to 25 Jun 2003 which has been duly recorded in detail consisting of statement of witnesses, exhibits, correspondence details, details of said T/No 169 Civ/VM(Mate) Shri PC Das representations and various appeals and its disposal thereof and the findings arrived at by the said inquiry officer wherein T/No 169 Civ/VM(Mate) Shri PC Das was found guilty of all the charges by the inquiry officer.

13. I have perused the inquiry officers report, record of the inquiry and representation received from the charged official and the evaluation of the same made by me on each article of charge and the subsequent order issued vide letter No 10401/169/Civ/Inq/05 dt 15 Apr 05 and I am of the opinion that the process of disciplinary case against T/No 169 Civ/VM(Mate) Shri PC Das has been correctly followed as per provisions of CCS (CCA) Rules 1955. I am also of the opinion that the findings of guilty are consistent with evidence and are thus just and legal and the representation being made on merit does not warrant any consideration. Hence the appeal is rejected in the interest of Govt service.

Kolkata

May 05



(Harkirat Singh)
Maj Gen
MG EME
HQ Eastern Comd



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ANNEXURE-4

ANNX-4

224

Station Workshop Civilian Workers Union

SHILLONG

(Registered and Affiliated with AIDET)

C/O Advance Electrical Stores
Bara bazar, Shillong -2
(Meghalaya)

Registration No 65

Affiliation No 250

Ref No SWCA/21

Dated 01 November 2013

TO

1. AIDET
Pune India
2. Office of the Labourer Commissioner
Govt of Meghalaya
Shillong

Subj: - Resolution of General Body Meeting of Station Wksp Civilian Workers Union

Minutes of the Station Wksp CME Civ Workers Union held at Civ Recreation Room on 07 Nov 2013 at 10:30hrs to discuss the following points :-
Twenty five members out of thirty three members were present.

(a) Resignation of Union President Shri-K.M.Nath.

(b) Adoption of Union by "North East Reporter" newspaper dated 06-nov-2013.

Asst Gen Secy - Com-B.Shatterjee of the union is proposed by Com-D.Deka to Preside over today's meeting and duly supported by all present members of the union.

Resolution

1. All allegations of the "North East Reporter" newspaper dated 06-nov-2013 are totally false and baseless because there are no union activities for the last two and half years. It is only a misuse of power by the suspended Geny-B. Singha and Vice President PC. Das. The above allegation given by suspended members of the Union were unknown to all members of the Union. No such resolutions were passed by the Union. It is clearly brought that there are no union activities for last two and half years and both the suspended comrades are misusing the name of the union. No such decision as mentioned in the newspaper has been taken by the union.

2. In view of the reasons cited above, all the above mentioned members of the Union have agreed to reorganize the existing body of the Union.



- 33 -

Station Workshop Civilian Workers Union

SHILLONG

(Registered and Affiliated with AIDEP)

Annex-I

Registration No 94

Affiliation No 200

C/O Advance Electrical Stores
Bara bazar, Shillong -2
(Meghalaya)

Ref No SWCWU/

Dated 07 Nov 2003

-2-

3. It has been decided to form the New body by next year January 2004.

4. The following points to be noted:-
(a) Change of Union address from—to

For previous/Existing address	Read new address
Station Workshop Civilian Worker's Union C/O-Advance Electrical Stores Bara Bazar, Shillong-2 Meghalaya	Shri-Pyndaplang Nongrum Lummawbah, Upper Shillong Block-IV, East Khasi Hills District Meghalaya-793005

All correspondents regarding the Union matters be communicated on the above new address and previous/existing address will be treated as cancelled from today onwards.

(b) Circulations of resolutions of today's meeting to all concerned departments

5. The resignation of the Union President has been duly accepted by the present Union members.

There being no other points the meeting was ended by a vote of thanks.

Copy to :-

Directorate General of EME/Civ
Master General Of Ord Branch
Army Headquarters
DHQ, PO New Delhi-110011

HQ East Comd (EME)
Fort William
Kolkata - 21

✓ HQ 101 Area (EME)
C/O 99 APO

Com (BSM) (BSM) (BSM) (BSM) (BSM) (BSM) (BSM) (BSM) (BSM) (BSM)
Asst Gen Secy

For info Please

ANNEXURE-5

507 Army Base Wksp
Kankinara

(34)

02 Jul 2001
05

096
216

Dt Gen of EME (EME Civ)
MGO's Branch
Army HQs
New Delhi - 110011

VISIT REPORT : FWD OF

1. Refer to Army HQ letter No 20101/13-0/EME/Civ-1 dated 12 Jun 2001.
2. A copy of visit report of Assistant Labour Welfare Commissioner (Central) Shri D K Ghosh is fwd herewith as desired.

(DK Ghosh)
Asst Labour Welfare Commissioner
(Central)

Encls :- (Three)

Copy to :-

HQ East Comd (EME)
Kolkata

HQ Base Wksp Gp
Meerut Cantt

HQ 101 Area (EME)

Station HQ, Shillong

306 Sln Wksp EME
C/O 99 APO

for info wrt above quoted letter.

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- 36 - (95)

VISIT REPORT OF 306 STN WKSP EME

1. Visit the 306 Stn Wksp EME from 25th Jun to 29 Jun 2001 in view of the Army HQ letter No 20101/13-0/EME Civ-1 dt 12 Jun 2001. Lt Col JS Bains is the OC of the unit, who joined on 31st Jan 2001 in the unit. The working hours of the unit are from 0800h to 1600h with one hr lunch break.
2. The nature of works of the unit is repairs of vehicle & equipments. On enquiry it is revealed that no welfare committee has been functioning since a long time in this unit. It is gathered, amounts of Welfare Fund is lying undischursed, resulting there has been functioning business of pit loan at an exorbitant high rate of interest making the situation worse.
3. There has been acute demand of Govt quarters for the employees as the rate of rented charges are very high at Shillong. One has to wait 12 or more years, still the Govt Quarters have not been allotted. There has been non implementation of ACP in (subject to passing supervisor) for some employees, and the workers has been advised for appearing in supervisory test as per departmental rules for ACP purposes.
4. On 25 May there has been a bandh by "Khasi Student Union" call and Spl Casual leave has been granted. On 28th May again there has been picketing by the same "Khasi Student Union" as a result employees reported duty and left at 9.30h. It reveals employees of other sister unit also attended office on 28th May. The OC of this unit is not in favour of to granting spl CL on that score. On that day as the individuals had reported to wksp and left the wksp without gate pass/leave. Some of the workers have already applied for CL which has been granted by OC.
5. There has been order for the stoppage and recovery of SDA by CDA Guwahati. The employees went to the Spl Bench of the Shillong High Court at Shillong and got the stay order of the recovery as such recovery has been stopped by the OC.
6. As intimated by OC, Sri TB Tamang Chowkidar who died on 05 Feb 98 but his case was not processed due to non availability of death certificate. The death certificate was obtained and sent to the unit. Late Kashmira Safaiwala died on 11 Aug 2000 and GP Fund paid, Gratuity paid and pension has also been sanctioned. Late AK Singha VM died on 11 Dec 2000. GP Fund has been sanctioned, Gratuity cases at correspondence level, leave encashment & CGEIS paid. The other dues of Late AK Singha will be paid after finalisation of requirement of audit authorities. Compassionate appointment of Late Kashmira is pending for Educational Certificate & reminder issued to NOK to furnish. In case of DB Tamang no application has been recd, but OC has been requested to issue a reminder.
7. Medical re-imbusement bill/claim in r/o Industrial personnel Sri DK Gurung and SD Lakhar & others were forwarded in 1997 and is pending. No reminder has been issued during the last 3 years. OC has been requested to issue reminder.
8. Grievances relating to allotment of eligible Quarters to Sri KM Nath Welder, DK Gurung Carpenter, PK Das VM from type 'A' to entitlement type 'B' has been fwd to Stn HQs where seniority at station basis is maintained. The Defence Civ employees are authorized only 15% of the accommodation. If possible more quarters should be constructed for Civ at station basis.

229 9. As per Army School Circular No AS/Adv/5003/13 dt 19 Mar 2001 children of certain categories of Defence est have to pay fees as per other civilians :-

	Officer	JCOs	ORs	Civs
1 to V Class	200	150	150	450

Which the civilian employees aggrieved. The OC of the unit stated the Defence employees civilian are now paying as per fees of OR's. I convened a meeting alongwith OC of this unit on 28 Jun 2001, in Conference Hall and explained to the workers present in the meeting. Each of the workers were interviewed & assured that,

(i) all the workers should be activity associated with the works of the Welfare Committee & suggestion on their part should be included and they should fully co-operate with the management so that desired ends of their welfare aspects may be met. They should take interest free loan from the Labour Welfare fund incase of necessity which OC has agreed to increase the fund through various means.

10. The demands for house building forms will be delivered to the employees as they require.

11. Workers are advised not to nurture the habit of drinking and alcoholism. Some indoor games like carrom should be introduced.

12. As regards the union activities, nothing noticeable has been observed. The present union under the style named as "Station Workshop Civilian Workers Union," Shillong is functioning from C/O Advance Electrical Stores, Bara Bazar, Shillong-2 (Meghalaya) with Shri B Singha as General Secretary of the said union and issued letters for notice for agitational programme such from 18 Jun 2001 to 23 Jun 2001 campaign week by holding gate meetings, slogan shouting from 12 Jul 2001 during morning mustering hrs in front of the Defence Staff, massive rally from 16 Jul 2001 to 21 Jul 2001, Strike ballot under to be taken to observe 48hrs strike (02 days) on any day between this period. It appears from the letter pad of the Union that it is affiliated to AIDEF Pune and is registered but not recognized.

13. During the discussion, it was gathered that two employees have been suspended with effect from 01 Jun 2001 for some faults as noticed by the Administration. I made a round throughout this wksp and other ancillary section and found it is very neat & clean and situated within the construction of new buildings and is also spacious, which is lacking in other wksp.

14. OC of the unit Lt Col JS Bains joined in this workshop on 31 Jan 2001 merely 5 to 6 months back. The OC is making constant endeavour to improve the situation all around. There has been no welfare oriented activities in the last two years which brought the situation in such a state of affairs. I hope with the constant persuasion of the present OC, conditions and situations will improve. During my stay, I also met the Sqn Commander, Brig SB Atri on 28 Jun 2001 and discussed the present position of the 306 Sqn Wksp IME.

15. The unit is authorized 29 IP and 18 NIP personnel, but only 17 Industrial and 08 NIP are posted. Although a single clerk is authorized for managing such a large affairs, still no clerk has been posted; which is very urgently reqd to meet the situation.

16. As stated by OC, the major workload of the unit is VIP work load of 101 Area. The work load is as under :-

S.No	Type	Capacity	Held	Over load
(a)	Veh	LU 450-540	727.28	187.28
(b)	Telecom	TU 10501-15500	60818.00	45318.00
(c)	Inst	IU 15000-19990	25628.00	5638.00
(d)	Armr	RU 7801-10060	16277.60	6271.00

As the work load is much more than the capacity; the deficiency of civ manpower should be made up to cope with the situation at the earliest.

17. As per the industrial relations, nothing undesirable has been noticed during my stay and the working environment in the wksp were found very peaceful and congenial. OC has agreed to vent their grievances & attaining objectives and welfare of the workers through peaceful methods.

Dated : 6 Jul 2001

(DK Ghosh)
Assistant Labour Welfare Commissioner (Central)

Amor - P
ANNEXURE-6

(38)

From

Nk Rajan J
Gall NCO
306 In Wksp EME
C/O 99 APO

To

C/O for Commanding
306 In Wksp EME
C/O 99 APO

ABSENT REPORT

1. The following individuals of this wksp reported for duty at 0800h on 28 May 2001 and left the workshop after marking their presence at 0930h on 28 May 2001. Necessary action be taken on them:-

S No	Roll No	Trade	Name
(a)	171	VM	Shri PC Das
	173	VM	Shri D Deke
(c)	174	VM	Shri SN Das
		DEM	Shri B Gogoi
(e)	175	Elect	Shri P Singha
	176	Amr	Shri SD Kakhra
(g)	179	Elect	Shri B Boruah
	179	Welder	Shri KM Nath
	179	M/Smith	Shri P Ghosh
(k)		Labour	Shri SR Borah
(i)	18739	Dvr	KB Thapa

Yours faithfully

Dated: 28 May 2001

Nk Rajan J
(Nk Rajan J)

-40- ~~Annex~~ ~~7~~
CONFIDENTIAL ANNEXURE - 7 252

ORDERS BY THE APPELLANT AUTHORITY IN RESPECT OF APPEAL
FILED BY T/NO 169 CIV VM (MV) SHRI PC DAS
OF 306 STATION WORKSHOP EME

Tele Mil : 2790

Headquarters
Eastern Command (EME Branch)
Fort William, Kolkata -21

332230/2/PCD/EME Civ

23 Jun 2003

ORDER

1. I have examined the appeal dated 02 Sep 2002 file by T/No 169 Civ VM(MV) Shri PC Das of 306 Station Workshop EME against the appointment of Inquiry Officer on the ground of bias praying thereby for "Review" and fresh appointment of another person as the Inquiry Officer in place of Shri Bidyot Panging, AEE of 306 Station Workshop EME, C/O 99 APO, after setting aside and quashing the orders No 1401/169/Civ dt 05 Aug 2002 and of even No dt 09 Aug 2002.
2. It is seen that the above appeal has been addressed to DG EME, however, as per the provisions of CCS (CCA) Rule 1965 and the departmental arrangements in that behalf, MG EME, Eastern Command is the appellate authority in the matter. Accordingly the appeal is being taken as if addressed to him and being disposed off as under.
3. The appellant has prayed for following three redressals :-
 - (a) Order Nos 10401/169/Civ dated 05 Aug 2002 and 10401/169/Civ dated 09 Aug 2002 being illegal and contrary to the provisions of CCS (CCA) Rules 1965 be set aside.
 - (d) Inquiry Officer Shri Bidyot Panging, AEE to be replaced.
 - (e) To review the case and pass suitable orders.
4. A perusal of impugned letters 10401/169/Civ dated 05 Aug 2002 and 10401/169/Civ dated 09 Aug 2002 shows that said disciplinary authority had examined all the issues involved therein at a great length and disposed off each prayer of the representation deliberately in details. It is seen that Inquiry Officer was appointed on 30 Aug 2001, however, representation to object him was made on 29 Apr 2002 i.e. after a lapse of about eight months which appears to be an after thought. I have examined the comments forwarded by the disciplinary authority and records in that behalf forwarded by the appellant and I find it being devoid of merit and grants no interference at this count.

CONFIDENTIAL

(41)

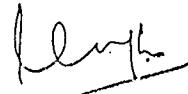
CONFIDENTIAL

ich)

-2-

Further Shri Bhoyot Punging, AEE the Inquiry Officer has no personal interest or bias of any kind in the case and at the time of incident the said officer was away from the post, therefore he had no previous knowledge in the case and being impartial, rightly took the decision by the disciplinary authority. His appointment as Inquiry Officer was just and proper and no replacement at this belated stage, where inquiry has been held and all the witnesses have already been examined.

6. I have perused the comments forwarded by Lt Col JS Bains, the disciplinary authority in the case and I am of the opinion that the process of disciplinary proceedings of CCS (CCA) Rule 1965 and the representation being devoid of merit does not warrant any reconsideration. Hence, the appeal is rejected and inquiry should be continued.



(UK Jha)
Maj Gen
MGEME
Appellate Authority

CC-12-1

T. No 160 CM VM (MV)
Shri PC Das
CC-12-18/1 & 2
Jammu Lines
Shri PC Das
CC-12

D/O Gen of EME (EME CIV)
Master Gen of Ord Branch
Army Headquarters
HQ PQ, New Delhi- 110 011.

Officer Commanding
316 Sqn EME
C/O 35 AFO

for info please

for info and further necessary action.

CONFIDENTIAL

(42)

Annex - 8
ANNEXURE - 8

CONFIDENTIAL

234

STANDARD FORM OF ORDER RELATING TO APPOINTMENT OF
INQUIRY OFFICER UNDER RULE 14 (2) OF CCS (CC&A) RULES 1965

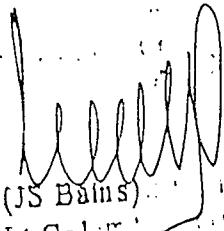
Regd by Post
306 Stn Wksp EME
C/O 99 APO

30 Aug 2001

ORDER

1. In this Workshop memorandum of Charge sheet bearing No 21208/169/Est dated 11 Jul 2001.
2. WHEREAS an inquiry under rule 14 of Central Civil Services (Classification, Control and Appeal) Rule 1965 is being held against T.No 169 Civ/VM Shri PC Das.
3. WHEREAS the undersigned considers that an inquiry Officer should be appointed to inquire into the charges framed against him.

Now therefore, the undersigned, in exercise of the powers conferred by Sub Rule 14 of the said rule, hereby appoints Shri Bidyot Paing, AEE as Inquiry Officer to inquire into the charges framed against the said T.No 169 Civ/VM Shri PC Das.


(JS Bains)
Lt Col
Officer Commanding
Disciplinary Authority

T.No 169 Civ/VM
Shri PC Das
On No 169 Civ/VM
Dodgeon Lines
Bhilai Plant

NOTE

Shri Bidyot Paing
306 Stn Wksp EME
C/O 99 APO

for information and action alongwith a copy of charge sheet mentioned above.

CONFIDENTIAL



le : 6177

Regd by Post
306 Stn Wksp EME
C/O 99 APO

(5)

234

10401/169/Civ

30 Aug 2001

APPOINTMENT OF PRESENTING OFFICER

1. Where an Inquiry under rule 14 of Central Civil Services (Classification, Control and Appeal) Rule 1965 is being held against T.No 169 Civ/VM Shri PC Das.
2. And whereas the undersigned considers that a Presenting Officer should be appointed to present on behalf of the undersigned..
3. Now therefore, the undersigned, in exercise of the powers conferred by Sub Rule 5 (c) of Rule 14 of the said rules, hereby appoints JC- 722950FNb Sub/SKT(MT) Amar Singh as the Presenting Officer.

(JS Bains)
Lt Col
Officer Commanding
Disciplinary Authority

Copy to :-

JC-722950FNb Sub/SKT(MT) -
Amar Singh
306 Stn Wksp EME

for info alongwith the following docus :-

- (a) Copy of memorandum
- (b) Copy of written statement of defence.
- © A Copy of statement of witnesses.

Shri PC Das
T.No 169 Civ/VM
Qtr No MES 30/4
Dudgeon Lines
Shillong Cantt.

for info.

Shri AEE Bidyot Panging
Inquiry Officer
306 Stn Wksp EME
C/O 99 APO

for info.

(4.5)

100% and Affiliated with AIPREF)

... ..

Registration No 65

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

Affiliation No 260

1. *Phragmites* spp. (Poaceae)

Dated 01 Nov 2003

1. *Chlorophyll a* fluorescence (Chl *a* fluorescence) was measured using a fluorometer (F600, Jasco, Tokyo, Japan).

Station Wksp Civilian

2. The meeting of the E.M.E. Civ Workers Union held at Civ Recreation Club, on 12.12.1973 at 10.30 AM to discuss the following points :-
 1. The meeting was called off by three members were present.
 2. The President of Union, Shri K.M.Nath,

10-11-68 "North East Reporter" newspaper dated 06-nov-

1. The following 2000-2001 budget of the union is proposed by Com-D.Deka
 2. and approved by the meeting and duly supported by all present members of the

1. The "newspaper or daily" The North East Reporter is not a newspaper and baseless because there are no union members in it for two and half years. It is only a misuse of power by the Union President P.C. Das. The above allegations of the suspended members of the Union were unknown to all members of the Union. Resolutions were passed by the Union. It is clearly brought to the notice of the Union for last two and half years and both the suspended members are not doing the name of the union. No such decision as mentioned was taken by the Union.

Therefore, in the light of the above, all the above mentioned members should be added to the existing body of the Union.

(46)

ANNEXURE-10

(7)

239

To,

The Inquiring Authority
306 Stn Wksp. EME
C/O 99 APO.

Sub :- DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST SHRI T. NO 169 VEH
MECH PC DAS UNDER RULE 14 OF CCS (CCA) RULES 1965

Ref :- Your letter No 10401/civ/169/IND dt. 20 Sep 2001 and received on
26 Sep 2001.

Sir,

I am in receipt of your letter under reference on 26/09/2001. In the connection, I would like to say that I am not in a position to manage my defence assistance for my defence within this short span.

I therefore request you to kindly give me 30 days time and allow me to present myself with my defence assistance, before the Inquiring officer.

Thanking You Sir.

Your's Faithfully

[Signature] 27/9/2001

Dated :- 27th Sep 2001

(P C DAS)
T. NO 169 Veh Mech
Qtr No DM 30/A
Dudgeon Line
Shillong.

[Signature]

10401/Civ/169/INQ

(48)

306 Stn Wksp EME
C/O 99 APO

ANNEXURE-11

20 Sep 2001

229

T.No 169 Veh Mech
Shri PC Das
Qtr No DM 30/4
Dudgeon Lines
Shillong

**DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED
AGAINST SHRI T.NO 169 VEH MECH PC DAS UNDER RULE
14 OF CCS (CCA) RULES 1965**

1. I have been appointed as Inquiring authority to conduct inquiry in the case above cited, vide Order No 10401/169/Civ dt 30 Aug 2001 issued by Lt Col JS Bains, OC of this unit, a copy of which has been endorsed to you.
2. Accordingly, a preliminary hearing of the case will be held by me on 09 Oct 2001 at 1100h at Office of Workshop Officer 306 Stn Wksp EME, C/O 99 APO. You should present yourself alongwith your defence assistant, if you so desire, in time to attend the preliminary hearing and wait until further directions. In case you fail to appear at the appointed date and time, proceeding will be taken ex-parte.
3. Instructions for getting your Defence Assistance relieved will be issued if his particulars and willingness to work as such alongwith the particulars of his controlling authority are received by me before 01 Oct 2001.
4. While nominating a Government servant as Defence Assistance the instructions on the subject should be kept in view.
5. Receipt of this notice may please be acknowledged.

B.P.
(Bidyot Panging)
AEE
Inquiring Authority

Copy to :-

JC-722950F Nb Sub/SKT(MT) Amar Singh -
Presenting Officer
306 Stn Wksp EME
C/O 99 APO

He is also requested to attend the preliminary hearing at appointed date and time alongwith all listed documents in Original.

B.P.
(Bidyot Panging)
AEE
Inquiring Authority

(13) Engaging Defence Assistant posted in another station.—Sub-rule (8) of Rule 14 provides that a Government servant may take the assistance of any other Government servant posted at any other station on being permitted by the Inquiring Authority to do so. It does not totally prohibit having a Defence Assistant from any station other than the headquarters of the charged Government servant or the place of inquiry. It is open to the Inquiring Authority to permit the appointment of a Defence Assistant from any other station, having regard to the circumstances of each case. However, at present, there is no provision for appeal against the decision of the Inquiring Authority in the matter, should it decide to refuse permission.

2. It has been decided, that a Government servant should be allowed to make a representation to the Disciplinary Authority if the Inquiring Authority rejects a request for permission to take a Defence Assistant from a place other than the headquarters of the charged Government servant or the place of inquiry. Accordingly, in all cases where the Inquiring Authority rejects the request of the charged Government servant for engaging a Defence Assistant, from any station other than the headquarters of such Government servant or the place where the inquiry is conducted, it should record its reasons in writing and communicate the same to the charged Government servant to enable him to make a representation against the order, if he so desires, to the Disciplinary Authority. On receipt of the representation from the charged Government servant, the Disciplinary Authority, after applying its mind to all the relevant facts and circumstances of the case, shall pass a well-reasoned order either upholding the orders passed by the Inquiring Authority or acceding to the request made by the charged employees. Since such an order of the Disciplinary Authority will be in the nature of a step-in-aid of the inquiry, no appeal shall lie against that order.

[G.I., Dept. of Per. & Trg., O.M. No. 11012/3/86-Ext. (A), dated the 29th April, 1986.]

(19) Government servant under suspension eligible to function as Defence Counsel.—A question has been raised whether under the provisions of Rule 14 (8) of the CCS (CCA) Rules, 1965, a Government servant under suspension, is eligible to function as Defence Counsel, if his services are required by an accused official. The reply to the question is that, merely because an official is under suspension does not mean that he has ceased to be a Government servant, and as such, an official under suspension has full right to work as Defence Assistant. The question was recently examined by the Kerala High Court and it was opined that there is no rule that a person under suspension is not entitled to assist another Government servant in the enquiry proceedings.

2. The above ruling may be kept in view while deciding similar cases.

[D.G., P. & T.'s Letter No. 201 15/75-Disc. II, dated the 3rd July, 1975.]

(20) Conditions for engaging retired Government servants as Defence Assistants.—Reference is invited to G.O. No. 11012/3-Ext. (A), dated the 13th February, 1981, and to say that it must be kept in view that there is no restriction on accused Government servants for engaging retired Government employees to present their case in departmental disciplinary

proceedings have been reviewed in the light of the demand of the Staff Side in the National Council of JCM for putting a ceiling on the number of cases a retired Government servant can take up as a Defence Assistant and in supersession of earlier orders on the subject, it has been decided in terms of Rule 14 (8) (b) of CCS (CCA) Rules, 1965, that assistance of retired Government servants may be taken subject to the following conditions:—

- (i) The retired Government servant concerned should have retired from service under the Central Government.
- (ii) If the retired Government servant is also a legal practitioner, the restrictions on engaging a legal practitioner by a delinquent Government servant to present the case on his behalf, contained in Rule 14 (8) of the CCS (CCA) Rules, 1965, would apply.
- (iii) The retired Government servant concerned should not have in any manner, been associated with the case at investigation stage or otherwise in his official capacity.
- (iv) The retired Government servant concerned should not act as Defence Assistant in more than five cases at a time. The retired Government servant should satisfy the Inquiring Officer that he does not have more than five cases at hand including the case in question.

[G.I., Dept. of Per. & Trg., O.M. No. 11012/5/92-Ext. (A), dated the 22nd May, 1992.]

(21) Permission to engage a legal practitioner for the defence.—Rule 14 (8) (a) of the CCS (CCA) Rules, 1965, provides, *inter alia*, that a delinquent Government servant against whom disciplinary proceedings have been instituted as for imposition of a major penalty may not engage a legal practitioner to present the case on his behalf before the Inquiring Authority, unless the Presenting Officer appointed by the Disciplinary Authority is a legal practitioner or the Disciplinary Authority, having regard to the circumstances of the case, so permits. It is clarified that, when on behalf of the Disciplinary Authority, the case is being presented by a Prosecuting Officer of the Central Bureau of Investigation or a Government Law Officer (such as Legal Adviser, Junior Legal Adviser), there are evidently good and sufficient circumstances for the Disciplinary Authority to exercise his discretion in favour of the delinquent officer and allow him to be represented by a legal practitioner. Any exercise of discretion to the contrary in such cases is likely to be held by the Court as arbitrary and prejudicial to the defence of the delinquent Government servant.

[G.I., H.A., D.P. & A.R., O.M. No. 11012/5/92-Ext. (A), dated the 23rd July, 1992.]

(22) Assistance of legal practitioner to be decided on merits of each case.—The assistance of a legal practitioner should not be refused to the officer concerned if the Presenting Officer is a legal practitioner. The rule, however, vests discretion in the Disciplinary Authority to permit or refuse

(50)

240

ANNEXURE-12
Amor - 2

Tele : 6177

(52)

ANNEXURE-13

306 Sin Wksp EME
C/O 99 APO

W

10401/Civ

22 Feb 2002

24

Post Master General
NE Circle, GPO
Shillong

NON DELIVERY/LATE DELIVERY OF REGISTERED LETTERS

Dear Sir

1. It is for your information that two Civilian employees of the Workshop, as per the addresses given below have been suspended due to "Gross Misconduct" and inquiries as per CCS Rules have been ordered against them :-

- (a) T/No 172 Shri Bihari Singha (Civ Electrician)
Qtr No MES 93/2
Deodgen lines
Shillong Cantt
- (b) T/No 169 Shri PC Das (Civ Vehicle Mechanic)
Qtr No DM 30/4
Deodgen Lines
Shillong Cantt

2. In connection with the inquiries registered letters are sent to the individuals but it has been seen that the letters are being delivered after a period of more than one month. Some of the examples are as under :-

<u>S.No</u>	<u>Our letter No and date</u>	<u>832 FPO RL No and date</u>	<u>Letter sent to and date of delivery</u>
(a)	10401/Civ/169/INQ dt 20 Sep 2001		T/No 169 VM(MV) Shri PC Das Qtr No DM 30/4 Deodgen Lines, Shillong Cantt and recd on 21 Nov 2001.
(b)	10401/Civ dt 19 Oct 2001	155 dt 20 Oct 2001	
(c)	10402/Civ dt 20 Oct 2001	176 dt 22 Oct 2001	
(d)	10401/169/Civ/INQ dt 23 Oct 2001	243 dt 25 Oct 2001	
(e)	10401/Civ/172/INQ dt 20 Sep 2001		T/No 172 Elect (MV) Shri Bihari Sinha Qtr No MES 93/2 Deodgen Lines, Shillong Cantt and recd on 21 Nov 2001.
(f)	10401/Civ dt 19 Oct 2001	156 dt 20 Oct 2001	
(g)	10402/Civ dt 20 Oct 2001	175 dt 22 Oct 2001	
(h)	10401/172/Civ/INQ dt 23 Oct 2001	244 dt 25 Oct 2001	

(53)

2

(j)	10401/169/Civ/INQ dt	484 dt 28 Jan 2002	T/No 169 VM (MV) Shri PC Das Qtr No DM 30/4 Deodgen Lines, Shillong Cantt and recd on 13 Feb 2002.
	24 Jan 2002		
(k)	10401/169/Civ/INQ dt	594 dt 02 Feb 2002	
	31 Jan 2002		
(l)	10401/169/Civ/INQ dt	930 dt 09 Feb 2002	T/No 172 Eject (MV) Shri Bihari Sinha Qtr No MES 93/2 Deodgen Lines, Shillong Cantt and recd on 13 Feb 2002
	09 Feb 2002		
(m)	10401/172/Civ/INQ dt	483 dt 28 Jan 2002	
	24 Jan 2002		
(n)	10401/172/Civ/INQ dt	595 dt 02 Feb 2002	
	31 Jan 2002		
(o)	10401/172/Civ/INQ dt	931 dt 09 Feb 2002	
	09 Feb 2002		

3. It will be seen from above that most of the letters have been delivered to the individual after more than one month, whereas the local dak should have been delivered within a period of 4-5 days, as both the individuals are living in MES quarters in Shillong. It seems that the local postal authorities at Bara Bazar Post Office are either not performing their duties or are in league with the above mentioned employees. You are requested to investigate the late delivery of letters, as it amounts to deficiency of service. If the individuals are not accepting the letters, these should be returned back undelivered as per the current rules and regulations. It is clear from Ser 2 (b) that letters are reaching in 4 days but are getting delayed at the Bara Bazar, Post Office. It seems that individuals are using Postal Authorities to delay disciplinary proceedings so that they can carry on with their nefarious activities.


(J S Bains)
Lt Col
Officer Commanding
VCR

Copy to :-

Superintendent Post
NE Circle, GPO
Shillong

The Post Master
Bara Bazar
Shillong

For information and similar action. Please investigate the complaint and instruct Post man to deliver the letters in time or return back if individuals are not accepting within a reasonable time.

832 FPO
C/O CC APO

For information.

(54)

ANNEXURE-14

GOVT. OF INDIA
REGISTRATION DIVISION
CHILLONG-POHONG

TO
FROM

2180

Regd.

NO. CPT/MISC/RL/FEB/02

243
dtd 14-3-02

To,

IS Bains

At Col. officer Commanding

306 Stn WASH. E.M.

C/o 99A/PO

Sub:- delay in delivery of Regd letters.

Ref:- your letter no/13401/civ dtd 22-2-02.

Sir, with reference to your letter above it is to intimate that delay in disposal of the Regd letters was happened due to non availability of the addressees and could not return to sender as the Postmaster concerned are not aware of the Procedure.

However all the officials has been instructed suitably to follow the Procedure in future.

Yours faithfully,

GOVT. OF INDIA
REGISTRATION DIVISION
CHILLONG-POHONG

W

(56)

~~Annex - AD~~

ANNEXURE - 15

244

(22) Assistance of legal practitioner to be decided on merits of each case.—The assistance of a legal practitioner should not be refused to the officer concerned if the Presenting Officer is a legal practitioner. The rule, however, vests discretion in the Disciplinary Authority to permit assistance of a legal practitioner having regard to the circumstances, that such assistance is justified. No orders exist laying down guidelines to the Disciplinary Authority as to in what circumstances such justification may be said to exist. The matter has been carefully considered and after taking into account the judgments delivered by some High Courts on this point, it has been decided that the Disciplinary Authority should bear, in each case, such circumstances in mind, as the status of the Presenting Officer, his experience in this type of job and the volume and nature of documentary evidence produced in the case before taking a decision as to whether or not the services of a legal practitioner should be made available to the officer concerned. It is reiterated that the discretion of the Disciplinary Authority is vast and it should exercise such discretion in the most impartial manner on the merits of each case and be guided solely by the criterion whether the denial of assistance of a legal practitioner is likely to be construed as denial of reasonable opportunity to the officer concerned to defend himself.

(U.O.) T. No. 63/72-Disc. I. dated the 29th August, 1972.]



CONFIDENTIAL

ANNEXURE-16

Tele : 6177

(58)

Regd by post
306 Stn Wksp EME
C/O 99 APO

(40)
245

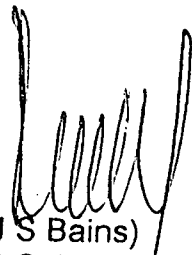
10401/169/Civ

17 Apr 2002

T/No 169 Civ VM
Shri P C Das
Qtr No DM 30/4
Deodgen Line
Shillong Cantt

**SUPPLY OF COPIES OF APPOINTMENT IN RESPECT OF INQUIRY
OFFICER AND THE PRESENTING OFFICER IN THE DISCIPLINARY
PROCEEDING AGAINST T/NO 169 SHRI P C DAS**

1. Refer to your letter No Nil dated 21 Mar 2002.
2. It is for your information that AEE, Shri Bidyot Panging was appointed as Inquiry Officer vide order No 10401/169/Civ dt 30 Aug 2001 and JC-722950F Nb Sub/SKT(MT) Amar Singh of 306 Station Wksp EME was appointed as Presenting Officer vide order No 10401/169/Civ dated 30 Aug 2001. The copies of the appointment of Inquiry Officer and Presenting Officer were sent to you vide Regd Post.
3. In fact, you have knowing been about the appointment of Inquiry Officer as you have been corresponding with him under intimation to this office. In this connection, zerox copies of your letter No Nil dated 23 Nov 2001 and 07 Dec 2001 area forwarded herewith to remind you that you know about the appointment of Inquiry Officer. You have been attending the inquiry on 14 Mar 2002 and 18 Mar 2002, as it seen from the gate passes. From the above it is clear that you have been trying to mislead the authorities and trying to delay the proceedings.
4. However a zerox copies of appointment of Inquiry Officer and Presenting Officer dated 30 Aug 2001 are again forwarded for your information.
5. You are advised once again to co-operate with the Inquiry Officer for early finalisation of court of inquiry.


(J S Bains)
Lt Col
Officer Commanding

- Encls : (a) Appointment of inquiry officer
(b) Appointment of presenting Offr
(c) Letter No Nil dated 23 Nov 2001
(d) Letter No Nil dated 07 Dec 2001

Copy to :

Shri Bidyot Panging
AEE
306 Stn Wksp EME

for info and finalising the Inquiry, at
earliest.

- 60 - ~~Annex~~ H
CONFIDENTIAL ANNEXURE-17 24

ORDERS BY THE APPELLANT AUTHORITY IN RESPECT OF APPEAL
FILED BY T/NO 169 CIV VM (MV) SHRI PC DAS
OF 306 STATION WORKSHOP EME

Tele Mil : 2790

Headquarters
Eastern Command (EME Branch)
Fort William, Kolkata -21

332230/2/PCD/EME Civ

23 Jun 2003

ORDER

1. I have examined the appeal dated 02 Sep 2002 file by T/No 169 Civ VM(MV) Shri PC Das of 306 Station Workshop EME against the appointment of Inquiry Officer on the ground of bias praying thereby for "Review" and fresh appointment of another person as the Inquiry Officer in place of Shri Bidyot Panging, AEE of 306 Station Workshop EME, C/O 99 APO, after setting aside and quashing the orders No 1401/169/Civ dt 05 Aug 2002 and of even No dt 09 Aug 2002.
2. It is seen that the above appeal has been addressed to DG EME, however, as per the provisions of CCS (CCA) Rule 1965 and the departmental arrangements in that behalf, MG EME, Eastern Command is the appellate authority in the matter. Accordingly the appeal is being taken as if addressed to him and being disposed off as under.
3. The appellant has prayed for following three redressals :-
 - (a) Order Nos 10401/169/Civ dated 05 Aug 2002 and 10401/169/Civ dated 09 Aug 2002 being illegal and contrary to the provisions of CCS (CCA) Rules 1965 be set aside.
 - (d) Inquiry Officer Shri Bidyot Panging, AEE to be replaced.
 - (e) To review the case and pass suitable orders.
4. A perusal of impugned letters 10401/169/Civ dated 05 Aug 2002 and 10401/169/Civ dated 09 Aug 2002 shows that said disciplinary authority had examined all the issues involved therein at a great length and disposed off each prayer of the representation deliberately in details. It is seen that Inquiry Officer was appointed on 30 Aug 2001, however, representation to object him was made on 29 Apr 2002. He after a laps of about eight months which appears to be an after thought. I have examined the comments forwarded by the disciplinary authority and records in that behalf including contents forwarded by the appellant and I find it being devoid of merit and warrants no interference at this count.

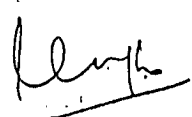
CONFIDENTIAL

61
CONFIDENTIAL

-2-

5. Further Shri Bidyot Panging, AEE the Inquiry Officer has no personal interest or bias of any kind in the case and at the time of incident the said officer was away from the unit, therefore had no previous knowledge in the case and being impartial, rightly appointed by the disciplinary authority. His appointment as Inquiry Officer was just and fair and does not warrant any replacement at this belated stage, where inquiry has reached at advance stage and all the witnesses have already been examined.

6. I have perused the comments forwarded by Lt Col JS Bains, the disciplinary authority, the record of the case and I am of the opinion that the process of disciplinary case against T/No 169 Civ VM(MV) Shri PC Das has correctly taken place as per the provisions of CCS (CCA) Rule 1965 and the representation being devoid of merit does not warrant any consideration. Hence, the appeal is rejected and inquiry should proceed with.


(UK Jha)
Maj Gen
MGEME
Appellate Authority

Copy to :-

T. No 169 Civ VM (MV)
Shri PC Das
Qtr No DF-18/1 & 2
Burma Lines
Shillong Cantt
NCO

Dte Gen of EME (EME Civ)
Master Gen of Ord Branch
Army Headquarters
DHQ PO, New Delhi- 110 011

Officer Commanding
306 Stn Wksp EME
C/O 99 APO

for info please

for info and further necessary action

CONFIDENTIAL

62
CONFIDENTIAL

ANNEXURE-18
~~Amex - A/K~~
31 Jan 2002
248

Tele : 6177

10401/169/Civ/Inq

T/No 169 Civ VM
Shri P C Das
Qtr No DM 30/4
Deodijen Line
Shillong Cantt

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 169
VM (MV) SHRI PC DAS UNDER RULE 14 OF CCS (CCA) RULES 1965

1. Refer to :-

- (a) This workshop suspension order No 10401/Civ dt 01 Jun 2001.
- (b) This workshop letter No 10401/Civ dt 25 Jun 2001.

2. During the first 3 months of suspension, you were granted suspension allowance equal to half leave salary with appropriate allowances, which was subsequently increased wef 01 Sep 2001 to 50% of the subsistence allowance already being paid. It has however been seen that you are using delaying tactics to delay the inquiry by refusing to accept the registered letters being sent by the inquiry officer and the same are being returned by postal authorities with the remark "Refused". As you are adopting dilatory tactics the subsistence allowance increased by 50% than the initial subsistence allowance wef 01 Sep 2001 has been reviewed and is hereby withdrawn. You will be now given the subsistence allowance at half of your salary with appropriate allowance wef the pay of Jan 2002 to be paid on 01 Feb 2002.


(S Balns)
Lt Col
Officer Commanding

CONFIDENTIAL



64- ANNEXURE-19
 Annex - A1
 249

Tele : 3019333

By Registered Post
 Directorate General of EME (Civ)
 Master General of Ordnance Branch
 Army Headquarters
 DHO PO, New Delhi - 110011

21092/24/EME CIV-3

27 Mar 2002

Shri PC Das
 T No 169 (MV)
 Otr N 30/4
 Madgen Line
 Allot Cantt

SUBSISTENCE ALLOWANCE

1. Reference your representation dated 19 Mar 2002 regarding payment of Subsistence Allowance.
2. It is intimated that your subsistence allowance has been pending by of the Wksp for quite some time. However, you have not yet reported to the Wksp for collection of subsistence allowance despite communicating the same to you through registered post. You are, therefore, advised to co-operate with the unit administration and collect your subsistence allowance as admissible without further delay.
3. In this connection, you are advised to desist from indulging in contentious correspondence to various higher authorities in violation of CCS (Conduct) Rules, 1964.

(RS Reen)
 Lt Col
 JD EME (Civ)
 for DG EME

H.O.O

506 Stn Wksp EME
 C/O-17 APO

You are requested to handover the subsistence allowance as admissible as and when approached by the individual (photocopy of the representation is enclosed).

66
Tel: 3477

10 31/Sus/Civ

T/No 1 Civ.VM
SHIP G Des
Qtr No DM 30/4
Deer Line
Shillong Cantt

ANNEXURE-20

Registered by Post

306 Sln Wks EME
C/O 99 APO

27 Jun 2002

SUBSISTENCE ALLOWANCE

1. Refer to Army Headquarters letter No 21892/24/EME/Civ 3 dated 27 Mar 2002.
2. It is to inform you that you have not been collecting your subsistence allowance since Jan 2002. The allowance is being claimed every month and is being deposited through TR as you have not been reporting to the workshop on payment day. As you are aware, the payment to industrial personnel is done on 01st of every month or next day if 01st of the month happens to be holiday/Sunday. You are once again advised to collect your subsistence allowance.

(JS Bains)
Lt Col
Officer Commanding

Copy to:-

HQ 101 Area (EME)
30 99 / 10

for info

6177

10401/Sub/Civ

T/No 172 CH (Elee)
Sh Dihari Singha
Qtr No MIES 93/2,
Deodgen Line
Shillong Cantt

T/No 169 CIV (VAD)
Sh PC Das
DF-13/1 & 2
Burna 1/2
Shillong

ANNEXURE-21 A
REGD BY POST

306 Station Workshop EME
C/O 99 APO

30 Sep 2002

30

251

SUBSISTENCE ALLOWANCE

1. Refer to our letter No 10401/Sub/Civ dt 22 Jun 2002.
2. It is to inform you that you have not been collected your subsistence allowance since Jan 2002. The allowance is being claimed every month and is being deposited in bank through a TR when not collected. You are hereby advised again to collect your subsistence allowance every month between 01 to 07th of the month.

(S Bains)
Lt Col
Officer Commanding

2/217

2/-

70- ANNEXURE-22

REGD BY POST

306 Station Workshop EME
C/O 99 APO

Telc: 5177

10401/Sub/Civ

29 Nov 2002

T/No 172 Civ (Elec)
Sh Bihari Singha
C/O No MES 93/2,
Deodigen Line
Shillong Cantt

T/No 182 Civ (VM)
PC Das
DF-18/1&2
Burma Lines
Shillong

COLLECTION OF SUBSISTENCE ALLOWANCE

1. Refer to our letter No 10401/Sub/Civ dated 22 Jan 2002.
2. It is seen that you have not been collecting your subsistence allowance since Jan 2002. The allowance is being claimed every month and is being deposited through a TR in bank after 7th of the month, as both of you are not reporting to wksp for collecting the same on the pay day.
3. You are also advised to bring a non-employment certificate as per performa attached every month, to enable this wksp to make the payment. A certificate for non-employability be also given from Jan 2002 to July 2002, so that your subsistence allowance can be reclaimed through pay bill, as it has been deposited back.
4. In case you fail to bring non-employment certificate, the subsistence allowance cannot be paid to you.

Encl

(JS Balns)
Lt Col

Officer Commanding

Contd. 2

Tel: 6177

1. Civ

Regd Post
306 Sln Wksp EME
C/O 99 APO

11 Mar 2002

PROCEDURE 230
Bama - AL - 0

72

CH/PA

Shri PC Das

Off No 101/10, Burma Line

Shillong, Meghalaya

(13/1-2 Bhuma Line)

NON-PAYMENT OF RENT AND ALLIED CHARGES IN
RESPECT OF PC DAS C/O NO MES 13/1/02

1. Further to our letter No 10401/SUS/Civ dated 29 Nov 2002.
2. It is seen that you have not been collecting for your subsistence allowance in 2002 and the same is being deposited through a TR in Govt Treasury. You are not collecting your subsistence allowance, rent and allied charges. The details given in Appx 'A' are out standing against you since Nov 2001. You are advised to pay your rent and allied charges to this office by 25 Mar 2003. An eviction notice under PPE act through Stn Cell will be served on you to the govt accommodation.
3. It is your information that you are also not producing non-employment certificate. This is a pre-requisite for giving you the subsistence allowance.
4. You are advised once again to:-
 - (a) Produce the non-employability Certificate.
 - (b) Pay rent and allied charges by 25 Mar 2003.
 - (c) Collect your subsistence allowances on 1st of every month or on the subsequent day if 1st happens to be a Sunday or a holiday.

(JS Bains)
Lt Col
Officer Commanding

Copy to:

Stn Cell
HQ 101/10
C/O 99 APO

For info and necessary action if the indl fails to deposit rent and allied charges amounting to Rs 4706.00 by 25 Mar 2003.

(74)

ANNEXURE-24

ORDER BY THE APPELLATE AUTHORITY IN RESPECT OF APPEAL

FILED BY

T/NO 169 CIV/VM (MATE) SHRI PC DAS

ORDER

1. I have examined the appeal dated 06 Dec 2005 filed by T/No 169 Civ/VM (Mate) Shri PC Das of Stn Wksp EME, Shillong, against the order passed by disciplinary Authority for dismissing the services of T/No 169 Civ/VM (Mate) Shri PC Das and his prayer for setting aside the dismissal order No 10401/169/Civ/Inq/05 dated 15 Apr 2005 and for reinstating T/No 169 Civ/VM (Mate) Shri PC Das. I have also examined his prayer for disposal of the appeal dated 06 Dec 05 at an early date, taking into consideration the present follow up submissions for reinstatement in service with all consequential benefits submitted vide his letter No Nil dt 18 Feb 06. I have also examined his appeal for release of his subsistence allowance as stated at Annexure A to his appeal dated 18 Feb 06.

2. It is seen that the above appeal has not been preferred as per Rule 25 of the CCS (CCA) rules within a period of forty-five days from the date on which a copy of the order appealed against was delivered to the appellant T/No 169 Civ/VM (Mate) Shri PC Das. However, notwithstanding the period of limitation, the appeal is hereby disposed off as under.

3. The appellant has prayed for following redressals: -

(a) To set aside and quash the order of disciplinary authority issued vide case No 10401/169/Civ/Inq/05 dt 15 Apr 05 being illegal and arbitrary.

(b) To reinstate the appellant/petitioner with all consequent benefit.

(c) To release his subsistence allowance.

4. At Annexure A to your Appeal dt 18 Feb 06, the appellant has asked for release of the subsistence allowance due to him. The collection of subsistence allowance wef 03 Oct 2003 to Feb 2005 has been intimated to the appellant by Stn Wksp EME, Shillong letter No 50602/ Civ dt 19 Nov 05. This has been repeated vide Stn Wksp EME, Shillong letter No 50602/Civ dt 08 Mar 06 (Copy att).

5. A perusal of letter No 10401/169/Civ/Inq/05 dated 15 Apr 05 shows that said disciplinary authority had examined all the issues involved therein at

256

75

2



great length and disposed off all issues deliberately in detail. I have examined the contentions of the appellant against the order of the disciplinary authority in the light of connected records of the case and I find it being devoid of merit and warranting no interference at this count. The impugned order dated 15 Apr 05 is comprehensive and entails no illegality. The procedure was followed in accordance with the provisions of law affording all the applicable privileges and rights to the appellant. The order was preceded by a detail inquiry, recommendation of inquiry officer, application of mind on the part of disciplinary authority and consideration of commensurating punishment under the provisions of Rule 11 of CCS(CCA) 1965 in shape of major penalty of "dismissal from the service."

6. Further the contention of the appellant regarding biased approach on the part of the inquiry officer is not found justified as Shri Bidyot Penging, AEE (now EE), the inquiry officer, has no personal interest or bias of any kind in the case and at the time of incident the said officer was away from the unit. He, therefore, had no previous knowledge of the case and being impartial, was rightly appointed by the disciplinary authority. His appointment as inquiry officer was therefore just and fair.

7. I have also perused the records of the case and I am of the opinion that the process of disciplinary case against T/No 169 Civ/VM(Mate) Shri PC Das has correctly taken place as per provisions of CCS(CCA) Rules 1965 and the representation being devoid of merit does not warrant any consideration.

8. It is also seen that pendency of the writ petition, without any stay order or restraining the despondence in any manner for the subject matter, is no rider on the disciplinary authority for refraining to take disciplinary action under CCS (CCA) Rules 1965 for which they are legally competent and justified. There is also no restriction for the appellant not to prefer an appeal within the stipulated time frame of 45 days as specified vide Rule 25 of the CCS (CCA) Rules 1965.

9. It is further seen that there has not been any violation of procedure with regard to the defence Civilian Workers welfare Fund and that it is being managed efficiently and was always audited monthly at unit level and is also duly audited at the formation level since quarter ending Dec 2001.

10. Further it is seen that SDA is being allowed at 12.5% of basic pay in accordance with current orders on the subject.

11. Further it is also seen that the case was also examined at the ministry of Defence in terms of their letter No 104718168/D(Lab) dt 25 Mar 1968 regarding the union activities, if any, and the contentions of the appellant in this regard were found non existing vide Army HQ letter No 37215/24/EME Cb-3 dt 31 Dec 04.

(76)

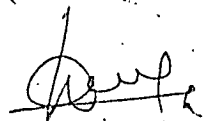
(26)
250

12. Whereas T/No 169 Civ/VM(Mate) Shri PC Das of Station Workshop EME, Shillong, was issued with a memorandum of charges vide letter No 21208/170/EsVinq/LC dt 11 July 2001 on five specific counts mentioned therein, disclosing gross misconduct in violation of provisions of Rule 3 of CCS rules 1964 and that the said T/No 169 Civ/VM(Mate) Shri PC Das did not admit any of the charges vide his letter dated 28 July 2001. The disciplinary authority under the provisions of Rule 14 of CCS(CCA) 1965 appointed an inquiry officer who enquired into the matter and the proceedings conducted during 20 Sep 2001 to 25 Jun 2003 which has been duly recorded in detail consisting of statement of witnesses, exhibits, correspondence details, details of said T/No 169 Civ/VM(Mate) Shri PC Das representations and various appeals and its disposal thereof and the findings arrived at by the said inquiry officer wherein T/No 169 Civ/VM(Mate) Shri PC Das was found guilty of all the five charges by the inquiry officer.

13. I have perused the inquiry officers report, record of the inquiry and representation received from the charged official and the evaluation of the disciplinary authority on each article of charge and the subsequent order issued vide letter No 10401/169/Civ/Inq/05 dt 15 Apr 05 and I am of the opinion that the process of disciplinary case against T/No 169 Civ/VM(Mate) Shri PC Das has correctly been followed as per provisions of CCS (CCA) Rules 1965. I am also of the opinion that the findings of guilty are consistent to the evidence and are thus just and legal and the representation being devoid of merit does not warrant any consideration. Hence the appeal is rejected in the interest of Govt service.

Station : Kolkata

Dated : 07 May 06



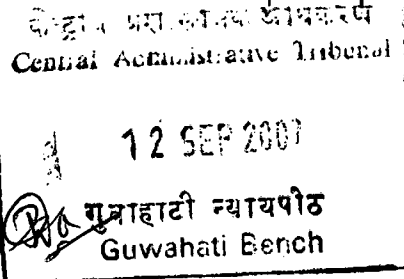
(Harkirat Singh)

Maj Gen

MG EME

HQ Eastern Comd





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Filed by me applicant-
through S. N. K. Das
Advocate
11/09/2007.

In the matter of:-

O.A.No. 134/2006.

Prabhat Ch. Das
Shri Bihari Singha. 10.

-Versus-

Union of India and others.

-And-

In the matter of:-

Rejoinder submitted by the applicant
against the written statements
submitted by the respondent.

The applicant above named most respectfully begs to state as follows:-

1. That with regard to the preliminary objection raised in the written statement, the applicant begs to state that the statements are not based on facts and judgment and order passed in Original Application No. 150/03 has no relevancy with the prayer in the original application. It is categorically stated that in the instant application, the application has challenged the order of penalty dated 05.04.2005, whereby the applicant is dismissed from service, as such plea of res-judicata is categorically denied, rather the order of the Hon'ble High Court passed in WP (C) No. 3 (SH)/2004, Sri Bihari Singha and Ors.- Versus- U.O.I and others against the judgment and order dated 20.11.2003 passed in O.A. No. 150/2003, which was dismissed by the Hon'ble High Court with the following observation:-

"WP (C) No. 3(SH)/2004

THE HON'BLE CHIEF JUSTICE MR. B. SUDERSHA
REDDY AND THE HON'BLE MR. JUSTICE BP KATAKY

13.2.2006

It is brought to our notice by the learned Standing counsel for the Union of India and about which there is no dispute that subsequent to filing of this writ petition, the inquiry initiated against the writ petitioner herein has been completed and the disciplinary authority has passed orders dismissing the petitioner from service.

It is stated that the petitioner had already filed an appeal before the appellate authority challenging his order of dismissal. The appeal is stated to be under consideration. Suffice it to direct that the appeal filed by the petitioner shall be considered on its own merit, uninfluenced by the dismissal of this writ petition.

The cause in this writ petition does not survive since no relief as prayed for by the writ petitioner could be granted in this writ petition, as at present, the inquiry initiated against the petitioner herein had culminated in the final orders passed.

The writ petition fails. It shall accordingly stand dismissed without any order as to costs."

In view of the specific observation of the Hon'ble High Court again quoted herein below for the perusal of the Hon'ble Court.

"Suffice it to direct that the appeal filed by the petitioner shall be considered, on its own merit, uninfluenced by the dismissal of this writ petition."

Therefore, it is quite from the above observation read with prayer made in the instant O.A. that the cause of action is different in the instant O.A. Hence, none of the preliminary objections raised in the written

statements are maintainable in the facts and circumstances of the instant case.

2. That your applicant categorically denies the correctness of the statements made in para 4, 5, 6, 7, 8 and 9 of the written statement and further reiterates the statement made in the original application.
3. That your applicant categorically denies the correctness of the statement made in para 10, 11, 12, 13, 14 and 15 of the written statement and further reiterates the statement made in the O.A. However with regard to the statement made in para 11, it is submitted that the power of discretion vested with the Inquiry Officer/Disciplinary Authority regarding grant of permission for engaging a Defence Assistant from outside the station is not unlimited and such discretionary power must be utilized by the authority in a fair manner. But in the instant case, rejection of the prayer of the applicant to engage a Defence Asstt. From outside the local station is highly arbitrary and unfair. However, the contention raised in para 12 has been defeated and nullified by the letter issued by the postal authority, i.e. letter dated 14.03.2002, which rather support the case of the applicant. However, the respondent authorities are put to strictest proof regarding the allegation of connivance of the applicant with the postal authority as well as against the allegation of refusal of registered letters from the postal authority.

The Hon'ble Court be pleased to direct the respondents to produce all relevant records of the enquiry proceeding including the letters allegedly refused by the applicants and for verification of the date of registration from the dispatch register of the office of the officer commanding, Station Workshop, EME, Shillong. The applicant categorically denies the allegation of causing delay the proceeding as alleged in Para 13 of the written statement. Rather it is also evident that the order of appointment of the I.O was issued to the applicant for the 1st time on 18.04.2002 i.e. long back after the commencement of the enquiry proceeding. The allegation of assaulting the military officer i.e. J.C.O Sri Nath by the applicant that too in a military establishment as stated in para 15 of the written statement is a deliberate false charge brought against the

applicant and the charges itself are contradictory to each other and also contrary to the records of the office of the Officer Commanding, Station Workshop, Shillong. It is categorically submitted that no reason has been recorded by the I.O, while rejecting the prayer of the applicant for engagement of Defence Assistant from Guwahati, on that ground alone the impugned order of penalty is liable to be set aside and quashed. Moreover the applicant also preferred an appeal against the prayer for engagement of Defence Assistant from Guwahati, but the said appeal was also rejected by the Disciplinary Authority on 03.04.2002 without assigning any cogent reason and on that score alone that the entire disciplinary proceeding is liable to be set aside and quashed.

4. That with regard to the statement made in para 16,17,18,19, 20 and 21 of the written statement, the applicant categorically denies the correctness made in above paragraphs and further beg to say that the specific statement of the respondent made in para 16 to the effect that Sri Bidyut Ponging, AEE is not connected with all the matter/affairs relating to the departmental enquiry is a deliberate false statement made by the Lt. Col K. Srinivas presently working as Officer Commanding at Station workshop, as such he is liable for perjury as because said Sri Ponging is all along supervising the day to day work of the present applicant since March 2000, and during the alleged period of absence from duty w.e.f. 01.02.2001 to 01.06.2001 the applicant was also under the absolute supervision of Sri Bidyut Ponging, the then AEE, and definitely the charge of unauthorized absence from duty or continual and willful neglect of duty definitely has been framed on the basis of either written or verbal complain of Sri Bidyut Ponging. Therefore since Sri Bidyut Ponging, AEE have lodged the complain as the applicant was working under his supervision, therefore permitting said Sri Ponging to act as IO is contrary to the rule of fair play and also contrary to the relevant provision laid down in CCS (CCA) Rule, 1965 As because, it would be evident from the letter no. 50902/FIKE dated 09.03.2000, No. 70301/WKSP dated 21.03.2000, 50704/CIV dated 17.04.2004, 8120/Comp/TS dated 19.10.2000, 50703/Civ dated 27.11.2000 and letter No. 24501/Est. dated 19.03.2001, it

appears that the applicant was working under the absolute supervision of the I.O, even on the day of alleged incidence i.e. on 01.06.2001 said Sri Penging was very much present in the office and he is also a party to the alleged incident. Moreover from 1st February 2001 to 01.06.2001, the applicant was working under the supervision of Mr. B. Penging, I.O, as such appointment of Sri Penging as I.O is contrary to the relevant provisions of CCS (CCA) Rules, 1965. So far statement made in para 17, it is categorically submitted that even after participation of the applicant in the enquiry proceeding when the date was fixed in his presence by the I.O on 22.02.2002 to the effect that the enquiry proceeding will be held on every alternative date, but the said order of holding enquiry on every alternate date has been deliberately violated by the I.O himself, that too without any intimation to the applicant pursuant to the order dated 22.02.2002, the applicant attended enquiry on 18.03.2002, again applicant went on 20.03.2002, but he was tortured by the Military personnel and detains him in the office without holding the enquiry proceeding and thereafter again enquiry proceeding held on 08.04.2002, 22.04.2002, 10.05.2002, 07.06.2002, 26.06.2002, 16.07.2002 and 03.08.2002 without any further intimation to the applicant, as such action of the respondents in holding the enquiry proceeding in violation of their own order dated 22.02.2002 that too without intimation is highly arbitrary, unfair and illegal and thereby reasonable opportunity has been denied to the applicant in defending his case. The contention raised in para 21 is categorically denied and reiterates the statement made in the O.A.

5. That with regard to the statement made in para 22, 23, 24, 25, 26 and 27 of the written statements are categorically denied and save and except which are borne out of record. The applicant further begs to say that none of the grounds raised by the applicants against the irregularities and infirmities have been discussed in the enquiry report and the disciplinary authority mechanically accepted the findings of the I.O without any discussion of evidence and held that the charges have been proved against the applicant and no attempt is made to ascertain whether relevant procedure have been followed or not in conducting the enquiry against the applicant but

imposed the penalty of dismissal from service without even properly looking into the records of the enquiry proceeding, evidences recorded therein and also the documents examined in the enquiry, proceeding but imposed the penalty of dismissal. The applicant categorically denies the other contention raised in para 24, 25, 26, 27 and 28 of the written statement, wherein it is alleged that the Ministry of Defence as well as the Disciplinary Authority, Appellate Authority have considered the case in terms of the relevant provisions of CCS (CCA) Rules, 1965 and provided all reasonable opportunities to the applicant, which is categorically denied.

6. The applicant categorically denies the statement made in para 29, 30, 31, 33, 34, 35, 36 and 37 of the written statement, save and except the statements which are borne out of records. The applicant further beg to say that none of the listed documents were examined, complaint against the applicant for non attending duty from 01.02.2001 to 01.06.2001 neither supplied to the applicant nor examined in the enquiry proceeding. There was no finding regarding examination of other witnesses and procedural infirmities pointed out by the applicant in his representation dated 29.11.2006 also not considered by the Disciplinary authority. The applicant is denied reasonable opportunity to defend his case and Sri J.S. Bains, Commanding officer deliberately acted as Disciplinary authority with a malafide intention, even though he is personally involved in the alleged incidence of 01.06.2001. In the circumstances, the impugned order is liable to be set aside and quashed.

It is relevant to mention here that on a careful reading of the depositions made by the state witnesses, it appears that there are contradictions with the deposition of witnesses. On a careful reading of the deposition made by Naib Subedar K. Jaya Prakashan, Junior Commissioned Officer in the Corps of EME, I/C 'B' Veh Section, has stated as follows on cross-examination.

"Question by the Inquiry officer

Q. 1:- Who used to detail work to the vehicle mechanics?

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Ans: - Being I/C 'B' veh section I used to detail work to both civilian and combatant vehicle mechanics by 0900 hrs. In my absence other JCO used to detail work to them.

Q.2:- Was any work have been given to him?

Ans: - Whenever I tried to give him work he refused to do so saying he is busy in welfare work. He used to be absent from the place of work and used to roam around the wksp after mustering in without doing any work on all working days. He used to be out from the workshop premises after lunch break on all working days.

Q.3:- Did you reported the matter to OC?

Ans:- I reported this on numbers of occasion to Maj Babu George, then OC, 306 Stu wksp. But he did not pay any attention after taking the command by the new OC, again I reported this to him. Then we were told to maintain a section wise register to record the output of industrial personal and this has been implemented with effect from 01 Feb 2001. Then also Shri P C Das was absent from the place of work.

Q.4:- Did you detailed him for work after 01 Feb 2001?

Ans: - Yes, firstly, Shri P C Das never used to report to the shop floor after 01 Feb 2001 also. Secondly, whenever I found him inside to wksp premises I tried to give him work but he used to refused saying I have not done any trade work till date and I will not do it even now. He used to say he is busy in the welfare work."

Therefore, it appears from the deposition of JC 753913P Nb Sub K Jaya Prakashan that the applicant never worked during his tenure as section in charge. But he has maintained a section wise daily register w.e.f. 01.02.2001 to keep the record of work output of all industrial personnel and he never noticed any change in the work of the applicant. Thereafter, it appears that although applicant did not report duty after 01.02.2001, but no action was taken by the authority in spite of the report given by Nb

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Sub K Jaya Prakashan, JCO. It further appears that the allegation of absence in duty place shown w.e.f 01.02.2001 to 01.06.2001, therefore it appears that following a direction of Col. J.S. Bains, Officer Commanding i.e. respondent No. 7 a section wise register has been maintained. Therefore the Hon'ble Court be pleased to direct the respondents to produce all relevant records including the order/direction of Col. J.S. Bains for maintaining section wise register and to produce the same before the Court for perusal.

It is pertinent to mention here that as per deposition of Nb Subedar K. Jaya Prakashan applicant is alleged to have been absent after 01.02.2001, said Sri Jaya Prakashan also said the applicant disobeyed the order issued by him. If the applicant has disobeyed the order of JCO K. Jaya Prakashan, whether Mr. Jaya Prakashan reported this matter to the OC. Therefore, those records of absence refusal to work and the action taken thereafter should be produced before the Hon'ble Court. The allegation of non preference of appeal within the period of 45 days is now irrelevant in view of the fact that the appeal have been disposed of by the appellate authority.

The applicant categorically denies the contention raised in para 35, 36 and 37 of the written statement and reiterates the statements made in the O.A.

7. That with regard to the statement made in paragraphs 39, 40, 41, 42, 43, 45 and 46 of the written statement, the applicant denies the correctness of the statements made therein and further begs to say that both the impugned order of penalty dated 15.04.2005 and the appellate order dated 08.05.2006 is cryptic, non speaking and none of the grounds raised by the applicant were discussed in the impugned appellate order. Moreover there is a gross violation of rule 27 of the CCS (CCA) Rules, 1965 by the appellate authority as because none of the requirement have been followed or complied with by the appellate authority while rejecting the appeal of the applicant. It is categorically stated that in para 4.29, in as much as 11 grounds have been shown, which was not followed while conducting the inquiry proceeding. Some of the grounds are give below:-

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1. No intimation to the applicant regarding appointment of the LO before commencement of the inquiry proceeding.
2. Non supply of listed documents to the applicant, which are relied upon by the Disciplinary Authority, in order to sustain the charges.
3. Deliberate non-implementation of date of hearing of inquiry proceeding and also delayed intimation received by the applicant i.e. after expiry of the fixed date of hearing.
4. Listed documents were not examined in the inquiry proceeding.
5. Out of 9 state witnesses only 7 were examined.
6. The alleged absence of duty from 01.02.2001 to 01.06.2001 alleged to have been proved without examining any listed document in support thereof.
7. The enquiry officer failed to give any reasonable or specific finding in his enquiry report dated 10.07. 2003.
8. None of the grounds raised by the applicant in appeal were considered by the appellate authority, as required under the rule.
9. Appointment of Sri B. Panging as LO being officer in charge of the Section and also being a complainant is highly irregular.

Moreover, both the Disciplinary authority as well as the LO is directly involved with the incident alleged to have been occurred on 01.06.2001, as such participation of Mr. B. Panging as LO as well as participation of Sri J.S. Bains as Disciplinary Authority is contrary to the relevant provisions of the CCS (CCA) Rules 1965.

In the facts and circumstances stated above, the impugned order of penalty of dismissal dated 15.04.2005 and appellate order dated 08.05.2006 are liable to be set aside and quashed.

VERIFICATION

I Shri Prabhat Chandra Das, S/o- Late Gopal Chandra Das, aged about 46 years, resident of the quarter No. DF-18/1 & 2 in Burma line, Shillong, applicant in the instant application, do hereby verify that the statements made in Paragraph 1 to 7 are true to my knowledge and the rest are humble prayer before this Hon'ble Tribunal and I have not suppressed any material fact.

And I sign this verification on this the 10th day of September 2007.

Prabhat ch. DAS