

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. original Application No. 142/2006
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(s) Sri Jayan Sutradhar

Respondents U.O.I 2018

Advocate for the Applicant(s). Mr. Adil Ahmed,
Miss S. Bhattacharya;

Advocate for the Respondant(s). C.C.S.C.

Notes of the Registry	Date	Order of the Tribunal
	<u>13.06.2006</u>	Heard learned counsel for the applicant and learned counsel for the respondents. The application is disposed of in terms of the order passed in separate sheets. No order as to costs.
This application is in form is filed/C. F. for Rs. 50/- deposited vide IPC/BD No. <u>26 G. 2 24504</u>		
Dated <u>12.6.06</u>		
<i>Alm</i> Dy. Registrar		
<i>JS</i> <u>12/6/06</u>	<u>mb</u>	
<i>Received Alka Das. Add CMC. 19/6/06.</i>		
<u>21.6.06</u> <i>Copies of the order has been sent to the office for issuing the same to the applicant by post. ekh</i>		

Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

142 of 2006

O.A. No.

13.06.2006

DATE OF DECISION

Sri Tapan Sutradhar Applicant/s

Mr Adil Ahmed and Ms. Smita Bhattacharjee Advocate for the
Applicant/s.

Versus -

Union of India & Others Respondent/s

Ms U. Das, Addl. C.G.S.C. Advocate for the
Respondents

CORAM

HON'BLE MR.K.V.SACHIDANANDAN, VICE-CHAIRMAN

1. Whether reporters of local newspapers may be allowed to see the Judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether to be forwarded for including in the Digest Being complied at Jodhpur Bench ? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment ? Yes/No

Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 142 of 2006.

Date of Order: This the 13th day of June 2006.

The Hon'ble Sri K. V. Sachidanandan, Vice-Chairman.

Sri Tapan Sutradhar
Lower Division Clerk
Subsidiary Intelligence Bureau (SIB)
Ministry of Home Affairs
Government of India
Beltola, Guwahati - 22. Applicant

By Advocates Mr Adil Ahmed and Ms. Smita Bhattacharjee, Advocates

- Versus -

1. The Secretary to the Government of India,
Ministry of Home Affairs,
North Block, New Delhi - 110 001.
2. The Director, Intelligence Bureau,
Ministry of Home Affairs
35 SP Marg, New Delhi.
3. The Joint Director,
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Itanagar, Arunachal Pradesh.
4. The Assistant Director (E)
Subsidiary Intelligence Bureau
Ministry of Home Affairs
Government of India
Itanagar, Arunachal Pradesh. Respondents.

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

.....
ORDER (ORAL)

K.V. SACHIDANANDAN (V.C.)

The applicant is working in the Subsidiary Intelligence Bureau (SIB for short), Ministry of Home Affairs. While the applicant was working at Itanagar, he was charge sheeted under Rule 16 of the

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CCS (CCA) Rules 1965. He submitted written statement. The Respondent No. 4 initiated regular inquiry by appointing Inquiry Officer and he was asked to appear before the Inquiry Officer on 12.04.2004. After the inquiry, the Inquiry Officer found the applicant guilty and imposed minor penalty vide order dated 14.09.2005 reducing pay by two stages from Rs. 3800/- to Rs. 3650/- in the time scale of pay of Rs. 3050-75-80-4590/- for a period of two years with effect from the date of issue of the order. The applicant filed appeal dated 20.09.2005 before the Respondent No. 4 requesting for re-examination of the penalty imposed. The applicant filed another appeal dated 17.11.2005 before the Appellate Authority for revision of the decision of the Disciplinary Authority. The Appellate Authority vide order dated 23.02.2006 rejected the appeal on the ground that the appeal was submitted after the expiry of the stipulated period of submission. Aggrieved by the said action of the respondents, the applicant has filed this application seeking the following reliefs: -

"8.1 That the Hon'ble Tribunal may be pleased to direct the Respondents to set aside and quash the impugned order No. 33/E/2004(2)-6269 dated 14.09.2005 and also the Appellate Office memorandum No. 33/E/2004(2)-974 dated 23.02.2006 issued by the Respondent No. 3.

8.2 To pass any other appropriate order or orders to which the applicant may be entitled and as may be deemed fit and proper in the facts and circumstances of the case."

2. Heard Mr A. Ahmed, learned counsel for the applicant and Ms U. Das, learned Addl. C.G.S.C. for the respondents.
3. Learned counsel for the applicant submitted that the Appellate Authority vide annexure - W dated 23.02.2006 disposed of the appeal of the applicant only for the reason that it cannot be

considered as it was submitted after the expiry of the stipulated period. Learned counsel for the respondents submitted that from the impugned order dated 23.02.2006 it reveals that "there was no fresh grounds or fact not already considered". Therefore, it is on merit as well. Learned counsel for the applicant also submitted that he will be satisfied if a direction is given to the Appellate Authority to consider appeal dated 17.11.2005 afresh and dispose of the same notwithstanding the fact that it was filed at a belated date and pass a fresh order. Learned counsel for the respondent submitted that it will suffice ends of justice and she has no objection.

4. Considering the cryptic order of the appellate authority rejecting the appeal on the ground that the appeal filed by the applicant was time barred, I am of the view that fresh opportunity is to be given to the applicant. Therefore, I direct the Appellate Authority to consider the appeal of the applicant afresh notwithstanding the fact that it has been filed after the expiry of the limitation period and consider the same with due application of mind and pass a speaking order and communicate the same to the applicant within a time frame of three months from the date of receipt of this order.

The O.A. is disposed of at the admission stage itself. No order as to costs.



(K. V. SACHIDANANDAN)
VICE-CHAIRMAN

/mb/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, 12 JUN 2006
 GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 142 OF 2006.

Shri Tapan Sutradhar

...Applicant

- Versus -

The Union of India & Others

...Respondents

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12 JUN 2006

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Date: 9.6.2006.

Filed By:

Smita Bhattacharya
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

केन्द्रीय अधिकारिय अधिकारण
Central Administrative Tribunal

12 JUN 2006

गुवाहाटी न्यायालय

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

ORIGINAL APPLICATION NO. 142 OF 2006.

Shri Tapan Sutradhar

...Applicant

- Versus -

The Union of India & Others

...Respondents

LIST OF DATES / SYNOPSIS

24.10.1994 Applicant joined in Subsidiary Information Bureau (SIB) posted at Guwahati.

17.11.1994 Applicant was posted at Silchar, SIB unit.

21.10.1994 Applicant was transferred from Silchar, SIB to Guwahati, SIB.

March 2000 Applicant was transferred from Guwahati, SIB to Itanagar, SIB.

03.03.2004 Article of charge was brought against the Applicant under Rule 16 of CCS (CCA) Rules 1965.

08.03.2004 Applicant submitted a formal complaint before the Respondent No.4 against the Shri Viplav, SO/I.

17.03.2004 Applicant filed reply against the Memo dated 03.03.2004.

25.03.2004 Respondent No.4 initiated a regular inquiry against the applicant by appointing Inquiry Authority under Rule 16 of CCS (CCA) Rule 1965.

01.04.2004 Applicant was asked to appear in person for hearing on 12.04.2004.

13.09.2004 Inquiry Officer requested Shri Viplav, SO/I (Complainant) and applicant to attend hearing on 16.09.2004.

22.09.2004 Inquiry Officer informed Shri Viplav, SO/I and applicant that he could not present to attend the hearing on 16.09.2004 due to his physical indisposition and again he requested both of them to attend hearing 22.09.2004.

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17.12.2004 Respondent No.4 appointed Sri Rajkamal Sitaram, SO/G, SIB, Itanagar as new Inquiry Authority in place of Sri D.C.Mandal, SO/A who has been transferred to Kolkata.

24.12.2004 Applicant was transferred from Itanagar, SIB to Guwahati, SIB.

10.02.2005 Applicant was informed of the preliminary hearing of the departmental inquiry under Rule 16 (1) (b) of the CCS (CCA) Rules 1965 against him shall hold on 25.02.2004 at 11:45 A.M. at 'G' branch, SIB, Itanagar, Gohpur Tinali.

25.02.2005 Preliminary hearing was held and the applicant was asked some questions by the Inquiry Officer in presence of the Inquiry Officer and presence of the Inquiry Authority and Presenting Officer.

31.05.2005 Inquiry Officer Sri Rajkamal Sitaram, SO/G, SIB, Itanagar submitted the report and the applicant was asked if he wished to make any representation or submission against the inquiry report, he may do so in writing before the Disciplinary Authority within 15 days from the receipt of the said memo.

15.06.2005 Applicant had filed representation against the Inquiry Report before the Respondent No.4 through proper channel.

22.06.2005 Respondent No.4 i.e. the Disciplinary Authority stated that the Charged Officer had not been given any opportunity to cross examine the witness, therefore, the inquiry report remitted for further inquiry and report.

24.06.2005 Inquiry Authority directed the applicant to appear for hearing on 01.07.2005 at 11 AM. at 'G' Branch, SIB Itanagar, Gohpur Tinali.

01.07.2005 Departmental hearing against the applicant was held.

28.07.2005 Submitted written brief Presenting Officer to the applicant and he was asked to submit his written brief within 10 days before the Inquiry Authority.

08.08.2005 Applicant submitted representation against the written brief submitted by the Presenting Officer.

24.08.2005 Respondent No.4 submitted report of further inquiry to the applicant and also stated that he may take any representation or submission in writing before the Disciplinary Authority within 15 days from the date of receipt of the Memo.

08.09.2005 Applicant re-submitted representation before the Inquiry Officer.

14.09.2005 The Disciplinary Authority by the impugned order imposed penalty to the applicant under Clause (III) of Rule 11 of CCS (CCA) Rules 1965.

20.09.2005 Applicant submitted representation before the Respondent No.4 i.e. the Disciplinary Authority requesting him to re-examine the imposition of penalty.

17.11.2005 Applicant submitted another representation /appeal before the Appellate Authority for re-examination of the case as he had inadvertently filed an appeal earlier before the Disciplinary Authority.

23.02.2006 The Appellate Authority rejected the appeal for re-consideration of penalty to the applicant.

Hence this Original Application filed by the applicant before this Hon'ble Tribunal for seeking justice in this matter.

1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

FILED BY

Sri Tapan Sutradhar
... Applicant

Through: Smrta Bhattacharjee
(Advocate)

(An Application Under Section 19 Of The Administrative Tribunals Act 1985)

ORIGINAL APPLICATION NO. 142 OF 2006.

BETWEEN

Shri Tapan Sutradhar
Lower Division Clerk
Subsidiary Intelligence Bureau (SIB)
Ministry of Home Affairs
Government of India
Beltola, Guwahati - 22.

... Applicant

- AND -

1. The Secretary to Government of India, Ministry of Home Affairs, North Block, New Delhi 110 001.
2. The Director, Intelligence Bureau, Ministry of Home Affairs, 35 SP Marg, New Delhi.
3. The Joint Director, Subsidiary Intelligence Bureau, Ministry of Home Affairs Government of India, Itanagar, Arunachal Pradesh.
4. The Assistant Director (E) Subsidiary Intelligence Bureau Ministry of Home Affairs Government of India Itanagar, Arunachal Pradesh.

... Respondents.

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This application is directed against impugned Order No. 33/E/2004(2)-6269 dated 14.09.2005 and also against the Appellate Office Memorandum No. 33/E/2004(2)-974 dated 23.02.2006 issued by the Respondent No. 3.



2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION:

The Applicant further declares that the subject matter of the instant application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act 1985.

4. FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1 That your humble Applicant is a citizen of India and as such he is entitled to all rights and privileges guaranteed under the Constitution of India. He belongs to very poor economically backward Schedule Caste Community.

4.2 That your Applicant begs to state that he was selected and appointed as Lower Division Clerk through Staff Selection Commission (NER). He was posted as Lower Division Clerk in Intelligence Bureau (IB) at Itanagar, Arunachal Pradesh. He joined in Subsidiary Intelligence Bureau (SIB) on 24.10.1994 and posted at Guwahati. Thereafter, he was immediately posted at Silchar Unit, SIB on 17.11.1994, which is under administrative control of SIB Guwahati. He was transferred to Guwahati from Silchar on 21.10.1996. Again he was transferred to Itanagar in March 2000. Lastly he was transferred to SIB Guwahati from Itanagar vide Reference No. IB Order No. 4/TP/CV/2005(9)-18478-555 dated 24.12.2004, but he was released from SIB Itanagar on 15.02.2006 vide Office Order No. 92/2006. Now, he is working as LDC at SIB Guwahati.

4.3 That your applicant begs to state that a vague, fabricated, incorrect and misconceived Article of charges were framed against him by the Respondent No. 4 vide his Office Memorandum No.



33/E/2004(2)-1631 dated 03.03.2004. The action against him was under Rule 16 of CCS (CCA) Rules 1965. The Article of charges as framed against him as under: -

“Article I:

That the said Shri T. Sutradhar, LDC on 27.02.2004 i.e. on the day of disbursement of salary, at around 1 p.m. was found sitting unauthorisedly in cash branch of the SIB, Itanagar. As it was causing interruption in the smooth distribution of cash, he was asked by Sri Viplav, SO/A to leave the branch. He refused to obey the lawful direction of the SO/A and challenged his authority. The Respondents stated that the applicant threatened the SO/A of physical assault and dire consequences. However, with the intervention of other officials he was taken away from the spot.

Shri Sutrdhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the competent authority and misbehaved with the official superior. This is unbecoming of a government servant and is violative of Rule-3 of the CCS (Conduct) Rules, 1964”.

A copy of the Memorandum dated 03.03.2004 is annexed herewith and marked as
ANNEXURE - A.

4.4 It is to be stated that your applicant submitted a formal complaint before the Respondent No. 4 against one Sri Viplav, SO/I on 08.03.2004. In the said complaint it was stated that when the applicant came to the Accounts Branch, Itanagar to make an inquiry regarding his TA bill, one Sri Viplav, SO/I has insulted him and on 27.02.2004 at lunch time when the applicant was sitting inside the cash Branch, then again Sri Viplav, SO/I charged him and misbehaved him with offensive language. As such, he



informed the Respondent No. 4 about the incidents and to take necessary action in the matter.

A copy of the complaint dated 08.03.2004 is annexed herewith and marked as **ANNEXURE - B.**

4.5 That your applicant begs to state that on 17.03.2004, the applicant filed a reply against Memo No. 33/E/2004(2) – 1631 dated 03.03.2004. In his reply, he denied all the charges framed on him by the Respondents and he also prayed that if any mistake has been done may be excused.

A copy of the reply dated 17.03.2004 filed by the applicant is annexed herewith and marked as **ANNEXURE - C.**

4.6 That your applicant begs to state that the Respondent No.4 initiated a regular inquiry against him by appointing Inquiring Authority vide his Order No.33/E/2004(2)-256-2159 dated 25.03.2004 under Rule-16 of the Central Civil Services (Classification, Control and Appeal) Rules 1965 and also by exercising of the power conferred by the Sub-Rule-1(B) of Rule-16 of CCS (CCA) Rules 1965 appointed one Sri D. C. Mandal, SO, SIB, Itanagar as Enquiry Authority to enquire in to the charge framed against the applicant.

A copy of the Order No.33/E/2004(2)-256-2159 dated 25.03.2004 issued by the Respondent No.4 is annexed herewith and marked as **ANNEXURE - D.**

4.7 That your applicant begs to state that the Inquiry Officer Sri D. C. Mandal vide his Memorandum No. I/SO (A)2004-05 (1)-2363 dated 1st April 2004 informed the applicant that he has to appear in person for hearing on 12.04.2004 at 11:00 hours and also to submit in his defence on the charge brought.



A copy of the Memorandum No.I/SO (A)2004-05 (1)-2363 dated 1st April 2004 is annexed herewith and marked as **ANNEXURE - E.**

4.8 That your applicant begs to state that vide Office Memorandum No. I/SO(A)/2004-05(1)-6633 dated 13.09.2004 the Inquiry Officer requested the Sri Viplav, SO and Sri T. Sutradhar, LDC to attend for hearing on 16.09.2004 at 1100 hours and to submit documentary proof and written witness in support of official allegation brought.

A copy of the Memorandum dated 13.09.2004 is annexed herewith and marked as **ANNEXURE - F.**

4.9 That your applicant begs to state that vide Office Memorandum No. I/SO(A)/2004-05(1)-6899 dated 22.09.2004 informed Sri Viplav, SO and the applicant that the Inquiry Officer could not present to attend for hearing on 16.09.2004 due to his physical indisposition and again he requested Sri Viplav, SO and the applicant to attend for hearing on 24.09.2004.

A copy of the Memorandum dated 22.09.2004 is annexed herewith as **ANNEXURE - G.**

4.10 That your applicant begs to state that the Respondent No.4 vide his Order No. 33/E/2004(2) – 8823 dated 17.12.2004 under Ref. No. 33/E/2004(20-256 – 2159 dated 25.03.2004 appointed Sri Rajkamal Sitaram, SO/G, SIB, Itanagar as Inquiring Authority to enquire into the charges framed against the applicant since earlier Inquiring Authority Sri D.C. Mandal, SO/A has been released on transfer to SIB, Kolkata.

A copy of the order dated 17.12.2004 is annexed herewith and marked as **ANNEXURE - H.**



4.11 That your applicant begs to state that the new Inquiry Authority vide letter No. I/SO(G)-INQUIRY/2004-143-1370-120 dated 10.02.2005 informed the applicant that the preliminary hearing of the departmental inquiry under Rule 16(1)(b) of the CCS(CC&A) Rules 1965 against the applicant shall hold on 25.02.2005 at 11.45 a.m. at 'G' Branch, SIB, Itanagar, Gohpur Tinali. The applicant was requested to attend the hearing either alone or with his defence assistant. The applicant was also directed to submit list of additional documents/witnesses as required for his defence during the preliminary hearing. Further, it was mentioned in the said letter that if the applicant fail to appear in the preliminary hearing on the date, time and venue the hearing shall be held ex parte.

A copy of the letter dated 10.02.2005 is annexed herewith and marked as ANNEXURE - T.

4.12 That your applicant begs to state that in pursuance of the letter dated 10.02.2005 the preliminary hearing was held on 25.02.2005 and the applicant was asked some questions by the Inquiry Officer in presence of the Inquiry Authority and Presenting Officer. The applicant in his reply stated he obeyed the instruction of Sri Viplav, SO/A and he never threatened him with physical assault or dire consequences. Further, it was also admitted by the applicant that he had come to collect his pay, but he was not called officially.

A copy of the preliminary hearing dated 25.02.2005 is annexed herewith and marked as ANNEXURE - U.

4.13 That your applicant begs to state that the Respondent No. 4 vide his Memorandum No. 33/E/2004(2)-3871 dated 31.05.2005 enclosed the inquiry report dated 12.05.2005 which was submitted by the Inquiry Officer Sri Rajkamal Sitaram, SO/G, SIB Itanagar and the applicant was also asked if he wished to make any representation or submission against the inquiry report,



he may do so in writing before the Disciplinary Authority within 15 days from the date of receipt of the said memo.

A copy of the said memorandum dated 31.05.2005 alongwith inquiry report dated 12.05.2005 is annexed herewith and marked as **ANNEXURE - K.**

4.14 That your applicant begs to state that the finding of Inquiry Officer is reproduced below for kind perusal of this Hon'ble Tribunal.

FINDINGS

As per the charges framed against Sh. Tapan Sutradhar, LDC, two main points had to be proved/disproved –

1. Whether the C.O. had disobeyed the lawful order of his official superior.

2. Whether the C.O. had been disrespectful towards his official superior.

1. Thought the C.O. has denied disobeying his official superior in the preliminary hearing however it has been proved beyond doubt that the C.O. had done so, as per the statement given by the witnesses i.e. Sri Ramakanta Bhattacharjee, LDC/Cashier and Shri C. Chetry, JIO-I/G.

2. The C.O. has also denied being disrespectful towards his official superior but the statement of the witnesses proves otherwise. However, the witnesses couldn't remember (being more than one year ago) whether the C.O. had actually threatened SO/A of physical assault and of fire consequences.

Therefore, the charges that the C.O. had disobeyed the lawful order and had been disrespectful towards his official superior, stand proved against Shri Tapan Sutradhar, LDC".

It is stated that a careful reading of the reasoning advanced by the Inquiry Officer for arriving at such a conclusion is incorrect, misconceived, vexatious and a product of concoction of



material facts and evidence. The vagueness / material irregularities and illegalities, contradictions and inconsistencies in the report is crystal clear on the face of the record in as much as in paragraph 2 against Article I he has pointed out that the witness could not remember (being more than one year ago) whether CO has actually threatened SO /A of physical assault and of dire consequences.

Such pragmatic observation is, therefore, obviously vague, incorrect, capricious, misleading, unfounded, made surreptitiously with a malafide intention and had a motive not based on any Materials, documents or witness whatsoever, but merely based on mere surmise and conjecture not sustainable in law under the facts and circumstances of the case.

Under such circumstances, when the admitted position is that being the matter was more than one year ago the witnesses could not remember the incident, there is no logical ground to frame the charge against Sri Tapan Sutradhar, LDC. From these factual positions, it is proved beyond all reasonable doubt that your applicant did not commit any misconduct. The principle of law and rules of natural justice cast upon the disciplinary authority a responsibility to give him reasoning for arriving at a decision, discussing quite elaborately, exhaustively. Hence, the Inquiry Report is apparently incorrect, misconceived, ambiguous, fabricated and a product of concoction of materials facts in view of the position that the charge frame was is a total violation of Rules of the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

4.15 That your applicant begs to state that he filed representation against the inquiry report before the Respondent No. 4 through proper channel on 15.06.2005. In the said representation, he refuted all the allegations made in the inquiry report submitted by the Inquiry Officer.

A copy of the representation dated 15.06.2005 is annexed herewith and marked as ANNEXURE - L.



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4.16 That your applicant begs to state that the Respondent No. 4, i.e. the Disciplinary Authority vide Memorandum No. 33/E/2004(2)-519-4343 dated 22.06.2005 stated that since the Charged Officer had not been given any opportunity to cross examine the witnesses, therefore, the inquiry report remitted for further inquiry and report.

A copy of the Memorandum dated 22.06.2005 is annexed herewith and marked as ANNEXURE - M.

4.17 That your applicant begs to state that vide letter dated 24.06.2005, the Inquiring Authority directed the applicant to appear for hearing on 01.07.2005 at 11 a.m. at 'G' Branch, SIB Itanagar, Gohpur Tiniali.

A copy of the letter dated 24.06.2005 is annexed herewith and marked as ANNEXURE - N.

4.18 That your applicant begs to state that in pursuance of the letter dated 24.06.2005, the hearing of Departmental Enquiry against him was held on 01.07.05. In the hearing, Inquiry Officer, Presenting Officer, Charged Officer, Complainant and witnesses were present. When the Charged Officer asked the complaint that whether the permission is required to enter into the Accounts Branch, the Complainant Viplav cited the IB Security Manual, 2000 (Ps. 6/7) in that regard. The complainant has also stated that on 27.02.2004 he was informed that there was some trouble in the cash branch, he immediately rushed to the Cash Branch and he informed the representative of F.U. Nlg. was not satisfied with the system of disbursement of salary to the representatives of F.U.s and had entered an argument with Cashier. However, the Cashier tactfully shorted out the problem. Further he stated that he found several employees were sitting/standing in the cash branch without being called (here it may be clarified that the Cashier call members of staff of each branch separately so that over crowding could be



avoided). Obviously that was undesirable. Therefore, he asked everybody including Sri Sutradhar to leave the Branch. When the Charged Officer asked the Complainant whether the DDO has full power to manage the affairs of cash, then the Complainant said that it is the fundamental duty of the Cashier and the DDO to ensure that the Government money is protected and the cash is to be disbursed in a trouble free manner. When the Charged Officer asked the Complainant that cordial relation should exist among the Government servants and he has been falsely implicated and deliberately the complainant has also insulted by saying "Get Out", then the Complainant replied that he said "pleased leave the room"

The statements of two witnesses were also recorded by the Inquiry Officer. The Cashier R. Bhattacharjee, the witness No. 1 has stated that on 27.02.2004 at around 2.30 P.M. when he was distributing pay to the staff, being pay day there was a lot of crowd in the cash branch and among them 2/3 of the staff were making a lot of noise which was quite disturbing. Hearing this SO/A Sri Viplav came to the Branch and inquired whether all the people present in the Branch have been officially call for not and SO/A asked all those who were not officially called to leave the room. But Sri Sutradhar did not leave and Sri Viplav again asked him to leave. In the meantime, this attitude annoyed Sri Viplav, SO/A and told Sri Sutradhar "get out". The Witness No. 2 Sri C. Chhetri, JIO-I/G has also agreed completely with the statement made by the Witness No. 1 and he did not add anything more. Sri R. Bhattacharjee, the Witness No. 1 stated further that on that day i.e. 27.02.2004 later on Sri Sutradhar (Charged Officer) collected his pay alongwith others members of the 'Estt.' Branch, who were called officially.

A copy of the departmental hearing dated 01.07.2005 against Sri Tapan Sutradhar, LDC is annexed herewith and marked as ANNEXURE - O.



4.19 That your applicant begs to state that the Inquiry Authority vide his letter No. 1/SO(G)-Inquiry/2004-5285 dated 28.07.2005 submitted written brief of Presenting Officer to the applicant and he was asked to submit his written brief within 10 days before the Inquiry Authority.

A copy of the written brief dated 28.07.2005 is annexed herewith and marked as ANNEXURE - P.

4.20 That your applicant begs to state that he has submitted his representation on 08.08.2005 against the written brief submitted by the Presenting Officer. The applicant denied the all charges imputed against him.

A copy of the representation-dated 08.08.2005 is annexed herewith and marked as ANNEXURE - Q.

4.21 That your applicant begs to state that the Respondent No. 4 vide his Memorandum No. 33/E/2004(2)-5742 dated 24.08.2005 submitted report of further inquiry to the applicant and also stated that he may make any representation or submission in writing before the Disciplinary Authority within 15 days from the date of receipt of the Memo.

A copy of the Inquiry Report dated 24.08.2005 is annexed herewith and marked as ANNEXURE - R.

4.22 That your applicant begs to state that he has submitted representation on 08.09.2005 against the Inquiry Report re-submitted by the Inquiry Officer on 09.08.2005.

A copy of the representation dated 08.09.2005 is annexed herewith and marked as ANNEXURE - S.

4.23 That your applicant begs to state that the Disciplinary Authority vide order No. 33/E/2004(2)-6269 dated 14.09.2005



imposed penalty to the applicant under Clause (III) of Rule 11 of CCS (CCA) Rules 1965 and ordered that pay of the applicant will be reduced by two stage from Rs. 3800/- to Rs. 3650/- in the scale of pay Rs. 3050-75-3950-80-4590/- for a period of two years with effect from the date of issue of the order. It is also further directed that the applicant will earn increment of pay during the period of reduction and on expiry of the period, the reduction will not have the effect of postponing his future increment of pay.

A copy of the impugned order dated 14.09.2005 is annexed herewith and marked as **ANNEXURE - T**

4.24 That your applicant begs to state that he submitted representation before the Respondent No. 4, the Disciplinary Authority on 20.09.2005 requesting him to re-examine imposition of penalty. It is worth to mention here that due to inadvertent he has wrongly submitted appeal/representation before the Disciplinary Authority for re-consideration of his penalty. As such, on 17.11.2005, he filed another representation/appeal before the Appellate Authority for re-examination of the case.

Copies of the representations dated 20.09.2005 and 17.11.2005 submitted by the applicant are annexed herewith and marked as **ANNEXURES - U & V** respectively.

4.25 That your applicant begs to state that the Appellate Authority vide their Memorandum No. 33/E/2004(2)-974 dated 23.02.2006 rejected his appeal for re-consideration of his penalty. The said Memorandum was issued in a very cryptic manner. No ground has been stated by the Appellate Authority for rejection of the appeal of the applicant. The Appellate Authority has only stated that the appeal of the applicant could not be considered as it was submitted after the expiry of stipulated period and there were no fresh grounds of facts not already considered.



A copy of the Memorandum dated 23.02.2006
is annexed herewith and marked as
ANNEXURE - W.

4.26 That your applicant begs to state and submit that the Appellate Authority rejected his appeal in a very cryptic and in a mechanical manner. Without giving any cause or causes the Appellate Authority has rejected the appeal of the applicant in a most arbitrary and whimsical manner after three months. However, after three months the appellate authority rejected the appeal on a technical ground that it was submitted after expiry of stipulated periods. It is admitted position due to inadvertent the applicant earlier filed the appeal in a wrong forum. Being a model employer the appellate authority empowered with the rule to condone the delay. Rule 25 of the Central Civil Services (Class, Control and Appeal) Rules, 1965 provides that the appellate authority may entertain the appeal after the expiry of stipulated period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time. In the instant case, there was no negligence on the part of the appellant as he has earlier filed appeal before the Respondent No. 4 on 20.09.2005 inadvertently. Later on it was rectified by the applicant, when it came to his knowledge.

4.27 That your applicant begs to state and submit that two inquiry proceedings were conducted against the applicant for the same charge. Moreover, during pendency of the inquiry one hearing was to be held on 16.09.2004, but it was adjourned by the Inquiry Officer to 24.09.2004, but the same was informed to the applicant only on 22.09.2004. From this, it appears that the Disciplinary Authority was so irresponsible and negligence in conducting the said enquiry.

4.28 That your applicant begs to state and submit that there is no hard and fast rule to call each and every employee officially by the Accounts Section to collect the salary. Apart from the applicant also, there were other persons from other section were



present at the Cash Branch. Hence, IB Security Manual 2000, did not apply in this case as stated by the Complainant in the cross-examination.

4.29 That your applicant begs to state and submit that there were no independent witnesses' statement recorded in the cross-examination. The witnesses' statement which was recorded by the Inquiry Authority were directly subordinate to the complainant. The Inquiry Authority did not apply their mind while recording the statement of those witnesses. The Inquiry Authority should insist recording of other independent witnesses, who were present at that time. From the statements of the above two witnesses it is crystal clear that there are many persons from SIB office and Field Unit of Naharlung. However, the Inquiry Authority did not consider to take any statements from other persons who were also present at the time of so call incident except those two witnesses, who are directly subordinate to the complainant. These two witnesses may be termed as interested witnesses. The complainant in his cross examination on 01.07.2005 has stated before the Inquiry Authority that he was informed, there was some trouble in cash branch, he immediately rushed to the cash branch and found that F. U. of Nlg. was not satisfied with the system of disbursement of salary to their representatives and entered argument with cashier. The complainant was also found several employee of SIB Itanagar were standing/sitting in cash branch without being called. The complainant has also asked everybody to leave the room, but as per statement recorded one of the witnesses R. Bhattachrjee, Cashier has stated in his statement that complainant told Sri Sutradhar to 'get out'. Moreover, the Cashier, the witness No. 1 was not sure at what time the incident took place. He made a contradictory statement that on 27.02.2004 at around 2.30 P.M. when he was disbursing pay to the staff, the incident took place. But when he was cross-examined, he has stated it may be 1 P.M. to 1.15 P.M or it may be around the lunch time. The Inquiry Authority intentionally did not record other independent witnesses, i.e. Field Unit of Naharlung or other staff members



who were present in the incident. The witnesses who were examined by the Inquiry Authority are directly under the complainant. As such, credibility of the witnesses is doubtful. The statement of witness No. 2 Sri C. Chhetry, JIO-1/G is also not specific to the allegations brought against the applicant. The witness No. 2 has simply stated that he agreed completely with the statements made by Sri R. Bhattacharjee, LDC/Cashier and he has nothing more to add. From this it appears that there was a conspiracy on the part of Accounts Section to malign the image of the applicant and also to harass him. The Inquiry Authority did not conduct the inquiry in a impartial manner, they did not care to call other witnesses apart from Accounts Section (as there are so many staff from other sections and field unit workers from Naharlung) at the time of the incident. From the evidence on record, there was disturbance in the Cash Branch created by some other staffs and field unit of Naharlung, but those staffs were spared in the inquiry proceedings or no charges were framed against them. The witnesses, who were deposed before the Inquiry Authority may be termed as interested witnesses as they are directly under the control of complainant who was Section Officer of the Accounts Branch.

4.30 That your applicant begs to state and submit that the impugned order passed by the Disciplinary Authority is much cryptic and does not disclose his mind how and on consideration of what materials and evidence on record he could arrived erroneous conclusion. The impugned order, therefore, exposed his negligence on a staggering scale inasmuch as for non application of mind, but to the contrary, consideration of some extraneous grounds not based on proper appreciation of evidence and materials on record and hence, caused a miscarriage of justice. It is abundantly clear that the Disciplinary Authority passed the impugned order in colourable exercise of powers and without proper application of mind. The order so passed gives a definite indication that it is a product of his biased attitude not sustainable in law. As such, violative of the principle of natural justice and



administrative fair play. The service rules and jurisprudence cast upon the Disciplinary Authority a responsibility to discuss categorically and exhaustively the materials and documents relied upon to arrive at a definite conclusion.

4.31 That your applicant begs to state and submit that whatever evidence is produced in the inquiry proceeding did not establish charge level against the applicant and Inquiry Authority as well as Disciplinary Authority and Appellate Authority come to the conclusion mechanically against the charge brought against the applicant.

4.32 That applicant begs to state that submit that from the facts and circumstances stated above it is amply evident that he has been made scapegoat of the circumstances. The Disciplinary Authority and Appellate Authority avoided most of the grounds of infirmities in the proceedings raised by the applicant only view of intention to established the charge without appreciating the evidence on record and also without further discussing the evidence on record.

4.33 That your applicant begs to state and submit that the Disciplinary Authority and Appellate Authority has no cogent reasons or grounds to say anything in support of the charge brought against the applicant.

4.34 That your applicant begs to state and submit that the entire disciplinary proceeding and penalty of reduction of pay by two stages from Rs. 3800/- to Rs. 3650/- in time scale of pay of Rs. 3050-75-3950-80-4590/- for a period of two years with effect from the date of issue of the impugned order is devoid of any merits. Further, it is also submitted that the applicant will suffer irreparable loss and inquiry if this Hon'ble Tribunal does not interfere with the matter. The balance of convenience is strongly in favour of the applicant. It is, therefore, pre-eminently a fit case to interfere with the matter.



4.35 That your Applicant submits that he has got reason to believe that the Respondents are resorting the colorable exercise of power.

4.36 That your Applicant submits that the action of the Respondents is in violation of the fundamental rights guaranteed under the constitution of India and also in violation of principles of natural justice.

4.37 That your Applicant submits that the action of the Respondents by which the Applicant has been deprived of his legitimate Rights, is arbitrary. It is further stated that the Respondents have acted with a malafide intention only to deprive the Applicant from his legitimate right.

4.38 That your Applicant submit that the Respondents have deliberately done serious injustice and put him into great mental trouble and financial hardship to him and as such the impugned orders are liable to be set aside and quashed.

4.39 That in the facts and circumstances stated above, it is fit Case for the Hon'ble Tribunal to interfere with to protect the rights and interests of the Applicant by passing an Appropriate Interim Order staying the operation of the impugned orders 14.09.2005 and 23.02.2006.

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

5) GROUND FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that, due to the above reasons narrated in detail the action of the Respondents is in *prima facie* illegal, malafide, arbitrary and without jurisdiction. Hence, the impugned orders



dated 14.09.2005 and 23.02.2006 are liable to be set aside and quashed.

5.2 For that, the Respondents have not able to prove the so-called allegations leveled against the applicant. Hence, the impugned orders dated 14.09.2005 and 23.02.2006 are liable to be set aside and quashed.

5.3 For that the only two sole witnesses, who were also interested witnesses, have also stated that as the incident is more than one year, they are unable to remember the actual facts of the incident. Therefore, the allegation is totally false and concocted. Hence, the impugned orders dated 14.09.2005 and 23.02.2006 are liable to be set aside and quashed.

5.4 For that, the Disciplinary Authority has not conducted in the proper way and manner. They conducted two inquiries against the applicant for same charges. The respondent No. 4 in his memorandum dated 22.06.2005 has admitted that the Charged Officer has not been given any opportunity to cross examine the witnesses. Accordingly, the inquiry report was remitted for further inquiry and report. Hence, the whole inquiry conducted by the Disciplinary Authority is not in proper form, casual, malafide, whimsical and colourable exercise of power by the Disciplinary Authority. Hence, the impugned orders dated 14.09.2005 and 23.02.2006 are liable to be set aside and quashed.

5.5 For that it is admitted fact that apart from the applicant other persons of the staff were also present in the incident and they were also making disturbance and noise in the cash branch, but they were spared by the respondents the reasons best know to them. Hence, the impugned orders dated 14.09.2005 and 23.02.2006 are liable to be set aside and quashed.

5.6 For that it is not mandatory to call each and every employee of the department to collect their salary from cash



branch. The IB Security Manual 2000 does not apply in this case. Hence, the impugned orders dated 14.09.2005 and 23.02.2006 are liable to be set aside and quashed.

5.7 For that, the Disciplinary Authority intentionally did not take the evidence or statement from other persons, who were present in the incident. However, the Disciplinary Authority interested to take evidence from the two witnesses, who were directly subordinate to the complainant. Hence, the impugned orders dated 14.09.2005 and 23.02.2006 are liable to be set aside and quashed.

5.8 For that the two witnesses are also unable to recall the physical assault to the complainant by the applicant, which is evident from their statement in the cross-examination. However, the witnesses has also stated that the complainant used the word 'get out' to the applicant, which is not accepted from a responsible government officer. Hence, the impugned orders dated 14.09.2005 and 23.02.2006 are liable to be set aside and quashed.

5.9 For that the whole incident is fabricated by some interest and vested circle only to cast malign to the applicant in his service carrier. Hence, the impugned orders dated 14.09.2005 and 23.02.2006 are liable to be set aside and quashed.

5.10 For that the observation made by the Inquiry Officer in the report is not based on evidence and record but on conjecture and surmise which is not permitted in law. Hence, the impugned orders dated 14.09.2005 and 23.02.2006 are liable to be set aside and quashed.

5.11 For that the impugned orders of penalty suffer from virus of non application of mind and consideration of extraneous grounds not based on materials and evidence and as such not



sustainable in law. Hence, the impugned orders dated 14.09.2005 and 23.02.2006 are liable to be set aside and quashed.

5.12 For that the impugned orders of penalty as imposed not being according to the prescribed norms and procedure is not sustainable in law and the rule framed thereunder. Hence, the impugned orders dated 14.09.2005 and 23.02.2006 are liable to be set aside and quashed.

5.13 For that mere perusal of the appellate order it is clear that the findings recorded therein are totally perversed and not sustainable in law.

5.14 For that the Appellate Authority have tactfully avoided the grounds raised by the applicant, therefore, the appellate order is non speaking, mechanical and on that score alone the same is liable to be set aside and quashed.

5.15 For that in view of the matter the impugned order of penalty as well as the appellate order confirming the same are not sustainable and the same are liable to be set aside and quashed.

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

6. DETAILS OF REMEDIES EXHAUSTED:

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

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



That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

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

8.1 That the Hon'ble Tribunal may be pleased to direct the Respondents to set aside and quash the impugned Order No. 33/E/2004(2)-6269 dated 14.09.2005 and also the Appellate Office Memorandum No. 33/E/2004(2)-974 dated 23.02.2006 issued by the Respondent No. 3.

8.2 To pass any other appropriate order or orders to which the applicant may be entitled and as may be deem fit and proper in the facts and circumstances of the case.

8.3 To pay the cost of the application.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application, the applicant prays before this Hon'ble Tribunal for an interim order directing the respondents to stay the operation of the impugned order No. 33/E/2004(2)-6269 dated 14.09.2005.



10. Application is filed through Advocate.

11. Particulars of I.P.O.:

I.P.O. No. : 26 Gu 324504

Date of Issue : 12 - 6 - 2006

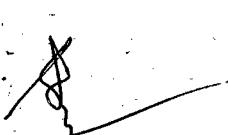
Issued from : Guwahati G.P.O.

Payable at : Guwahati

12. LIST OF ENCLOSURES:

As stated in the index.

Verification



VERIFICATION

I, Shri Tapan Sutradhar, Son of Shri Bhanu Kumar Sutrdhar, aged about 39 years, working as Lower Division Clerk in the Office of the Joint Director, Subsidiary Intelligence Bureau (SIB), Ministry of Home Affairs, Itanagar, Arunachal Pradesh, do hereby solemnly verify that the statements made in paragraph Nos. 4.1, 4.2 and 4.14 are true to my knowledge, those made in paragraph Nos. 4.3 to 4.13 and 4.15 to 4.25 are being matters of record are true to my information derived therefrom which I believe to be true and those made in paragraph-5-..... Are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 9th day of June, 2006 at Guwahati.

Tapan Sutradhar

No. 33/E/2004(2)-
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Itanagar.

1631 A.
03 MAR 2004

Dated, the -

MEMORANDUM

Shri Tapan Sutradhar, LDC, SIB, Itanagar is hereby informed that it is proposed to take action against him under Rule 16 of CCS (CCA) Rules, 1965. A statement of the imputation of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.

2. Shri Tapan Sutradhar, LDC, SIB, Itanagar is hereby given an opportunity to make such representation as he may wish to make against the proposal.
3. If Shri Tapan Sutradhar, LDC, SIB, Itanagar fails to submit his representation within 10 days of receipt of this memorandum, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri Tapan Sutradhar, LDC ex-parte.
4. The receipt of this memorandum should be acknowledged by Shri Tapan Sutradhar, LDC, SIB, Itanagar.


(J.S.RAWAT)
Assistant Director/E
Disciplinary Authority
SIB, Itanagar.

To

✓ Shri Tapan Sutradhar, LDC
SIB, Itanagar.

ATTESTED

Smita Bhattacharjee
ADVOCATE

ment of imputation of misconduct or misbehaviour in respect of charge framed
against Shri T. Sutradhar, LDC

Article-I

That the said Shri T. Sutradhar, LDC on 27.02.2004 i.e., on the day of disbursement of salary, at around 1 p.m. was found sitting unauthorisedly in the Cash Branch of the SIB, Itanagar. As it was causing interruption in the smooth distribution of cash, he was asked by Shri Viplay, SO/A to leave the branch. He refused to obey the lawful direction of the SO/A and challenged his authority. He threatened SO/A of physical assault and of dire consequences. However with the intervention of other officials, he was taken away from the spot.

Shri Sutradhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the competent authority and misbehaved with his official superior. This is unbecoming of a government servant and is violative of Rule-3 of the CCS(Conduct) Rules, 1964.

ATTESTED

Smita Bhattacharjee

ADVOCATE

32

To,
The Assistant Director/E,
SIB, Itanagar.

Sir,

With due respect I beg to informe you that I was insulted badly twice by Shri Viplob, SO/I at office hours, once at I/Br. some days earlier when I went to know from him about my 8 Tour T.A. claims pending to Accts Br. i.e. to SO/A. On reply he said to me strongly "Get-out", in this way he insulted me and I came-out without any protest. Another incident was occurred on pay day (27.02.04) at lunch time when I was sitting inside the cash Br. and cashier disbursing cash at that time some staff disturbing cashier on knowing this SO/A i.e. Shri Viplob charged me and misbehaved me with same language at when, I was also suffering from mental anguish due to some domestic problem and hence, I could not be silent and protest against those languages.

Whatever may be, I informed to AD/E, SIB, ITA. verbally in this regard on the same day i.e. on 27.02.04, due to short of time and my tension I could not complain on writing against him i.e. Shri Viplob, SO/I.

This is for your information and necessary action as deemed fit please.

Thanking you.

Yours faithfully,


28.2.04
(T. Sutradhar)
LDC, E/Br.
SIB, Itanagar.

ATTESTED

Smita Bhattacharjee
ADVOCATE

The Assistant Director/E
SIB, Itanagar.

(Through Proper Channel)

Sub : Acknowledgement cum prayer for action against false allegation of misconduct/misbehaviour.

Ref.: Your Memo No. 33/E/2004(2) - 1631 dated 03.03.2004.

Sir,

With due respect, I beg to inform you that I have been charged against a false allegation. In this connection, I had already informed you verbally on 27.2.04 and in writing on 8.3.04, copy of which is enclosed.

That Sir, following are the reply with best of my knowledge and belief.

- i. "Unauthorisedly sitting in the Cash Br. of SIB, Itanagar" I. cannot understand the actual meaning of the language, whether any authority is required for sitting inside the Cash Br. at lunch time, if so, who will issue this authority letter/Memo./Certificate, it is not known to me.
- ii. Regarding smooth distribution of cash you may please ask the Cashier about me, whether I would disturbed him or not.
- iii. When asked by Shri Viplav, SO/A to leave the Cash Br. at lunch time, as soon as I left the Br. without any argument.
- iv. Regarding threatened to SO/A of physical assault and of/ dire consequences, it is completely false.

Whatever may be, I pray to you a proper action may please be taken against Shri Viplav, SO/A.

I may please be excused, if any mistake has been done by me.

Thanking you.

Yours faithfully

(TAPAN SUTRADHAR)
LDC, 'E' Br.
SIB, Itanagar.

ATTESTED

Smita Bhattacharya
ADVOCATE

Dated, the - 17/03/04

No. 33/E/2004(2) - 256 - 2159
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Itanagar.

25 MAR 2004

Dated, the -

ORDER

Whereas an Inquiry under Rule-16 of the Central Civil Services (Classification, Control and Appeal) Rules-1965 is being held against Shri Tapan Sutradhar, LDC.

2. And whereas, the undersigned considers that an Inquiring Authority should be appointed to inquire into the charges framed against the said Shri Tapan Sutradhar, LDC.

3. Now, therefore, the undersigned in exercise of the powers conferred by Sub-Rule 1(b) of Rule-16 of the CCS(CCA) Rules-1965 hereby appoints Shri D.C. Mandal, SO, SIB, Itanagar as Inquiring Authority to enquire into the charges framed against the said Shri Tapan Sutradhar, LDC, SIB, Itanagar.

(J.S. RAWAT)
Assistant Director/E
Disciplinary Authority,
SIB, Itanagar.

Copy to:-

1. Shri D.C. Mandal, SO/A, SIB, Itanagar- alongwith a copy of the Charge-sheet.
2. Shri P.K. Dey, UDC, SIB, Itanagar - for information.
3. Shri Tapan Sutradhar, LDC, SIB, Itanagar.
4. The Assistant Director/E, IB Hqrs., New Delhi - for information.

ATTESTED

Smita Bhattacharjee
ADVOCATE

Assistant Director/E
Disciplinary Authority,
SIB, Itanagar.

2363

No. 1/SO(A)/2004-05 (1)-
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,
Itanagar

01 APR 2004

Dated the,

MEMORANDUM

In connection with the charge framed against Shri Tapan Sutradhar, LDC, he is informed to appear before the undersigned in person for hearing on 12/4/2004 at 1100 hrs. and also submitting his defence on the charge brought. In case of failure in appearing for hearing, it will be presumed that there is nothing to defend on his part for the charge.

12/4/2004
1100 hrs.

(D. C. MANDAL, S.O.)
Inquiry Officer

To
Shri Tapan Sutradhar, LDC,
SIB, Itanagar

Copy to : 1. The Assistant Director/E, SIB, Itanagar (for information)
2. The Section Officer/E, SIB, Itanagar (for information)
3. Shri P.K. Dey, UDC, SIB, Itanagar (for necessary action)

(D. C. MANDAL, S.O.)
Inquiry Officer

ATTESTED

Smita Bhattacharyee
ADVOCATE

u1

No.1/SO(A)/2004-05(1)-
 Subsidiary Intelligence Bureau,
 (Ministry of Home Affairs),
 Government of India,
 Itanagar,

Dated: 13 SEP 2004

MEMORANDUM

In connection with the charge framed against Shri Tapan Sutradhar, LDC by Shri Viplav, SO to the extend that he (Sri Sutradhar) refused to obey the lawful direction of SO/A (Viplav) the then Shri Viplav, SO and Shri T. Sutradhar, LDC are requested to attend for hearing on 16/09/2004 at 1100hrs. to the undersigned, the Inquiry Officer and to submit documentary proof or Written witness in support office allegation brought.

Wach 13/9/04
 (D.C. MANDAL)
 SO,
 INQUIRY OFFICER

To

1) Shri Viplav, SO.
 SIB, Itanagar.

✓ 2) Shri Tapan Sutradhar, LDC.
 SIB, Itanagar.

Copy to :

- 1) The A.D, SIB, Itanagar for information please.
- 2) The S.O/E, SIB, Itanagar.
- 3) Shri P.K. Dey, UDC, SIB, Itanagar.

(D.C. MANDAL)
 SO,
 INQUIRY OFFICER.

ATTESTED

Smita Bhattacharjee
 ADVOCATE

No.1/SO(A)/2004-05(1)-
Subsidiary Intelligence Bureau,
(Ministry of Home Affairs),
Government of India,
Itanagar,

6899

Dated: 22 SEP 2004

MEMORANDUM

As I was in physical indisposition I could not be present to attend for hearing on 16/09/2004. Hence Shri Viplav, SO and Shri T. Sutradhar, LDC are requested to attend for hearing on 24/09/2004 at 1200hrs. to the undersigned, the Inquiry Officer and to submit documentary proof or Written witness in support office allegation brought.

13/21/91
(D.C. MANDAL)
SO,
INQUIRY OFFICER

To
1) Shri Viplav, SO.
SIB, Itanagar.

2) Shri Tapan Sutradhar, LDC.
SIB, Itanagar.

Copy to:
1) The A.D, SIB, Itanagar for information please.

(D.C. MANDAL)
SO,
INQUIRY OFFICER.

ATTESTED

Smita Bhattacharjee
ADVOCATE

No. 33/E/2004(2) - 8823
Subsidiary Intelligence Bureau,
(MHA), Government of India,
Itanagar.

Dated, the -

17 DEC 2004

ORDER

Ref.: No. 33/E/2004(2) - 256 - 2159 dated 25.03.2004.

Whereas an Inquiry under Rule-16 of the Central Civil Services (Classification, Control and Appeal) Rules-1965 is being held against Shri Tapan Sutradhar, LDC.

2. And whereas, the undersigned considers that an Inquiring Authority should be appointed to inquire into the charges framed against the said Shri Tapan Sutradhar, LDC.

3. Now, therefore, the undersigned in exercise of the powers conferred by Sub-Rule 1(b) of Rule-16 of the CCS(CCA) Rules-1965 hereby appoints Shri Rajkamal Sitaram, SO/G, SIB, Itanagar as Inquiring Authority to enquire into the charges framed against the said Shri Tapan Sutradhar, LDC, SIB, Itanagar.

(J.S. RAWAT)
Assistant Director/E
Disciplinary Authority,
SIB, Itanagar.

Copy to :-

1. Shri Rajkamal Sitaram, SO/G, SIB, Itanagar- alongwith a copy of the Charge sheet and a defence statement.
2. Shri P.K. Dey, UDC, SIB, Itanagar - for information.
3. Shri D.C. Mandal, SO/A, SIB, Itanagar - for information.
4. Shri Tapan Sutradhar, LDC, SIB, Itanagar.
5. The Assistant Director/E, IB Hqrs., New Delhi - A new Inquiring Authority is required for enquiry of the matter since Shri D.C. Mandal, SO/A has been released on transfer to SIB, Kolkata.


Assistant Director/E
Disciplinary Authority,
SIB, Itanagar.

ATTESTED

Smita Bhattacharjee
ADVOCATE

NO. I/SO(G)-INQUIRY/2004-163-1370-120
SUBSIDIARY INTELLIGENCE BUREAU
MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA
ITANAGAR

DATED - 10.02.05

TO,

SHRI TAPAN SUTRADHAR,
LDC,
SIB, ITANAGAR,
ARUNACHAL PRADESH.

10 FEB 2005

160)(6)

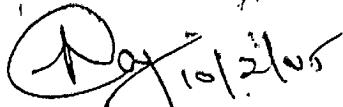
SUBJECT - DEPARTMENTAL ENQUIRY UNDER RULE 14 OF THE CCS (CC&A)
RULES, 1965 AGAINST SHRI TAPAN SUTRADHAR, LDC

SIR,

I have been appointed Inquiring Authority vide Order No. 33/E/2004(2)-8823 dated 17.12.04 to enquire into the charges framed against you vide Memo No. 33/E/2004(2)-1631 dated 03.03.04

1. I shall hold the preliminary hearing in the matter on 25.02.05, 11.45 a.m. at 'G' Branch, SIB Itanagar, Gohpur Tinali. You are requested to attend the hearing either alone or with your defence assistant. Your defence assistant should be a government servant or retired government servant and should not be a legal practitioner. Particulars of the defence assistant may be furnished well in advance so that necessary correspondence from the competent authority of your defence assistant could be made. You can also submit list of additional documents/witnesses required for your defence during the preliminary hearing.
2. If you fail to appear in the preliminary hearing on the aforesaid date, time and venue, the hearing shall be held ex parte.

Yours Sincerely


(RAJKAMAL SITARAM)
SECTION OFFICER/G
AND
INQUIRING AUTHORITY

SLT-S

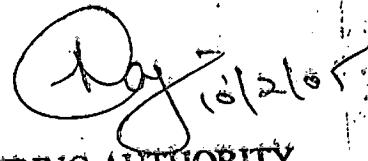
Acctt.

ATTESTED

Smita Bhattacharjee
ADVOCATE

COPY TO :-

1. SO/A, SIB ITANAGAR
2. ASSISTANT DIRECTOR/E, SIB, ITANAGAR - FOR INFORMATION
3. ASSISTANT DIRECTOR/E, IB, HEADQUARTERS, NEW DELHI - FOR INFORMATION.
4. SHRI P.K.DEY, UDC, SIB, ITANAGAR AND THE PRESENTING OFFICER.


16/2/65

INQUIRING AUTHORITY

ATTESTED

Smita Bhattacharjee

ADVOCATE

1. Preliminary hearing in respect of Shri Tapan Sutradhar, LDC on 25.02.2005
1.45 hrs. in the presence of Inquiry Authority and Presenting Officer.

Inquiry Officer - Do you accept or deny the charges levied against you ?

Charged Officer - I accept that I was sitting without permission in the Cash Br. but I deny disobeying the order of Shri Viplav, SO/A challenging his authority and threatening him of dire consequences.

Inquiry Officer - Why were you present there or were you called officially ?

Charged Officer - I had come to collect my pay but I was not called officially.

Inquiry Officer - What had happened prior to the entrance of Shri Viplav, SO/A ?

Charged Officer - The pay was being disbursed by the Cashier when 2/3 local employees of this organisation entered the Cash Br. and started disturbing the Cashier.

Inquiry Officer - Then what happened ?

Charged Officer - At that time Shri Viplav, SO/A entered into the Cash Br. and asked me why I was sitting there and did I take proper permission and told me to get out.

Inquiry Officer - Then what happened ?

Charged Officer - I immediately left the room without saying a word.

Inquiry Officer - But Shri Viplav, SO/A has accused that you did not obey him and threatened him of physical assault and dire consequences. What have you say in this regard ?

Charged Officer - It is all false, I did not say a word and left the room immediately on being told by Shri Viplav, SO/A.

Contd. 2/-

ATTESTED

Smita Bhattacharjee
ADVOCATE

At the time of this incident who all were present in the Cash Br. ?

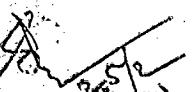
Except S/Shri Ramakanta Bhattacharjee, Cashier and C. Chetry, JIO-I/G, I do not remember anyone else. The three local employees disturbing the Cashier were most probably from the BIPs who had come to collect their pay and were not familiar to me.

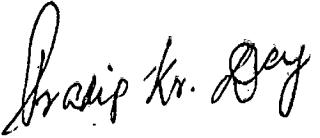
You are once again asked to recall whether you had at all spoken to Shri Viplav, SO/A at that particular time i.e. before leaving the Cash Br. ?

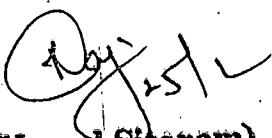
No, I did not say anything to Shri Viplav, SO/A.

Do you have anything else to add to your above given statements ?

No.


(Tapas Sutradhar)
LDC/ Charged Officer


(P.K. Dey)
UDC/ Presenting Officer


(Raj Kamal Sitaram)
Section Officer/G, Inquiry Officer

ATTESTED

Smita Bhattacharjee
ADVOCATE

No. 33/E/2004(2)- 3871
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Itanagar.

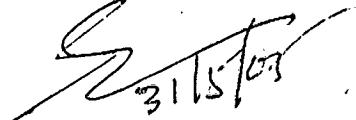
Dated, the -
31 MAY 2005

MEMORANDUM

Please refer to the Disciplinary Authority, SIB, Itanagar O.M. No. 33/E/2004(2)-1631 dated 03.03.2004 and O.M. No. 33/E/2004(2)-8823 dated 17.12.2004 regarding appointment of Shri Rajkamal Sitaram, SO/G, SIB, Itanagar as Inquiry officer to inquire into the charge framed against Shri Tapan Sutradhar, LDC, Charged officer.

2. A copy of the report of the Inquiry officer, Shri Rajkamal Sitaram, SO/G, SIB, Itanagar is enclosed. The Disciplinary Authority will take a suitable decision after considering the report. If Shri Tapan Sutradhar, LDC, Charged officer wishes to make any representation or submission, he may wish to do so, in writing to the Disciplinary Authority within 15 days of receipt of this Memo.

3. The receipt of this Memo may please be acknowledged.


31/5/05
Assistant Director/E

✓ To

Shri Tapan Sutradhar, LDC.
SIB, Itanagar.

Encl : As stated.

ATTESTED

Smita Bhattacharjee
ADVOCATE

SUBJECT: ENQUIRY REPORT IN RESPECT OF CHARGES
FRAMED AGAINST SHRI TAPAN SUTRADHAR, LDC
VIDE MEMO NO. 33/E/2004(2)-1631 DATED 03.03.2004

The undersigned was appointed as the Inquiry Authority, vide order No. 33/E/2004(2)-8823, dated 17.12.04 (but received on 01.02.05) to inquire into the following charges framed against Shri Tapan Sutradhar, LDC.

ARTICLE - I

According to the statement of Shri Viplav, Section Officer/Accounts Branch, on 27.02.04, the day of disbursement of salary for the month of February, 2004 at around 1 pm Shri Tapan Sutradhar, LDC was found sitting unauthorisedly in the Cash Branch. As at was causing interruption in the smooth distribution of Cash, Sri Sutradhar, LDC was asked by Sri Viplav, SO/A to leave the Branch. Sri Sutradhar refused to obey to lawful direction of the SO/A and challenged his authority. He threatened SO/A of physical assault and of dire consequences. However, with the intervention of other officials, Shri Sutradhar was taken away from the sport. Shri Sutradhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the Competent Authority and misbehaved with his official superior. This is unbecoming of a government servant and is violation of Rule - 3 of the CCS (Conduct) Rules, 1964.

FINDINGS

As per the charges framed against Sh. Tapan Sutradhar, LDC, two main points had to be proved/disproved -

1. Whether the C.O. had disobeyed the lawful order of his official superior.
2. Whether the C.O. had been disrespectful towards his official superior.

1. Thought the C.O. has denied disobeying his official superior in the preliminary hearing however it has been proved beyond doubt that the C.O. had done so, as per the statement given by the witnesses i.e. Sri Ramakanta Bhattacharjee, LDC/Cashier and Shri C. Chetry, JIO-I/G.
2. The C.O. has also denied being disrespectful towards his official superior but the statement of the witnesses proves otherwise. However, the witnesses couldn't remember (being more than one year ago) whether the C.O. had actually threatened SO/A of physical assault and of dire consequences.

Therefore, the charges that the C.O. had disobeyed the lawful order and had been disrespectful towards his official superior, stand proved against Shri Tapan Sutradhar, LDC.

Note - The impartiality of the witnesses can be proved by the fact that they were pointed out as witnesses by the C.O. himself and not by SO/A.

Sd/- 24.05.5

ATTESTED

Smita Bhattacharjee
ADVOCATE

(Rajkamal I.S)
Section Officer/G
&
Inquiring Officer

ATTESTED

Smita Bhattacharjee
ADVOCATE

ENQUIRY REPORT IN RESPECT OF CHARGES
FRAMED AGAINST SHRI TAPAN SUTRADHAR,
LDC VIDE MEMO NO. 33/E/2004(2)-1631 DATED
03.03.04

The undersigned was appointed as the Inquiring Authority, vide order no. 33/E/2004(2)-8823, dated 17.12.04 (but received on 01.02.05), to inquire into the following charges framed against Shri Tapan Sutradhar, LDC.

ARTICLE - I

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As per the charges framed against Shri Tapan Sutradhar, LDC, two main points had to be proved/disproved:-

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2. Whether the C.O. had been disrespectful towards his official superior.

1. Though the C.O. has denied disobeying his official superior in the preliminary hearing however it has been proved beyond doubt that the C.O. had done so, as per the statement given by the witnesses i.e. Shri Ramakanta Bhattacharjee, LDC/Assistant, and Shri C. Chetry, JCO-I/G. The C.O. has also denied being disrespectful towards his official superior but the statement of the witnesses proves otherwise. However the witnesses couldn't remember (being more than one year ago) whether the C.O. had actually threatened SO/A of physical assault and of dire consequences.

Therefore the charges that the C.O. had disobeyed the lawful order and had been disrespectful towards his official superior, stand proved against Shri Tapan Sutradhar, LDC.

Note:- The impropriety of the witnesses can be proved by the fact that they were pointed out as witnesses by the C.O. himself and not by SO/A.

(S. Bhattacharjee)

(S. Bhattacharjee)
Section Officer/G
Inquiring Officer

ATTESTED

Smita Bhattacharjee
ADVOCATE

STATEMENTS OF SHRI RAMAKANTA BHATTACHARJEE, LDC/CASHIER (WITNESS 1) SHRI C. CHETRY, JIO (G) (WITNESS 2) OF CASH BRANCH CALLED AS WITNESS ON 12.05.05 IN CONNECTION WITH DEPARTMENTAL ENQUIRIES AGAINST SHRI TAPAN SUTRADHAR, LDC ON THE INCIDENT ON 27.02.04.

INQUIRING OFFICER - Tell us about the incident that occurred in Cash branch on 27.02.04 ?

WITNESS 1 - On 27.02.04 at around 2.30 pm I was distributing pay to the staff. Being payday there was a lot of crowd in the Cash Branch and among them two/three of our local staff were making a lot of noise which was quite disturbing. Hearing the commotion, SO/A, Shri Viplav came into the branch and asked the Cashier whether all the people present in the branch had been officially called or not. When the cashier replied in the negative, SO/A asked all those who had not been called to leave the room till called. Shri Sutradhar, who was also present there and who had not been called officially did not leave. Shri Viplav again asked him to leave but the person did not leave. This attitude annoyed Shri Viplav, SO/A and he told Sh. Sutradhar to get out. At this time Sh. Sutradhar became abusive and used disrespectful language against Sh. Viplav. Sh. Viplav then left the room and went to fetch SO/E, as Sh. Sutradhar was at that time posted in Establishment Branch. Sh. Viplav returned with Sh. Jitendra Singh (SO/E) who tried to reason with Sh. Sutradhar but he did not listen and continued to shout and create a scene just outside the Cash Branch.

INQUIRING OFFICER TO WITNESS 2- Do you agree with what has been stated by Witness 1 or do you have anything to add to it?

WITNESS 2- I agree completely with what has been stated by Sh. Ramakanta Bhattacharyee, LDC/Cashier and have nothing additional to add to it.

INQUIRING OFFICER - So you both agree that Sh. Tapan Sutradhar, LDC disobeyed the orders of Sh. Viplav, SO/A and used abusive and disrespectful language against him.

WITNESS 1 - YES
WITNESS 2 - YES

Sd/- illegible	Sd/- illegible	Sd/- illegible
(Ramakant Bhattacharjee) LDC/Cashier (Witness 1)	(C. Chetry) JIO-I /G (Witness 2)	(P. K. Dey) UDC Presenting Officer

Sd/- illegible
(Rajkamal Sitaram)
Section Officer/G,

Enquiring Authority

ATTESTED

Smita Bhattacharjee
ADVOCATE

STATEMENT OF SHRI RAMAKANTA BHATTACHARJEE,
AC/CASHIER (WITNESS 1) AND SHRI C.CHETRY, JIO-(G)
(WITNESS 2) OF CASH BRANCH CALLED AS WITNESSES ON 12.03.95
IN CONNECTION WITH DEPARTMENTAL ENQUIRIES AGAINST
SHRI TAPAN SUTRADHAR, LDC ON THE INCIDENT OF 27.02.94

INQUIRING OFFICER - Tell us about the incident that occurred in Cash Branch on 27.02.94?

WITNESS 1 - On 27.02.94 at around 2.30 pm I was distributing pay to the staff. Being pay day there was a lot of crowd in the Cash Branch and among them two/three of our local staff were making a lot of noise which was quite disturbing. Hearing the commotion, SO/A, Shri Viplay came into the branch and asked the Cashier whether all the people present in the branch had been officially called or not. When the cashier replied in the negative, SO/A asked all those who had not been called to leave the room till called. Shri Sutradhar, who was also present there and who had not been called officially did not leave. Shri Viplay again urged him to leave but the person did not move. This attitude annoyed Shri Viplay, SO/A and he told Sh. Sutradhar to get out. At this time Sh. Sutradhar became abusive and used disrespectful language against Sh. Viplay. Sh. Viplay then left the room and went to fetch SO/E, as Sh. Sutradhar was at that time posted in Establishment Branch. Sh. Viplay returned with Sh. Jitendra Singh (SO/E) who tried to reason with Sh. Sutradhar but he did not listen and continued to shout and create a scene just outside the Cash Branch.

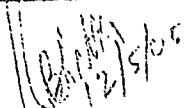
INQUIRING OFFICER TO WITNESS 2 - Do you agree with what has been stated by Witness 1 or do you have anything to add to it?

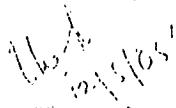
WITNESS 2 - I agree completely with what has been stated by Sh. Ramakanta Bhattacharjee, LDC/Cashier and have nothing additional to add to it.

INQUIRING OFFICER - So you both agree that Sh. Tapu Sutradhar, LDC disobeyed the orders of Sh. Viplay, SO/A and used abusive and disrespectful language against him.

WITNESS 1 - YES

WITNESS 2 - YES


(Ramakanta Bhattacharjee)
LDC/Cashier
(Witness 1)


(C. Chetry)
JIO-(G)
(Witness 2)


(P.K.Dey)
12/5/05
UDC
Presenting Officer

(Signature of Smita Bhattacharjee)
Section Officer
Quality Control

ATTESTED

Smita Bhattacharjee
ADVOCATE

To,
The Assistant Director/E,
Disciplinary Authority,
SIB, Itanagar.

(Through Proper Channel)

Ref. :- Your O.M. No.33/E/2004(2)-3871 dt.31.05.05 (date of received on 03.06.05).

Sub :- Prayer for submission of representation against false allegation and undue enquiry report of dt.24.05.05.

Sir,

With due respect and humble submission I beg to inform you again that I was insulted badly twice by Sh. Viplav, SO, in this regard I had submitted a written complaint against him on 08.03.04, but instead of taking action a charge was framed against me on 01.03.04 vide O.M. No.33/E/2004(2)-1631 dt.03.03.04 (date of receipt on 08.03.04 since I was on leave) in this regard a request representation was submitted by me on 17.03.04.

2. That Sir, charge was framed on the basis of his false statement to save him and to harass/punish/trap me since myself belong to S/C community, I feel strange that caste-distinction is there at the office too.

3. That Sir, in this regard an inquiring authority was appointed vide O. M. No. 33/E/2004(2)-256-2159 dt.25.03.04, accordingly two hearings were held vide O.M. No.1/SO(A)/2004-05(1)-2363 dt.01.04.04 and O. M. No.1/SO(A)/2004-05(1)-6899 dt.22.09.04 date of hearing were held on 12.04.04 at 11.00 Hrs. and on 24.09.04 at 12.00 Hrs. respectively at SIB, Itanagar, but report of hearings are still pending with the administration. It is therefore, requested that each copy of those hearing reports may kindly be issued to me as an early date.

4. That Sir, on keeping pending those reports another inquiring authority was appointed on 17.12.04 vide O.M. No.33E/2004(2)-8823 dt. 17.12.04 and hearing was held on 25.02.05 at 11.45 Hrs. at SIB, Itanagar vide letter No.1/SO(G)-INQUIRY/2004-142-1370 dt.10.02.05 and a copy of which was issued to me vide D/No.178 dt.01.03.05.

5. That Sir, the undue enquiry report submitted by Sh. Rajkamal Sitaram, SO/G, I/O to you on 24.05.05 has been disowned by me for the following reasons :-

- (1) It was one-sided judgment.
- (2) The two persons mentioned by me to be present during the said incident, do not mean that they are my witnesses.
- (3) Witnesses are working under Sh. Viplav, SO and all belong to general category.
- (4) The intention of the I/O is to trap me only.

(continued page-2)

ATTESTED

Smita Bhattacharya
ADVOCATE

From the statement of witnesses it is cleared that

- (a) Sh. Viplav, Section Officer, who ordered me strongly to get out from the office "Passing an unparliamentary word".
- (b) Two/three of local staff was making a lot of noise which was quite disturbing but was unduly charged to me and no action was taken against the other erring staff members.

On combined study between the statements of SO(L/A) and witnesses the real picture has come out that

The time of the incidence i.e. I was insulted at lunch time on 27.02.04 between 13.10 Hrs. to 13.15 Hrs. but neither at 1 P.M. nor at 2.30 P.M. stated by Sh. Viplav, SO and witnesses respectively, there was a considerable difference between the stated times by them and hence it is impossible to correct both the times but possible to wrong both the times. Therefore, it is logically proved that the statements were fabricated to trap me, accordingly the enquiry report submitted by I/O on 24.05.05 may please be taken as wrong.

Whatever may be, I pray to you a proper action may please be taken against Sh. Viplav, SO.

Thanking you.

Yours faithfully

Dated – June 15, 2005.

Tapan Sutradhar
LDC, B/Br., SJB, Itanagar
A member of S/C community.

ATTESTED

Smita Bhattacharyee
ADVOCATE

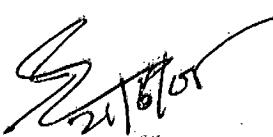
No. 33/E/2004(2)- 519-4343
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Itanagar.

ANNEXURE-- M

Dated, the - 12 2 JUN 2005

MEMORANDUM

On going through the enquiry report it has been found that the Charged Officer (C.O.) had not been given any opportunity to cross-examine the witnesses. Accordingly the enquiry report is remitted for further enquiry and report.


(A.K. ROY)
Assistant Director/E
Disciplinary Authority,
SIB, Itanagar.

To

1. Shri Raj Kamal Sitaram, S.O, Enquiry Officer,
SIB, Itanagar-- for necessary action
2. Shri Tapan Sutradhar, LDC
SIB, Itanagar.

ATTESTED

Smita Bhattacharjee
ADVOCATE

NO. I/SO(G)-INQUIRY/2004 - 543 - 24.04
SUBSIDIARY INTELLIGENCE BUREAU
MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA
ITANAGAR

ANNEXURE - 5K N

24 JUN 2005

DATED - 24.06.05

TO,
✓ SHRI TAPAN SUTRADHAR
LDC,
SIB, ITANAGAR,
ARUNACHAL PRADESH.

SUBJECT - DEPARTMENTAL ENQUIRY UNDER RULE 16 OF THE CCS
(CC&A) RULES, 1965 AGAINST SHRI TAPAN SUTRADHAR.
LDC.

REFERENCE - MEMO NO. 33/E/2004(2)-519-4343 DATED - 22.06.05

SIR,

With reference to the above mentioned memorandum, you are directed to appear for hearing on Friday i.e. 01.07.05 at 11 a.m. in 'G' Branch, SIB Itanagar, Golipur Tinali.

If you fail to turn up, the hearing would be held ex parte.

Yours Sincerely


24/6/05
(RAJKAMAL SITARAM)
SECTION OFFICER/G
AND
INQUIRING AUTHORITY

COPY TO :-

1. ASSISTANT DIRECTOR/E, SIB ITANAGAR FOR INFORMATION.
2. SURI P.K.DEY, UDC, SIB, ITANAGAR AND THE PRESENTING OFFICER.

INQUIRING AUTHORITY

ATTESTED

Smita Bhattacharjee
ADVOCATE

Pen book/2005
27/7/05

90

Hearing dated 1-7-05 in the Departmental enquiry against Shri Tapan Sutradhar, LDC.

Present : 1. Shri Raj Kamal Sitaram, SO/G, Inquiry Officer

2. Shri P.K. Day, UDC, Presenting Officer

3. Shri Tapan Sutradhar, LDC, Charged Officer

4. Shri Viplav, SO/A, Complainant

5. Shri Ramakanta Bhattacharjee, LDC/Cashier (D. Witness-I)

6. Shri C. Chhetri, JIO-I/G (D. Witness-II)

First statement of Shri Viplav, SO was recorded.

Statement dated 01.07.05 of Shri Viplav, SO -

Shri Sutradhar, LDC on 27.02.2004, i.e. on the day of disbursement of salary, at around 1 p.m. was found sitting unauthorisedly in the Cash Branch of the SIB, Itanagar. I asked him to leave the branch. He refused to obey the lawful direction and challenged my authority. He threatened me of physical assault and of dire consequences. However, with the intervention of other officials, he was taken away from the spot.

CROSS EXAMINATION OF SHRI VIPLAV, SO BY SHRI T. SUTRADHAR, LDC ON 01.07.05.

Charged Officer : I was no idea about cross examination.

Charged Officer : Whether the permission is required from SO/A for entering into Accounts Br/ Cash Br. ? Whether the permission is required from SO/A for receiving pay at launch time also if so, who will issue the official permission? Whether Cashier can disburse the pay during launch hours? Whether I was disturbing Cashier?

Viplav/DDO : IB Security Manual, 2000 (Ps - 6/7) very clearly says, " (vii) the Section Officers will be responsible for ensuring access to their Sections/ Units to only authorized persons who have legitimate business in their Sections/Units.

(x) An employee not working in a Branch should not be allowed to enter the Branch unless he/she produces a written permission from his/her superior officer detailing him/her for duty which should be specified and the Branch sought to be visited indicated therein. In exceptional cases of emergency, the S.O./ senior most officer present may grant entry to such an employee on a specific request, after duly satisfying himself of the purpose.

(xi) The SOs/DCIOs/ATOs incharge of the Branches handling classified documents should, at all times, ensure that no unauthorised person, even if he /she is working in the same building, enters their Branches without due authority".

On 27.02.04, I was informed that there was some trouble in the Cash Branch. I immediately rushed to the Cash Br. I was informed that the representative of F.U., Nlg. was not satisfied with the system of disbursement of salary to the representatives of F.U.s and had entered into an argument with Cashier. However, the Cashier had tactfully sorted out the problem.

I also found several employees were sitting/ standing in the Cash Branch without being called. (Here it may be clarified that the Cashier calls members of staff of each branch separately so that overcrowding could be avoided). Obviously that was undesirable. Therefore, I asked everybody including Shri Sutradhar to leave the Branch.

Contd., 2/-

ATTESTED

Smita Bhattacharjee
ADVOCATE

-2-

Charged Officer : Whether the DDO has full power to manage the affairs of cash? Whether he can also postpone/ release the pay at normal condition?

Viplav/DDO : It is the fundamental duty of the Cashier and the DDO to ensure that the Govt. money is protected and the cash is disbursed in a trouble free manner. I acted accordingly.

Charged Officer : DDO does not have full power. He is a Govt. servant and I am also a Govt. servant, and hence Cordial relation should exist among the Govt. servants. I am being implicated falsely and deliberately. He (SO/A) had also insulted me by saying "Get Out".

Viplav/DDO : I had said (to everybody who were not required to sit in the Branch), "Please leave the room". Though he was misbehaving with me yet I had been maintaining my composure and at no point of time insulted him.

Charged Officer : Since I belong to SC community I was targeted by the DDO which is proved by the fact that I was told to get out.

Viplav/DDO : It is completely irrelevant allegation with a view to shifting the focus from main issue.

The Charged Officer then said that he did not have any other question and Shri Viplav, SO was allowed to leave.

Thereafter, S/Shri R. Bhattacharjee, LDC and C. Chhetri, JIO-I/G deposed before the I.O.

Thereafter statement of S/Shri R. Bhattacharjee, LDC/ Cashier and C. Chhetri, JIO-I/G was recorded.

STATEMENT OF SHRI R. BHATTACHARJEE, LDC(CASHIER)

On 27-2-04 at around 2.30 pm I was distributing pay to the staff. Being pay day there was a lot of crowd in the cash branch and among them two/three of our local staff were making a lot of noise which was quite disturbing. Hearing the commotion, SO/A Shri Viplav came into the branch and asked the cashier whether all the people present in the branch had been officially called or not. When the cashier replied in the negative, SO/A asked all those who had not been called to leave the room till called. Shri Sutradhar, who was also present there and who had not been called officially did not leave. Shri Viplav again asked him to leave but the person did not move. This attitude annoyed Shri Viplav, S.O/A and he told Sh. Sutradhar to get out. At this time Shri Sutradhar became abusive and used disrespectful language against Shri Viplav. Shri Viplav then left the room and went to fetch SO/E, as Sh. Sutradhar was at that time posted in Establishment br. Shri Viplav returned with Sh. Jitendra Singh(SO/E) who tried to reason with Shri Sutradhar but he did not listen and continued to shout and create a scene just outside the Cash br.

INQUIRY OFFICER TO WITNESS 2 - Do you agree with what has been stated by Witness 1 or do you have anything to add to it?

Contd., 3/-

ATTESTED

Smita Bhattacharjee
ADVOCATE

STATEMENT OF SHRI C. CHHETRI, JIO-I/G

I agree completely with what has been stated by Shri R. Bhattacharjee, LDC/Cashier and have nothing more to add.

CHARGED OFFICER : Whether the disbursement time was 2:30 p.m. or 1:00 p.m. to 1:15 p.m.

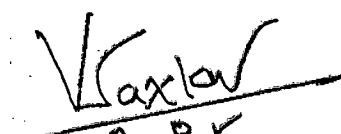
CASHIER (SH. R. BHATTACHARJEE) : I am not sure about the time as I did not look at my watch but it was around lunch time and it may be 1:00 p.m. to 1:15 p.m.

On being asked by Inquiry Officer, Shri Sutradhar said that he had not been called officially to the Cash Br. Shri R. Bhattacharjee, Cashier said that as per the instruction of DDO he used to call the staff on phone to come and collect their pay. He added that on that day i.e 27.02.04 later on Sh. Sutradhar collected his pay alongwith the other members of 'Est' Br. who were called officially.

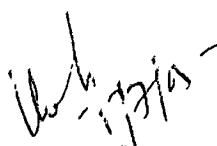
27/2/05
(Tapan Sutradhar)
LDC/ Charged Officer

P.K. DEY
(P.K. DEY) 1.7.05
UDC/ Presenting Officer


(Raj Kamal Sitaram)
Section Officer/G, Inquiry Officer


1/2/05
(Vipul)
Section Officer/A
Complainant


(Ramakanta Bhattacharjee)
LDC/ Cashier
D. Witness-I


(C. Chhetri)
JIO-I/G
D. Witness-II

Copy to:- 
Shri Tapan Sutradhar, LDC, 'B' Br.
8703, Dhanbad.

ATTESTED

Smita Bhattacharjee
ADVOCATE

NO. I/SO(G)-INQUIRY/2004- 5285
SUBSIDIARY INTELLIGENCE BUREAU
MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA
ITANAGAR

DATED - 28.07.05

TO,

✓ SHRI. TAPAN SUTRADHAR,
LDC,
SIB, ITANAGAR,
ARUNACHAL PRADESH.

SUBJECT - DEPARTMENTAL ENQUIRY UNDER RULE 16 OF THE CCS
(CC&A) RULES, 1965 AGAINST SHRI TAPAN SUTRADHAR,
LDC.

SIR,

Please find the enclosed written brief submitted by the Presenting Officer.
You are asked to submit your written brief as per rules to the undersigned within
ten days.

Yours Sincerely

Day 28/7/05
(RAJKAMAL SIVARAM)
SECTION OFFICER/G
AND
INQUIRING AUTHORITY

COPY TO -

1. SHRI P.K.DEY, UDC, SIB ITANAGAR AND THE
PRESENTING OFFICER.

INQUIRING AUTHORITY

ATTESTED

Smita Bhattacharjee
ADVOCATE

PRESENTING OFFICER'S BRIEF

Shri P.K.Dey, UDC, Presenting Officer :

Sub : Inquiry into the charges framed against Shri Tapan Sutradhar, LDC Vide O.M. No.33/E/2004(2)-1631 dated 03.03.2004.

I have received the order No.33/E/2004(2)-254-2163 dated 25.03.2004 from the Assistant Director/E (Disciplinary Authority, SIB, Itanagar) appointing me as Presenting Officer for the charge framed against Shri Tapan Sutradhar, LDC under Rule 16 of CCS(CCA) Rules 1965 for violation of Rule 3 of CCS(Conduct) Rules 1964.

The Charge under Article 1 - That the said Shri Sutradhar, LDC on 27.02.2004 i.e. on the day of disbursement of salary at around 1 P.M. was found sitting unauthorisedly in the Cash Branch of the SIB, Itanagar. As it was causing interruption in the smooth distribution of cash, he was asked by Shri Viplav, SO/A to leave the branch. He refused to obey the lawful direction of the SO/A and challenged his authority. He threatened SO/A of physical assault and of dire consequences. However, with the intervention of other officials, he was taken away from the spot.

Shri Sutradhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the competent authority and misbehaved with his official superior. This is unbecoming of a government servant and is violative of Rule 3 of the CCS(Conduct) Rules 1964.

In reply of the charge, Shri Sutradhar, LDC (C.O.) completely denied the charge.

The Disciplinary Authority, SIB, Itanagar in this circumstances feel to hold an enquiry and appointed an Inquiry Officer(I.O.) and Presenting Officer (P.O.) to enquire the charge.

The Disciplinary Authority appointed Shri Raj Kamal Sitaram, S.O(G) as Inquiring Authority vide order No.33/E/2004(2)-8823 dated 17.12.2004

During the hearing, the prosecution has presented 2 State witnesses in support of the charges.

The C.O. has not produce any defence witness or defence documents in support of his defence.

Contd...2/-

ATTESTED

Smita Bhattacharjee
ADVOCATE

On the next hearing, the C.O. given the statement in presence of the I.O. and under :

Inquiry Officer - Do you accept or deny the charges levied against you ?

Charged Officer - I accept that I was sitting without permission in the Cash Br. but I deny disobeying the order of Shri Viplav, SO/A, challenging his authority and threatening him of dire consequences.

Inquiry Officer - Why were you present there or were you called officially ?

Charged Officer - I had come to collect my pay but I was not called officially.

Inquiry Officer - What had happened prior to the entrance of Shri Viplav, SO/A ?

Charged Officer - The pay was being disbursed by the Cashier when 2/3 local employees of this organisation entered the Cash Br. and started disturbing the Cashier.

Inquiry Officer - Then what happened ?

Charged Officer - At that time Shri Viplav, SO/A entered into the Cash Br. and asked me why I was sitting there and did I take proper permission and told me to get out.

Inquiry Officer - Then what happened ?

Charged Officer - I immediately left the room without saying a word.

Inquiry Officer - But Shri Viplav, SO/A has accused that you did not obey him and threatened him of physical assault and dire consequences. What have you say in this regard ?

Charged Officer - It is all false, I did not say a word and left the room immediately on being told by Shri Viplav, SO/A.

Inquiry Officer - At the time of this incident who all were present in the Cash Br. ?

Charged Officer - Except S/Shri Ramakanta Bhattacharjee, Cashier and C. Chetry, JIO-I/G, I do not remember anyone else. The three local employees disturbing the Cashier were most probably from the BIPs who had come to collect their pay and were not familiar to me.

Contd... 3/-

ATTESTED

Smita Bhattacharjee
ADVOCATE

-3-

You are once again asked to recall whether you had at all spoken to Shri Viplav, SO/A at that particular time i.e. before leaving the Cash Br. ?

Charged Officer
No, I did not say anything to Shri Viplav, SO/A

Inquiry Officer
Do you have anything else to add to your above given statements ?

Charged Officer
No.

In considering the statement of the C.O. and the State Witness (Complainant), the I.O. given another opportunity to the Charged Officer to cross examine the Complainant and the cross examination recorded as under :

Statement dated 01.07.05 of Shri Viplav, SO -

Shri Sutradhar, LDC on 27.02.2004, i.e. on the day of disbursement of salary, at around 11 p.m. was found sitting unauthorisedly in the Cash Branch of the SIB, Itanagar. I asked him to leave the branch. He refused to obey the lawful direction and challenged my authority. He threatened me of physical assault and of dire consequences. However, with the intervention of other officials, he was taken away from the spot.

CROSS EXAMINATION OF SHRI VIPLAV, SO BY SHRI T. SUTRADHAR, LDC ON 01.07.05.

Charged Officer : I was no idea about cross examination.

Charged Officer : Whether the permission is required from SO/A for entering into Accounts Br./ Cash Br. ? Whether the permission is required from SO/A for receiving pay at launch time also if so, who will issue the official permission ? Whether Cashier can disburse the pay during launch hours ? Whether I was disturbing Cashier ?

Viplav/DDO : IB Security Manual, 2000 (Ps - 6/7) very clearly says, " (vii) the Section Officers will be responsible for ensuring access to their Sections/ Units to only authorized persons who have legitimate business in their Sections/Units.

(x) An employee not working in a Branch should not be allowed to enter the Branch unless he/she produces a written permission from his/her superior officer detailing him/her for duty which should be specified and the Branch ought to be visited indicated therein. In exceptional cases of emergency, the S.O./ senior most officer present may grant entry to such an employee on a specific request, after duly satisfying himself of the purpose.

(xi) The SOs/DCIOs/ATOs incharge of the Branches handling classified documents should, at all times, ensure that no unauthorised person, even if he /she is working in the same building, enters their Branches without due authority".

On 27.02.04, I was informed that there was some trouble in the Cash Branch. I immediately rushed to the Cash Br. I was informed that the representative of F.U., NIg was not satisfied with the system of disbursement of salary to the representatives of F.U.s and had entered into an argument with Cashier. However, the Cashier had tactfully sorted out the problem.

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ATTESTED

Smita Bhattacharjee
ADVOCATE

I also found several employees were sitting/ standing in the Cash Branch without being called. (Here it may be clarified that the Cashier calls members of staff of each branch separately so that overcrowding could be avoided). Obviously that was undesirable. Therefore, I asked everybody including Shri Sutradhar to leave the Branch.

Charged Officer : Whether the DDO has full power to manage the affairs of cash? Whether he can also postpone/ release the pay at normal condition?

Viplav/DDO : It is the fundamental duty of the Cashier and the DDO to ensure that the Govt. money is protected and the cash is disbursed in a trouble free manner. I acted accordingly.

Charged Officer : DDO does not have full power. He is a Govt. servant and I am also a Govt. servant. Cordial relation should exist among the Govt. servants. I am being implicated falsely and deliberately. He (SO/A) had also insulted me by saying "Get Out".

Viplav/DDO : I had said (to everybody who were not required to sit in the Branch), "Please leave the room". Though he was misbehaving with me yet I had been maintaining my composure and at no point of time insulted him.

Charged Officer : Since I belong to SC community I was targeted by the DDO which is proved by the fact that I was told to get out.

Viplav/DDO : It is completely irrelevant allegation with a view to shifting the focus from main issue.

The Charged Officer then said that he did not have any other question and Shri Viplav, SO was allowed to leave.

In the hearing, the state witness given their statement in presence of the I.O./ P.O. and C.O. as under :

STATEMENT OF SHRI R. BHATTACHARJEE, LDC(CASHIER)

On 27-2-04 at around 2.30 pm I was distributing pay to the staff. Being pay day there was a lot of crowd in the cash branch and among them two/three of our local staff were making a lot of noise which was quite disturbing. Hearing the commotion, SO/A Shri Viplav came into the branch and asked the cashier whether all the people present in the branch had been officially called or not. When the cashier replied in the negative, SO/A asked all those who had not been called to leave the room till called. Shri Sutradhar who was also present there and who had not been called officially did not leave. Shri Viplav again asked him to leave but the person did not move. This attitude annoyed Shri Viplav, S.O/A and he told Sh. Sutradhar to get out. At this time Shri Sutradhar became abusive and used disrespectful language against Shri Viplav. Shri Viplav then left the room and went to fetch SO/E, as Sh. Sutradhar was at that time posted in Establishment br. Shri Viplav returned with Sh. Jitendra Singh(SO/E) who tried to reason with Shri Sutradhar but he did not listen and continued to shout and create a scene just outside the Cash br.

Contd.. 5/-

ATTESTED

Smita Bhattacharjee

ADVOCATE

-5-

INQUIRY OFFICER TO WITNESS 2 – Do you agree with what has been stated by Witness 1 or do you have anything to add to it ?

STATEMENT OF SHRI C. CHHETRI, JIO-I/G

I agree completely with what has been stated by Shri R. Bhattacharjee, LDC/Cashier and have nothing more to add.

CHARGED OFFICER : Whether the disbursement time was 2:30 p.m. or 1:00 p.m. to 1:15 p.m.

CASHIER (SH. R. BHATTACHARJEE) : I am not sure about the time as I did not look at my watch but it was around lunch time and it may be 1:00 p.m. to 1:15 p.m.

On being asked by Inquiry Officer, Shri Sutradhar said that he had not been called officially to the Cash Br. Shri R. Bhattacharjee, Cashier said that as per the instruction of DDO he used to call the staff on phone to come and collect their pay. He added that on that day i.e 27.02.04 later on Sh. Sutradhar collected his pay alongwith the other members of 'Estt' Br. who were called officially.

It is revealed in the enquiry that, Shri Sutradhar, LDC has accepted that he was present in the Cash Branch on the day of incident. Though, he has denied disobeying order of his Superior officer, however, as per statement of Shri R. Bhattacharjee, LDC/Cashier and Shri C. Chetri, JIO-I/G during the hearing, it is proved that Shri Sutradhar, LDC disobeyed the order of his Superior Officer and misbehaved with him in presence of the above witness and therefore, charges leveled against Shri Sutradhar is proved.


(P.K. Dey)
UDC/ Presenting Officer

ATTESTED

Smita Bhattacharjee

ADVOCATE

To,
The Section Officer/G,
Inquiring Authority,
SIB, Itanagar.

(Through Proper Channel)

Ref :- Your letter No.1/SO(G)-INQUIRY/2004-5285 dated 28.07.05.

Sub :- Submission of representation against false allegation and undue brief submitted by the Presenting Officer on 26.07.05.

Dear Sir,

With due respect I beg to inform you that the Presenting Officer's brief which was communicated to me is nothing but the collection of the Article-I of the charges, reply of the charges by me, hearing report of dt. 25.02.05 and hearing/Cross examination report of dt. 01.07.05.

That Sir, except cross examination almost all the reply have been submitted by me moreover, I beg to add some important points with earlier reply, those are as under :-

- (a) General circular has not been issued before the said incident that nobody can enter into the Cash/Br. to collect pay on Payday without permission, though I was there at lunch time.
- (b) Pay should not be disbursed at lunch time. Since, lunch time is allowed for all officials to take lunch & rest to refresh for the work of next half/afternoon i.e. from 13.30 Hrs. to 17.30 Hrs.
- (c) Complainant and witnesses are working in the same branch and also belong to same category (General) and hence, such type of related witnesses has been disowned by me.
- (d) There is no welfare for me in this organization since, I belong to S/C community and hence, whole the administration are trying to harass/punish/trap me, as a result, I am always here with dread from the cruel administration.

FROM THE STUDY OF THE CHARGE SHEET/SHOW CAUSE NOTICE
DATED 30/03/2005 AND HEARING/CROSS EXAMINATION REPORT DATED
01/07/05 THE REAL PICTURE HAS COME OUT THAT -

1. I have been charged vide O.M. No.33/E/2004(2)-356-2462 dated 30.03.05 by the Disciplinary Authority on the basis of the false statement of Sh. Viplav, SO I that -

ATTESTED

(continued page-2)

Smita Bhattacharjee
ADVOCATE

(i) I have not submitted my joining report after return from leave and also memo has been issued to me on 17.02.05 in this regard but, I had submitted the joining report on 27.12.04 (F/N) alongwith formal leave application so, there is no question to issue memo actually, memo has not been issued to me on 17.02.05 by the authority.

(ii) I have allotted the work pertaining to bill of A.L.C, P P S S, and Misc, actually, in addition to these work I was allotted the work pertaining to bills - Long Term Adv., O.A.E., Minor Work, Major Work, Wages, R.R.T., Motor Vehicle, Grant in Aid, A/C bill and D/C bill also.

(iii) The Diary No. 5631 dt.27.11.04 was pending with me but, the said Diary No. was the Scooter Adv. Bill/Order/Claim in r/o. Sh. B.K. Sahoo, LDC posted at Accts/Br. has been done by me vide Bill No.459/04-05 dt.16.09.04.

2. On cross examination Sh. Viplav, SO/I said that he has full power on Cash & Accts/Br. And also said that his verbal order has full value in office. Actually, he has no full power and also verbal order has no value in office. Since, there is no existence of verbal order.

3. From the study of the above mention reality it is clear that Sh. Viplav, SO/I is a liar and hence, the charge which was framed on 01.03.04 vide O.M. No. 33/L/2004(2)-1631 dt. 03.03.04 on the basis of the false statement of Sh. Viplav, SO/I (Proved as a liar above) has no value at all.

4. On logical pressure the witnesses changed their statement on time. Therefore, it is clear that their statement was not completely correct.

5. That Sir, the undec written brief submitted by Shri P.K. Dey, UDC, P/O to you on 26.07.05 has been disowned by me for the above mentioned reasons.

6. Therefore, it is requested to you to arrange for taking an executive action against Sh. Viplav, SO/I on the basis of my various complaints/representations/replies dated 08.03.04, 17.03.04, 15.06.05 and also this one, for the harassment on different angle upon an S/C Govt. employee, for mishap (like master and servant relation instead of cordial relation) upon subordinate staff like me and also for keeping pending my Cash-compensation till today which has been claimed by me before 14.02.2005 (For this act of his viciousness I may also write to the Labour Commission too in future if necessary since, my claim was genuine).

Thanking you.

ATTESTED

Smita Bhattacharjee
ADVOCATE

(continued page-3)

-3-

Yours faithfully

Dated - 08/08/2005.

Tapan Sutradhar
LDC, B/Br., SIB, Itanagar
A member of S/C community.

Copy to :-

1. The Joint Director, SIB, Itanagar for information and kind necessary action please.
2. Shri Viplav, SO/I, SIB, Itanagar for information please.
3. Shri P.K. Dey, UDC, P/O, E/Br., SIB, Itanagar for information please.

Tapan Sutradhar
LDC, B/Br., SIB, Itanagar,
A member of S/C community.

ATTESTED

Smita Bhattacharjee
ADVOCATE

No. 33/E/2004(2)- 5742
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Itanagar.

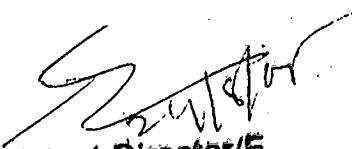
Dated, the - 24 AUG 2005

MEMORANDUM

Please refer to the Disciplinary Authority, SIB, Itanagar O.M. No. 33/E/2004(2)-519-4343 dated 22.06.2005 regarding cross examination of witnesses for further enquiry of the charges, framed against Shri Tapan Sutradhar, LDC, Charged officer.

2. A copy of the report of further Inquiry submitted by Inquiry Officer, Shri Rajkamal Sitaram, SO/G, SIB, Itanagar is enclosed. The Disciplinary Authority will take a suitable decision after considering the report. If Shri Tapan Sutradhar, LDC, Charged officer wishes to make any representation or submission, he may wish to do so, in writing to the Disciplinary Authority within 15 days of receipt of this Memo.

3. The receipt of this Memo may please be acknowledged.


Assistant Director/E

To

Shri Tapan Sutradhar, LDC
SIB, Itanagar.

Encl: As stated.

ATTESTED

Smita Bhattacharjee
ADVOCATE

ENQUIRY REPORT

SUBJECT

ENQUIRY REPORT IN RESPECT OF CHARGES
FRAMED AGAINST SURENDRA KUMAR SUTRADHAR,
LDC, VIDIC MEMO NO. 33/E/2004(2)-1631 DA 160
03.05.04

Please refer to the memo no. 33/E/2004(2)-519-1343 dated 22.06.05 in which the Inquiry Report was returned by the Disciplinary Authority with the instructions to give an opportunity to the CO to cross-examine the witnesses. In this regard the two witnesses namely, Shri Ramakanta Bhattacharjee, Cashier and Shri C. Chetry, MO, alongwith the Complainant Shri Viplav, SOA were called for cross examination by the CO on 01.07.05 at 11 a.m. vide letter no. I/SD(G)-Inquiry/2004 dated 21.06.05. All the persons including the Presenting Officer, Shri P.K. Dey, attended the hearing on the scheduled date and the minutes recorded and signed by all present. In the cross examination except for the timings of the incident under consideration which was given by the witnesses as around 2.30 p.m. and which was rectified to around 1 p.m. nothing new came up. So the report previously submitted is resubmitted below for further action.

The undersigned was appointed as the Inquiring Authority, vide order no. 33/E/2004(2)-8823, dated 17.12.04 (but received on 01.02.05), to inquire into the following charges framed against Shri Tapan Sutradhar, LDC.

ARTICLE - 1

According to the statement of Shri Viplav, Section Officer/Accounts Branch, on 27.02.04, the day of disbursement of salary for the month of February, 2004 at around 1 p.m. Shri Tapan Sutradhar, LDC was found sitting unauthorisedly in the Cash Branch. As it was causing interruption in the smooth distribution of Cash, Shri Sutradhar, LDC was asked by Shri Viplav, SOA to leave the Branch. As Sutradhar refused to obey the lawful direction of the SOA and challenged his authority. He threatened SOA of physical assault and of dire consequences. However with the intervention of other officials, Shri Sutradhar was taken away from the spot. Shri Sutradhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the Competent Authority and misbehaved with his official superior. This is unbecoming of a government servant and is violation of Rule-3 of the CCS (Conduct) Rules, 1964.

FINDINGS

As per the charges framed against Sh. Tapan Sutradhar, LDC, two main points had to be proved/disproved

1. Whether the CO, had disobeyed the lawful order of his official superior.
2. Whether the CO, has been disrespectful towards his official superior.

ATTESTED

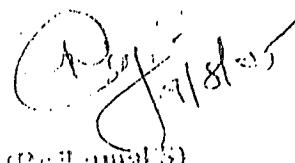
Smita Bhattacharjee

ADVOCATE

Though the C.O. has denied disobeying his official superior in the preliminary hearing however it has been proved beyond doubt that the C.O. had done so, as per the statement given by the witnesses i.e. Shri Ranikanta Bhattacharjee, LDC/Cashier, and Shri C. Chetry (LDC).

2. The C.O. has also denied being disrespectful towards his official superior but the statement of the witnesses proves otherwise. However the witnesses couldn't remember (being more than one year ago) whether the C.O. had actually threatened SO/A of physical assault and of dire consequences.

Therefore the charges that the C.O. had disobeyed the lawful order and had been disrespectful towards his official superior, stand proved against Shri Tapas Sutradhar, LDC.


(Rajkumar S. Sutradhar)
Section Officer/G
&
Inquiring Officer

ATTESTED

Smita Bhattacharjee
ADVOCATE

To,
The Assistant Director/E,
Disciplinary Authority,
SIB, Itanagar.

(Through Proper Channel)

Ref :- Your O.M. No.33/E/2004(2)-5742 dated 24/08/2005.

Sub :- Submission of representation against false allegation and undue enquiry report resubmitted by the Inquiring Officer (IO) on 09/08/2005.

Dear Sir,

With due respect I beg to inform you that the enquiry report re-submitted by the IO on 09/08/2005 is nothing but the same enquiry report of dated 24/05/2005 which was communicated to me v/d your O.M. No.33/E/2004(2)-3871 dated 31/05/2005 and the reply/representation of dated 15/06/2005 which has been submitted by me against enquiry report of dated 24/05/2005, accordingly, it would be the same reply/representation of enquiry report of dated 09/08/2005. Therefore, it may please be taken as the reply/representation of inquiry report dated 09/08/2005.

2. Therefore, it is requested that my various complaints/representations/replies of dated 08/03/04, 17/03/04, 15/06/05 and 08/08/05 may please be examined closely for finding out the mistake committed by Sh. Viplav, SO(I/A) and also for taking executive action against him.

3. It is to bring to your kind notice that in case of failing to carry out my request, I shall be bound to disclose the whole matter to the National Commission for S/C and S/T, New Delhi and also to the Committee of Parliament on the welfare of SCS/STs, Parliament House, New Delhi for taking executive action against him.

Thanking you.

Yours faithfully

Dated - 08/09/2005.

(Tapan Sutradhar)
LDC, B/Dr. SIB, Itanagar,
A member of S/C Community.

ATTESTED

Smita Bhattacharjee
ADVOCATE

No. 33/E/2004(2)- 6269
Subsidiary Intelligence Bureau,
(MHA), Government of India,
Itanagar.

Dated, the - 14 SEP 2005

ORDER

Whereas Shri Tapan Sutradhar, LDC while posted at SIB, Itanagar was issued Memo No. 33/E/2004(2)-1631 dated 3.3.2004 by the Competent Authority under Rule-16 of CCS(CCA) Rules -1965 on the following charges :-

ARTICLE - "That the said Shri Tapan Sutradhar, LDC on 27.02.2004 i.e., on the day of disbursement of salary at around 1 P.M. was found sitting unauthorisedly in the Cash Branch of the SIB, Itanagar. As it was causing interruption in the smooth distribution of cash, he was asked by Shri Viplav, SO/A to leave the branch. He refused to obey the lawful direction of the SO/A and challenged his authority. He threatened SO/A of physical assault and of dire consequences. However with the intervention of other officials, he was taken away from the spot.

Thus, Shri Sutradhar by his above said action obstructed the smooth functioning of the government, disobeyed the lawful order of the Competent Authority and misbehaved with his official superior. This is unbecoming of a government servant and is violation of Rule-3 of the CCS (Conduct) Rules, 1964.

2. Whereas, Shri T. Sutradhar, LDC submitted his representation on 17/03/05 and denied the charges. Hence, the Inquiry Officer (I.O.) and Presenting Officer (P.O.) were appointed on 25.03.2004 to enquire into the charges, framed against him. The I.O. Shri D.C. Mandal, SO/A submitted his enquiry report on 28.06.04. The Competent Authority pointed out some discrepancies in the enquiry report. Hence further enquiry was ordered, which could not be held due to ill health of Inquiry Officer, Sh. D.C. Mondal, SO. Finally, he was relieved for SIB, Kolkata on his transfer w.e.f. 10.12.2004 on that ground and till that time he could not complete the enquiry.

3. Whereas, in view of above mentioned facts, the new I.O., Shri R.K. Sitaram, SO/G was appointed on 17.12.04 and he submitted his enquiry report on 28.05.05. The enquiry report was forwarded to Shri T. Sutradhar, LDC to make any representation or submission. Sh. T. Sutradhar submitted his written reply on 18.06.05. In his representation, he denied the charge. Again, the Competent Authority observed that the C.O. had not been given due opportunity to cross-examine the witnesses. Accordingly, the enquiry report was remitted for further enquiry. The I.O., Sh. R.K. Sitaram, SO/G submitted his enquiry report on 09.08.05. The I.O. in his enquiry report pointed out that the C.O. disobeyed the lawful order of his official superior to him and he had been disrespectful towards his superior official as per the statement given by the witnesses i.e. Sh. R. Bhattacharjee, LDC/Cashier and Shri C. Chetry, JIO-IG, SIB, Itanagar.

4. Whereas, I being the Disciplinary Authority have carefully gone through the enquiry reports submitted by the I.O. on 28.05.05 and 09.03.05 and the written replies submitted by Sh. T. Sutradhar, LDC dated 16.06.05 and 08.08.05 and other relevant documents/papers on record, agree with the findings of the Inquiry officer, according to which the charges that the C.O., Shri T. Sutradhar, LDC had disobeyed the lawful order and had been disrespectful towards his superior official, stand proved beyond doubt.

THE UNDERSIGNED, THEREFORE, IMPOSES PENALTIES ON SHRI T. SUTRADHAR, LDC UNDER CLAUSE (III) OF RULE 11 OF CCS(CCA) RULES-1965 AND ORDERS THAT THE PAY OF SHRI T. SUTRADHAR, LDC WILL BE REDUCED BY TWO STAGES FROM RS. 3800/- TO RS. 3650/- IN TIME SCALE OF PAY OF RS. 3050-75-3950-80-4590/- FOR A PERIOD OF TWO YEARS WITH EFFECT FROM THE DATE OF ISSUE OF THE ORDER.

Contd... 20

ATTESTED

Smita Bhattacharjee

ADVOCATE

AS

IT IS FURTHER DIRECTED THAT HE WILL EARN INCREMENT OF PAY DURING THE PERIOD OF REDUCTION AND THAT ON EXPIRY OF THIS PERIOD, THE REDUCTION WILL NOT HAVE THE EFFECT OF POSTPONING HIS FUTURE INCREMENT OF PAY.

(A.K. ROY)
Assistant Director/E
Disciplinary Authority,
SIB, Itanagar.

✓ To

Shri Tapan Sutradhar, LDC
SIB, Itanagar.

Copy to :-

1. The Assistant Director/E, IB Hqrs., New Delhi
2. The Section Officer/A, SIB, Itanagar.
3. The SB Cell/ ACR Cell, SIB, Itanagar.
4. The PS/NGO, SIB, Itanagar
5. PF of Shri Tapan Sutradhar, LDC, SIB Itanagar

Assistant Director/E
Disciplinary Authority
SIB, Itanagar.

ATTESTED

Smita Bhattacharjee
ADVOCATE

EXTREME SYMPATHETICAL

To,
The Assistant Director/E,
Disciplinary Authority,
SIB, Itanagar.

(Through Proper Channel)

Sub :- Request for re-examine for releasing the imposed penalties.

Ref :- Your O.O. No.33/E/2004(2)-6269 dated 14.09.2005.

Dear Sir,

With due respect and humble submission I made this representation to bring to your kind notice on the subject cited above in respect of reference above.

2. That Sir, a charge was framed against me on 01.03.2004 vide O.M. No.33/E/2004(2)-1631 dated 03.03.2004. After several correspondence the case was finalized with penalties imposed on me, that the Pay would be reduced by two stages from Rs.3800/- to Rs.3650/- for a period of two years w.e.f. 14.09.2005, though, I am an innocent Govt. servant.

It is, therefore, prayed before your kind authority & personal gracious self to kindly re-examine the case as to pass necessary order for finalizing the case without penalty as Your Honour would deem fit and proper for the ends of justice.

Thanking you.

Yours faithfully

Dated - 20.09.2005.

(Tapan Sutradhar)
LDC, B/Br, SIB, Itanagar.

ATTESTED

Smita Bhattacharjee
ADVOCATE

EXTREME SYMPATHETICAL

To,
The Hon'ble Joint Director,
Appellate Authority,
SIB, Itanagar.

(Through Proper Channel)

Sub :- Prayer for revision of the decision of the Assistant Director/E, Disciplinary Authority, SIB, Itanagar.

Ref :- SIB, Itanagar O.O. No.33/E/2004(2)-6269 dated 14.09.2005.

Respected Sir,

With due respect and humble submission I made this representation to bring to your kind notice on the subject cited above in respect of reference above.

2. That Sir, a charge was framed against me on 01.03.2004 vide O.M. No.33/E/2004(2)-1631 dated 03.03.2004. After several correspondence the case was finalized with penalties imposed on me, that the Pay would be reduced by two stages from Rs.3800/- to Rs.3650/- for a period of two years w.e.f. 14.09.2005, though, I am an innocent Govt. servant.

It is, therefore, prayed before your kind authority & personal gracious self to kindly re-examine the case as to pass necessary order for finalizing the case without penalty as Your Honour would deem fit and proper for the ends of justice.

Thanking you Sir.

Yours faithfully

Dated - 17.11.2005.

(Tapan Sutradhar)
LDC, B/Br, SIB, Itanagar.

ATTTESTED

Smita Bhattacharjee
ADVOCATE

No. 33/E/2004(2)- 9/14
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
Itanagar.

Dated, the - 23 FEB 2006

MEMORANDUM

Please refer to your appeal dated 17.11.05 regarding re-consideration of Penalty order No. 33/E/2004(2)- 6269 dated 14.09.2005.

It is hereby informed that the appeal of Shri Sutradhar, LDC has been considered by the Appellate Authority sympathetically but could not be considered as it was submitted after the expiry of stipulated period for submission and there was no fresh grounds or fact not already considered.

23/2/2006
Joint Director

✓ To

Shri Tapan Sutradhar, LDC
-Through AD/A, SIB, Guwahati.

ATTESTED

Smita Bhattacharjee
ADVOCATE