

4

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

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A/T.A No. 180/2006

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

E.P/M.A No. ....

1. Orders Sheet..... OA .....Pg. 1 .....to 4 .....
2. Judgment/Order dtd 04.05.07 .....Pg. 1 .....to 8 Dismissed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 180/2006 .....Pg. 1 .....to 20 .....
5. E.P/M.P.....Pg. ....to.....
6. R.A/C.P.....Pg. ....to.....
- ✓ 7. W.S. R/10-1 to 4 .....Pg. 1 .....to 6 .....
- ✓ 8. Rejoinder.....Pg. 1 .....to 3 .....
9. Reply.....Pg. ....to.....
10. Any other Papers.....Pg. ....to.....
11. Memo of Appearance.....
12. Additional Affidavit Page - 1 to 4 .....
13. Written Arguments Affidavit filed R/10-5 page - 1 to 2 .....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Kalita  
25/10/17

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:**

ORDERS SHEET

1. Original Application No. 180 / 06
2. Misc Petition No. \_\_\_\_\_
3. Contempt Petition No. \_\_\_\_\_
4. Review Application No. \_\_\_\_\_

Applicant(S) Bidhan Chandra Das

Respondant(S) U. O. I. Form

Advocate for the Applicant(S) D. Majumdar, S. Senikia  
R. Sarma, Mrs. R. D. Bhuyan

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

| Notes of the Registry  | Date              | Order of the Tribunal   |
|--|-------------------|---|
| <p>This application is in the<br/>is filed/CF for Rs. 10/-<br/>deposited vide IPCED<br/>No. <u>266/325295</u><br/>Dated <u>24.7.06</u></p> <p><u>Heetho</u><br/>Dy. Registrar</p> <p><u>25-7-06</u></p> <p><u>Steps taken with<br/>envelops.</u></p> <p><u>payment made by<br/>the Respondent No. 6.</u></p> <p><u>R. S.</u></p> | <p>26.07.2006</p> | <p>Present : Hon'ble Sri K.V. Sachidanandan<br/>- Vice-Chairman.</p> <p>The applicant is working as<br/>Assistant Superintendent of Post Offices<br/>(HQ), Divisional Office, N.E. Circle,<br/>Shillong and has filed this application<br/>challenging the order of transfer dated<br/>23.06.2006, wherein the applicant has<br/>been transferred from ASP (HQ),<br/>Meghalaya Division, Shillong to SDI<br/>Second Division, Imphal. The applicant<br/>averred in the application that the order<br/>was issued on the basis of malafide reason<br/>and not in the interest of public service.<br/>The applicant has narrated the incident<br/>that while he was Presenting Officer in a<br/>disciplinary proceeding, the applicant<br/>proposed to call one Sri Santosh<br/>Chakraborty, the Respondent No. 5 to<br/>summon, which has culminated the<br/>transfer of the applicant, which is<br/>prejudicial and malafide.</p> |

Contd/-

O.A. 180/2006

Contd/-

26.07.2006

Heard Mr D. Mazumdar, learned counsel for the applicant and Ms U. Das, learned Addl. C.G.S.C. for the respondents.

Ms U. Das, learned Addl. C.G.S.C. for the respondents submitted that she would like to have instructions on the point of malafide that has been alleged by the applicant to be verified by the respondents.

In the interest of justice this Court directs that the annexure - C, transfer order dated 23.06.2006 will be kept in abeyance till the next date, if the applicant has not been relieved already.

Post on 28.08.2006.

Vice-Chairman

/mb/

28.08.2006 Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman.

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

Post on 19.10.2006. Interim order will continue till the next date.

Vice-Chairman

/mb/

An additional affidavit submitted by the applicant.

1.11.2006

Applicant is directed to pay the process for 5th respondent. post on 6.12.2006.

Interim order will continue till then.

Vice-Chairman

25.8.06

W/S filed by the Repdt. Nos. 1 to 4 @ W/S from R. 5 & 6 awarded.

order dt. 28/8/06

issuing to both the parties.

14.2.07

bb

Received copy of order dated 26.7.06 and step for R. 3

Usha Das. Addl. C.S.C. 27/7/06

order dt. 26/7/06 issuing to learned advocate's for both the parties.

27/7/06

steps for resp. no-3, received by Miss U. Das, Addl. C.C. S.C., CAT, Cr. 5.

27/7/06

17.8.06

- 3 -  
OA 180/06

| Notes of the Registry | Date | Order of the Tribunal |
|-----------------------|------|-----------------------|
|-----------------------|------|-----------------------|

The learned advocate for applicant has deposited the postal cost for issuing the notice for resp. no-5 as per order dt: 11/11/06.

*Cons*  
14/11/06.

Notice & order sent to D/Section for issuing to resp. no-5 by regd. A/D post.

*Cons*  
14/11/06. D/No-1139  
Dt: 21/11/06.

1.12.06

An affidavit filed by Respondent No. 5.

*Asi.*

22.12.06

Rejoinder filed by Applicant against Respondent No-5.

*Asi.*

Wks and rejoinder has been filed.

8.3.07.

06.12.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice - Chairman.

Learned Counsel for the Applicant wanted to file rejoinder to the reply statement filed by the Respondents. Let it be done. Post on 03.01.2007.

*[Signature]*

Vice-Chairman

/mb/

23.1.2007 Await Service Report from Respondent No.4. Post on 15.2.2007. Rejoinder, if any, in the meantime.

*[Signature]*

Vice-Chairman

/bb/

15.2.07 Judgment delivered in open Court. Kept in separate sheets. Application is dismissed with cost Rs.5000/-

*[Signature]*  
Vice-Chairman

lm

15.2.07. Counsel for the parties is submitted that pleadings are completed. Considering the issue involved the application has to be admitted.

Application is admitted. Issue notice on the respondents. Post the matter on 9.3.07.

*[Signature]*

Vice-Chairman

lm

GA-180/06

9.3.07

Heard counsel for the parties.

Hearing concluded. Judgment reserved.

Vice-Chairman

pg

Received  
Elsha Dars.  
Add Chse  
8/5/07

4.5.07.

Judgment delivered in open Court. Kept in

separate sheets. Application is dismissed. No costs.

Vice-Chairman.

10.5.07

Original copy  
has been collected  
by the L/tdv. for  
the application  
9.5.07.  
sh.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

Original Application No.180 of 2006

DATE OF DECISION: 04.05.2007

Shri Bidhan Chandra Das

Applicant(s)

Mr D. Mazumdar, Mr S. Saikia, Mr R. Sarma  
and Mrs R.D. Bhuyan

Advocate(s) for the  
applicant(s)

- Versus -

Union of India & Ors.

Respondents

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

Advocate(s) for the  
Respondent(s)

CORAM:

THE HON'BLE SHRI 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 compiled at Jodhpur Bench? ~~Yes/No~~
4. Whether their Lordships wish to see the fair copy  
of the Judgment? ~~Yes/No~~

  
Vice-Chairman

X

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.180 of 2006

Date of Order: This the 04<sup>th</sup> day of May 2007.

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

Shri Bidhan Chandra Das,  
S/o Late Bir Bikram Das,  
Plot No.198, Rinja Re-habilitation Colony,  
Shillong-793006.

.....Applicant

By Advocates Mr D. Mazumdar, Mr S. Saikia,  
Mr R. Sarma and Mrs R.D. Bhuyan.

- versus -

1. Union of India, represented by the  
Secretary,  
Department of Posts,  
New Delhi.
2. Chief post Master General,  
N.E. Circle, Shillong-793001.
3. Superintendent of Post Offices,  
Meghalaya Division,  
Shillong-793001.
4. Assistant PMG,  
N.E. Circle, Shillong-793001.
5. Shri Santosh Chakraborty  
Assistant Superintendent (Vigilance)  
Circle Officer, Shillong.
6. Shri Niranjana Das  
Assistant Post Master General (Staff) and  
APMG (Vigilance), Shillong.

.....Respondents

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

.....

L


## ORDER

### K.V. SACHIDANANDAN (VICE-CHAIRMAN)

The applicant is holding the post of Assistant Superintendent of Post Offices, Headquarters, Divisional Office, Shillong. By order dated 12.06.2006 the applicant has been transferred and posted as Sub-Divisional Inspector (P), 2<sup>nd</sup> Sub-Division, Imphal, Manipur. The impugned transfer order has been assailed on the ground of malafide and pleaded that it was on extraneous reasons and there is no public interest involved in the transfer. According to the applicant the transfer order was issued at the instance of certain officers who became apprehensive of being found guilty when in the course of hearing in a disciplinary proceeding against an employee of the department where the applicant was the Presenting Officer, the applicant proposed to call a particular officer as an additional which was the reason for his transfer. The applicant was appointed as Presenting Officer in various disciplinary proceedings in various disciplinary proceedings from time to time and presently the applicant has been appointed Presenting Officer in two other cases. Aggrieved by the action of the respondents the applicant has filed the present O.A. seeking the following reliefs:

"a) Setting aside the transfer order dated 12.6.2006 issued by the CPMG, NE Circle vide memo No.Staff/9-7/04 communicated by the Superintendent of Post Offices, Meghalaya Division, Shillong.


b) Setting aside the order issued by CPMG rejecting the representation dated 16.6.06 communicated by letter dated 29.6.2006."





2. Respondent Nos.5 and 6 have been impleaded in their personal capacity to prove their malafide. The official respondent Nos.1 to 4 have filed a written statement and respondent No.5 has filed a separate written statement stoutly denying the contentions in the O.A. The official respondents have stated that the applicant has been transferred from Shillong to Imphal in the interest of service. The so-called disciplinary proceedings against other officials and the applicant being the Presenting Officer in the said disciplinary proceedings has no relation with the transfer order. The narration of the said proceedings is a mere attempt of the applicant to mislead the Tribunal. Transfer is an incidence of service and if every Government servant tries to evade transfer from one place to another by making some excuses, it would be very difficult for the Department to function properly and smoothly. The applicant has been transferred from Shillong to Imphal in the interest of service and because of an interim order the transfer order could not be implemented. The applicant was transferred on administrative ground considering the interest and exigency of service and therefore the Tribunal should dismiss the O.A.

3. The respondent No.5 in a separate written statement contended that the respondent No.5 does not know anything about the pending disciplinary proceedings in any way. The respondent No.5 has not received any information about the proposal of his name as an additional witness from any source nor received any summons or any information from the Inquiry Officer of the Disciplinary Proceedings. It is a cock and bull story fabricated by the applicant probably to divert the attention of the authorities to get his transfer order stalled. The respondent No.6, Shri Niranjan Das, is his next higher officer of Group 'A' cadre and except the normal official relation between Group



'A' officer and his subordinates the respondent No.5 has no relation with the respondent No.6 who has since retired on superannuation.

4. The applicant has filed a rejoinder pinpointing certain irregularities in the disciplinary proceeding, in which the applicant was the Presenting Officer, to prove the allegations of malafide made by the applicant. The applicant has also filed an additional affidavit alongwith a document dated 20.06.2006, Annexure-E. to show that the applicant was functioning as a Presenting Officer and was substituted by another Presenting Officer for early conclusion of the disciplinary proceeding.

5. I have heard Mr D. Mazumdar, learned counsel for the applicant and Ms U. Das, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned counsel for the parties have taken my attention to the various pleadings, materials and evidence placed on record.

6. The learned counsel for the applicant argued that the transfer of the applicant from Shillong to Imphal, Manipur is malafide and for extraneous reasons and not in public interest and therefore it has to be set aside.

7. The learned counsel for the respondents, on the other hand, persuasively argued that the transfer was made on public interest and for administrative reasons. An employee who has got All India Transfer liability has to accept the transfer in the larger interest of the institution.

8. I have given due consideration to the arguments, pleadings and materials placed on record. The case of the applicant is



that while the applicant was working on ad hoc basis, by order dated 12.06.2006 of the CPMG, NE Circle, the applicant was transferred to Imphal, Manipur and the representation filed by the applicant for review of the said transfer order was also rejected. The applicant's case is that while he was acting as Presenting Officer in a disciplinary proceeding, the applicant proposed to call one Shri Santosh Chakraborty as a witness for prosecution and on apprehension that the delinquent would be found guilty if the witness was to enter the witness box, with the help of respondent No.6 the CPMG was influenced to issue the transfer order of the applicant and therefore the applicant has alleged malafides. The grounds that have been pleaded in the O.A. for challenging the order of transfer is mainly on malafides. According to the applicant the applicant being the Presenting Officer in some of the disciplinary proceedings, when the interested parties found that the proceedings only go to show that the applicant was honestly discharging his duties, it was not taken in good grace and therefore the applicant was victimized. The applicant has produced some documents to show that the applicant was a Presenting Officer in some of the disciplinary proceedings and the applicant had proposed to summon respondent No.5 as a witness and that irritated the respondent No.5 and ultimately caused the transfer of the applicant. The specific contention of the respondents and that of the respondent No.5 is that they are not aware of any such proposal of the respondent No.5 being called as a witness. Even assuming that the respondent No.5 is being called as a witness that has nothing to do with the transfer. Disciplinary Proceeding under the CCS Rules is a quasi-judicial function in which the applicant has been appointed as a Presenting Officer. From the materials placed on record I have found



no reason of mixing up this issue of disciplinary proceeding and that of the transfer. The attempt on the part of the applicant is to deviate from the issue of transfer and try to make a case with that of the disciplinary proceeding. Except otherwise a bald allegation that through the respondent No.6 the Chief Post Master General was influenced and the applicant was transferred in order to get rid of the disciplinary proceeding cannot be accepted in its faith. The transfer order has been passed by the CPMG and the respondent No.6 and respondent No.5 mentioned in the O.A. are the junior most officers and one is at a loss to understand as to how they can influence the Head of the Circle. It is borne out that the Head of the Circle has applied his mind and the transfer order has been passed which cannot be faulted. Transfer is an incidence of service and the applicant has no other valid ground to challenge the same except malafides. Apart from that, in the rejoinder filed by the applicant paragraph 4 of the said rejoinder reads as follows:


"It is pertinent to mention that there is another disciplinary proceeding pending against Smt Kharshandi where also the applicant has been appointed the Presenting Officer. The allegation against Smt Kharsandi is failure to physically verify the balance in original pass-book by her in Banasree Sub-Post Office, Shillong which led to commission of fraud by another employee to the tune of more than Rs.3 lakhs. Respondent No.5 was the Inspector of the Central Postal Sub-Division, Shillong and Banasree office was under her charge at the relevant time. On 18.11.05 when the date was fixed for inspection of documents etc. by the charged official and the present applicant was also present, respondent No.5 whose presence was not necessary at all, physically presented himself and in any angry mood applied physical force to disrupt the proceedings. Consequently the Enquiry Officer had to adjourn the proceedings to 4 O'clock of the same day."

9. It is quite evident from the said pleadings of the applicant and the applicant's own admission as to the fact that the applicant



was appointed as the Presenting Officer subsequently in two other cases. It is an indication that the respondents have good faith in the applicant as far as the applicant's handling of the disciplinary proceedings is concerned and this has in no way prejudiced the respondents in entrusting subsequent responsible work to the applicant. Therefore, I am of the view that the allegations of malafides is only an attempt on the part of the applicant to get away from the transfer order. It appears that this transfer order is a simple transfer order on administrative exigency and public interest.

10. The learned counsel for the applicant has taken my attention to a decision of the Hon'ble Supreme Court reported in (2004) 11 SCC 213, Delhi Development Authority and Another Vs. UEE Electricals Engg. (P) Ltd. and argued that mala fides must be discernible from the order impugned or must be shown from the established surrounding factors which preceded the order. If bad faith would vitiate the order, the same should be deducible as a reasonable and inescapable inference from proved facts. Though I agree with the dictum laid down by the Hon'ble Supreme Court, the facts in the reported case is different, i.e. non acceptance of a contract, whereas in the given case mala fide has been alleged with a specific allegation of prejudice of personal vengeance. No materials have been placed except the fact that the applicant was appointed as a Presenting Officer in some disciplinary proceeding matters, which will not ipso facto prove that there is mala fide and the subsequent action of the respondents in appointing the applicant as Presenting Officer in some other disciplinary proceedings will only go to show that the respondents have no mala fide against the applicant, but had good faith on the applicant. In other words the applicant has not made out



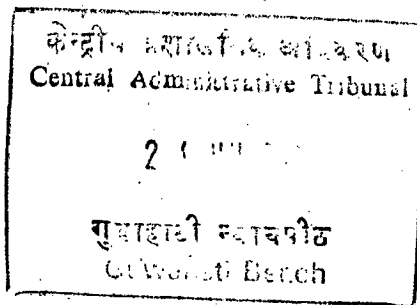
24

a case of mala fide nor placed any materials to prove the same. The Hon'ble Supreme Court in a celebrated decision reported In 2002 (1) SCC 188, Union of India Vs. Ashutosh Kumar Srivastava and others, declared that "there is always a presumption in favour of administration that it exercises powers in good faith and for public benefit. The burden is on the individual to produce sufficient materials to suggest of the mala fides of the authority concerned."

11. In the conspectus of facts and circumstances I am of the considered view that the applicant has not made out a case and the O.A. is bereft of merit and has to be dismissed. Accordingly the O.A. is dismissed. There will be no order as to costs. Interim order passed, if any, will automatically be vacated.



( K. V. SACHIDANANDAN )  
VICE-CHAIRMAN



*Filed by the  
applicant through  
Sonerwan Sarkia  
Advocate 15  
24-7-06*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BRANCH, GUWAHATI

O.A. NO. 180 /2006

Sri Bidhan Chandra Das

..... Applicant

-Vs-

Union of India & Ors

..... Respondent.

SYNOPSIS OF THE CASE

This original application is directed against the transfer order dated 1-6-2006 issued by the Chief Post Master General, NE Circle and also the letter dated 27-6-2006 issued by the same authority whereby the representation filed against the transfer order was rejected by a non-speaking order.

The applicant is holding the post of assistant Superintendent of Post Offices (HQ), Divisional Office Shillong. By the impugned transfer order he has been transferred and posted as Sub-Divisional Inspector (P) 2<sup>nd</sup> Sub-Division, Imphal, Manipur.

The applicant has assailed the impugned transfer order as being malafide and not in the interest of public service. While acting as a presenting officer in a disciplinary proceeding the applicant proposed to call one Sri Santosh Chakraborty as a witness for the precaution. Sri Chakraborty became apprehensive of being found guilty if he was to enter the witness box. Thus with the help of Sri Niranjana Das, another officer of the Department

152

16

influenced the Chief Post Master General to issue the impugned transfer order. Now another person has been appointed as a Presenting Officer in place of the applicant. Hence this application.

#### LIST OF DATES

- 27-5-2005 A disciplinary proceeding was initiated against Smti. K. Kharshandi, an employee of postal department.
- 30-5-2006 During the course of hearing of the aforesaid proceeding the applicant as a presenting officer proposed to summon Sri Santosh Chakraborty, Asstt. Superintendent, Vigilance as an additional witness, which was allowed.
- 23-6-2006 Applicant was transferred by order dated 12-6-2006 of the Chief Post Master General, N.E. Circle, to Imphal, Manipur.
- 29-6-06 Representation submitted by the applicant against the transfer order was rejected.

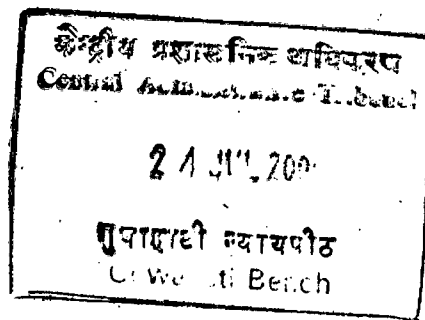
Filed by

Sonowar Saikia

Advocate

16





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BRANCH, GUWAHATI

O.A. NO. /2006  
(APPLICATION UNDER SECTION OF THE ADMINISTRATION  
TRIBUNAL ACT, 1985)

Sri Bidhan Chandra Das

..... Applicant

-Vs-

Union of India & Ors

..... Respondents.

INDEX

| <u>Sl. No.</u> | <u>Particulars</u>    | <u>Annexure</u> | <u>Page</u> |
|----------------|-----------------------|-----------------|-------------|
| 1.             | Application           |                 | 1-11        |
| 2.             | Verification          |                 | 12          |
| 3.             | Charge sheet          | 'A'             | 13-16       |
| 4.             | Order dated 30-5-06   | 'B'             | 17-18       |
| 5.             | Transfer Order        | 'C'             | 19          |
| 6.             | Order dated 29-6-2006 | 'D'             | 20          |

Filed by  
Sonowar Saikia  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BRANCH, GUWAHATI

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

O.A. NO. 180 /2006

1. Name of the applicant with address  
Sri Bidhan Chandra Das  
S/o Late Bir Bikram Das  
Plot No. 198, Rinja Re-habilitation  
Colony, Shillong-793006
2. Name and address of the Respondents
1. Union of India,  
represented by its Secretary to the  
Department of Post, New Delhi.
  2. Chief Post Master General, N.E.  
Circle, Shillong 793001
  3. Superintendent of Post Offices,  
Meghalaya Division,  
Shillong-793001.
  4. Assistant PMG, N.E. Circle  
Shillong 793001.
  5. Sri Santosh Chakraborty, Asstt.  
Superintendent (Vigilance) Circle  
Officer, Shillong.

Filed by the  
applicant through  
Sonerwa Saitia  
Advocate 18  
24-7-06

*180*

*Asstt. Secy. P.O.*

6. Sri Niranjan Das,

Assistant Post Master General,  
(Staff) and APMG (Vig.),  
Shillong.

3. Particular of order/orders: Transfer order dated 12-6-06  
against which the application passed by the Chief Post Master  
is made and subject in brief. General, NE Circle communicated  
by letter dated 23-6-2006  
of the Superintendant  
of Post Officer, Meghalaya  
Division, Shillong.
4. Jurisdiction of the Tribunal: That applicant declares that the  
subject matter of the order against  
which he wants redressal is within the  
jurisdiction of the Tribunal.
5. Limitation: That applicant further declares that  
the subject the application is within  
the limitation period prescribed in  
section 21 of the Administrative  
Tribunals Act, 1985.

1/22

6. Facts of the case:

I) That this original application is directed against the transfer order dated 12-6-2006 passed by the Chief Post Master General, NE Circle, communicated by letter dated 23-6-2006 of the Superintendent of Post Officer, Meghalaya Division, Shillong. The applicant is holding the post of Asstt. Superintendent of Post Offices (HQ) on ad-hoc basis vide order dated 10-4-2006 although the post held by the applicant in substantive capacity is the post of Sub-Divisional Inspector of Post Offices, (South), Sub-Division, Shillong. By the impugned transfer order the applicant has been transferred and posted as SDI (P) Second Sub-Division, Imphal, Manipur.

II) That the applicant has assailed the impugned transfer order on the ground that the same is malafide and it is issued on extraneous reasons and there is no public interest involved in the transfer. The following facts and circumstances would reveal the illegality in the transfer order.

III) That the authority who issued the transfer order was influenced by certain officers of the respondent department who became apprehensive of being found guilty when in course of the hearing of a disciplinary proceeding against an employee of the department where the applicant was Presenting Officer, the petitioner proposed to call a particular officer as an additional witness who was found to be a material witness by the applicant.

IV) That the applicant states that considering his ability and proficiency in performing the duty of P.O. and E.O. in disciplinary proceeding, the department has appointed the applicant as Presenting Officer in various disciplinary proceedings from time to time. Presently the applicant has the appointment of Presenting Officer in two cases and Enquiry Officer in one case to his credit.

V) That in one of the aforesaid disciplinary proceedings where the applicant has been appointed as a Presenting Officer, one Smti. K. Kharshandi, SDI, P.O. Central Sub-Division, Shillong - 1, is the charged official. The charge sheet against her was issued on 27-5-2005 with one article of charge namely her failure to carry out 100% verification in the matter of a fraud committed by one Sri B. Ranjan Das, the then Sub-Post Master, Cherapunji, Sub-Post Office, by not depositing an amount of Rs. 3,55,592/- to the Government Account.

A copy of the charge sheet along with the article of charge, list of witness is annexed as annexure 'A' to this application.

VI) That the disciplinary proceeding aforesaid is under way and as many as 8 sittings/hearings have taken place already. It may be mentioned here that the list of witnesses appended to the charge-sheet contained the names of only 2 witness namely Smti. S. Kharthangmau and Smti F Khongbri. On the last date of hearing of disciplinary proceeding held on 30-5-2006 during the course of examination of the second witness aforesaid in reply to the question put up by the

applicant as a Presenting Officer, the said witness, Smti. F. Khongbri stated that after she came to know about the incident she proceeded to Cherabazar Sub-Post Officer along with others including Sri Santosh Chakraborty, Asstt. Superintendant (Circle Officer). She further stated that a fraud of about Rs. 4 lakhs was detected there but the entire team returned from there on the same day.

At this stage the applicant found that Sri Santosh Chakraborty would be a material witness. Accordingly the applicant proposed to Inquiry Officer to summon Sri Chakraborty as an additional witness as he is not listed witness. In consideration of his prayer the Inquiry Officer in his order No. 8 dated 13-5-2006 amongst other mentioned that he agreed with the applicant.

A copy of the order dated 30-5-06 is annexed as Annexure 'B' to this petition.

VII) That the action of the applicant in proposing to summon Sri Chakraborty aforesaid as an additional witness has earned the wrath of Mr. Chakraborty and invited all the troubles which ultimately lead to the transfer. Sri Chakraborty is holding the post of Asstt. Superintendent (Vigilant) Circle Officer, Shillong. As soon as he came to know of the proposal to summon him as a witness he became apprehensive. Because it is a normal practice but as soon as in course of any verification a fraud is detected the team of officers visiting the station has to camp and stay there until the completion of a comprehensive 100% verification but for reasons best known to the members of the

team on the same day the team returned to Shillong and it was specifically disclosed by Smti. S. Khongbri. It was therefore evident that Sri Chakraborty was reluctant to enter into the witness box to answer question that may land him in trouble.

VIII) That soon Sri Chakraborty realized the aforesaid facts. With a view to protect himself from the impending troubles, with the help of Sri Niranjana Das, APMG (Staff) who is also the APMG (Vig.) influenced the respondent No.3 to issue the transfer order to ensure that the applicant is duly harassed and that he is substituted by another person so that the whole problem could be avoided. Accordingly respondent No. 3 issued the impugned transfer order dated 12-6-2006 which was communicated to the applicant by letter dated 23-6-2006. It may be stated that Sri Santosh Chakraborty is a very close associate of Sri Niranjana Das and they are hand in glove with each other.

A copy of the transfer order dated 23-6-2006 is annexed as annexure 'C' to his application.

IX) That the applicant states that the veracity of the aforesaid allegations of malafide would find support from another incident. On 5-6-2006 at about 10 A.M. Sri L.K. Barman serving as superintendent of Post Offices, called the applicant in his office chamber and asked him as to what was the need of calling a witness beyond a list. Sri Barman also told the applicant that he was requested to send the confidential report file of the applicant by fabricating some adverse

confidential report against the applicant. Sri Barman has also got disgusted in the department and accordingly he has taken a long leave.

X.) That the ill will of the respondents against the applicant would be evident from the order dated 20-6-06 whereby the applicant who was functioning as Presenting Officer has been substituted by one Sri Paul Zoramthanga. This immediate appointment of another presenting officer coupled with an observation in the letter of appointment that appointment of a new Presenting Officer is necessary for early (emphasis supplied) finalization of the disciplinary proceeding only goes to show that the conduct of the applicant in honestly discharging his duties is not taken by some interested persons with a good grace. Till date there have been 8(eight) sittings of the disciplinary proceeding and no adjournment was sought for by either of the parties. Therefore the observation of the necessity of early finalization could not have any indication other than finalization of the disciplinary proceeding is indicative of the desire to complete the proceeding in the absence of the applicant.

XI.) That being aggrieved the applicant submitted a representation against the transfer order on 16-6-06 stating therein his physical ailments with arthritis and education of his children. He further stated therein about some baseless allegation of delay in attending office by the Superintendent. The applicant however did not retain a copy of such representation.

XII.) The representation so filed by the applicant was rejected on some undisclosed administrative grounds which was communicated



by the Superintendent of Post Offices to the applicant on 29-6-2006. It may be stated that in fear of being made a victim of the incident at the hands of the respondents the applicant refrained from disclosing the allegations mentioned herein above in the aforesaid representation.

A copy of the aforesaid order dated 29-6-2006 is annexed as annexure 'D' to this application.

XII) That the applicant states that he is on leave on medical ground and in pursuance of the impugned transfer order he has not yet joined at Imphal, Manipur.

7. Grounds for relief:

I) For that the impugned transfer order has been issued malafide by the respondent and there is no public interest involved in it and as such the same is liable to be set aside and quashed.

II) For that the impugned transfer order has been issued by respondent No.2 under the direct influence of respondent No. 5 and 6 who are close associates since respondent No.5 became vindictive against the application for proposing his name as additional witness for the prosecution in the on going disciplinary proceeding against Sri K. Kharsandi.

III) For that respondent No. 5 became apprehensive of being found guilty in returning back on the same day from Cherapunji Sub-Post Office where he went with team of officials to carry out 100%

verification in the matter of a financial irregularities therein because according to State witness No. 2 a fraud was detected and in such eventuality the team should have camped there till completion of the verification.

IV) For that the facts and circumstances stated in the body of this application are the established surrounding factors which preceded the order and bad faith would be deducible as a reasonable and inescapable inference from the said facts.

V) For that the respondents particularly respondent No. 2 acted illegally in issuing the transfer order against the applicant under the influence of respondent no. 5 and 6 and as such the decision making process before the issuance of the transfer order is vitiated by bad faith and misuse of the power conferred on the respondents.

VI) For that the action of the respondents in rejecting the representation filed by the applicant that too without disclosing the reasons for such summary rejection of the representation is not sustainable in as much as the authority rejected the representation mechanically and without applying mind.

VII) For that in any view of the matter and on any other ground the impugned transfer order dated. Is bad in law and as such the same is liable to be set aside and quashed.

152

8. Details of remedies exhausted:

The applicant declares that he has availed of all the remedies available to him under the relevant service rules. He filed representations dated 16-6-2006 before the CPMG, N.E. Circle Shillong to stay the transfer order dated 12-6-06 but that was not accepted by the authority on administrative grounds. The rejection order was communicated to the applicant by the Superintendent of Post Offices, Meghalaya Division on 29-6-2006 (Annexures 'D')

9. Matters not previously filed or pending with any other court:

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any Court or any other authority or any other bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

10. Relief sought:

In view of the facts mentioned above the applicant prays for the following relieves:

- a) Setting aside the transfer order dated 12-6-2006 issued by the CPMG, NE Circle vide memo No. Staff/9-7/04 communicated by the Superintendent of Post Offices, Meghalaya Division, Shillong.

102

b) Setting aside the order issued by CPMG rejecting the representation dated 16-6-06 communicated by letter dated 29-6-2006.

c) Any other relief the applicant is entitled to.

11. Interim order prayed:

Pending final decision on the application the applicant prays for stay of the impugned transfer order dated 12-6-06 issued by CPMG, NE Circle.

12. Particulars of the application fee:

I) IPO No. 26G 325 295

Date 24-7-06

Payable at: Guwahati Head Post Office.

13. List of Enclosures

A) Application.

B) Verification

C) Charge sheet

D) Order dated 30-5-06

E) Transfer Order

F) Order dated 29-6-2006

102

### VERIFICATION

I, Sri Bidhan Chandra Das, S/o Lt. Bir Bikram Das, aged about 43 years working as Assistant Superintendent of Post Offices, (Headquarter), in the office of Meghalaya Postal Division, Shillong, resident of Plot No. 198, Rynjah Re-habilitation Colony, Shillong, Meghalaya do hereby verify that the contents of paras 1 to 6 (iv)..... are true to my personal knowledge and paras 6(v) to 6(viii) and 6(x) believed to be true <sup>of the case and</sup> based on record that I have not suppressed by material fact.

Date 24-7-06

Place: Guwahati

Bidhan Chandra Das

## DEPARTMENT OF POSTS

## MEMORANDUM

**Annexure A** 1/c 30

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

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

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

4. Shri. Smti. K. Kharskandi is further informed that if he does not submit his written statement of defence on or before the date specified in para-2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule-14 of the C.C.S. (C.C.A.) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the inquiring authority may hold the inquiry against him *ex parte*.

5. Attention of Shri. Smti. K. Kharskandi is invited to Rule-20 of the Central Civil Services (Conduct) Rules, 1964 under which no Govt. servant shall bring or attempt to bring any political or outsider influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Govt. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri. Kharskandi is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule-20 of the C.C.S. (Conduct) Rules, 1964.

6. The receipt of this Memorandum may be acknowledged.

Name & designation of Competent authority.

Br. Supdt. of Post Offices  
Meghalaya Division  
Shillong-793021

Memo No. F-4-5/03-04/Ch. Ka Bazar (A) dtd. 27-05-2005

To,

Smti. K. Kharskandi  
SOI for Central Subson  
Shillong-1

Certified to be true copy

Sd/-  
Adm. Secy

ANNEXURE I

Statement of article of charge framed against Smti Kerlinmon Kharshandi SDIPOs Central Sub Division Shillong under Rule 14 of CCS (CCA) Rules 1965.

ARTICLE I

That the said Smti K. Kharshandi while working as SDIPOs North Sub Division Shillong during the period from 1-1-99 to 6-5-2003, carried out the cent percent verification of SB/RD accounts standing at Cherra Bazar S.O for the year 2001-2002 and submitted her report vide her letter No. A1/CPC/SB Vfn/02 dtd 15-4-2002. But the balances and dates of last transaction of several SB (TPF) accounts as recorded in her report did not tally with the balances and dates of last transaction as per concerned pass books.

Had Smti Kharshandi practically collected the pass books as per procedure of 100% verification, the fraud committed by Shri B. Rn Das the then SPM Cherrapunjee S.O during the period from Nov 2000 to 7-2-04 could have been detected. Shri Das committed fraud from several TPF accounts standing at Cherra bazaar by not crediting the deposited amount to the tune of Rs355,592/- (Rs Three lakhs fifty five thousand five hundred ninety two) only to the Government account. Shri Das recorded the transaction only in concerned pass books without making entry in the ledger/long books on the date of deposit he however made some belated credit by entering in the long books and ledger cards.

By the above act said Smti Kharshandi is alleged to have failed to maintained devotion to duty and thus alleged to have violated the provision of Rule 3 (1) (ii) of CCS (Conduct) Rules 1964.

ANNEXURE II

Statement of imputation of misconduct or misbehaviour in support of the article of charge framed against Smti Kerlinmon Kharshandi SDIPOs Central Sub Division Shillong under Rule 14 of CCS (CCA) Rules 1965.

ARTICLE-I

That said Smti K. Kharshandi while functioning as SDIPOs North Sub Division Shillong during the period from 1-1-99 to 6-5-2003 carried out the 100% verification of SB/RD accounts standing at Cherra Bazar S.O for the year 2001-2002 as per programme fixed by Sr. Supdt. of Post Offices Meghalaya Division Shillong vide memo No. VI/Cent percent verification/99-2000 dated 14-3-2001. Accordingly Smti Kharshandi submitted her report vide letter No. A1/CPC/SB Vfn/02 dtd 15-4-2002.

During the period from November 2000 to 7-2-2004 Shri Bipul Rn Das Ex SPM Cherra Bazar S.O committed fraud in several SB (TPF) accounts to the tune of Rs 3,55,592/- (Rs Three lakhs fifty five thousand five hundredninety two) only by not crediting the deposited amount to Government accounts on the dates of deposit. He made entry in respective pass books only but neither recorded the transaction in long book nor ledger cards. He however made some belated credit of the amounts by entering the transaction in long book / ledger to cover up the misappropriation done by him.

It has been ascertained that Smti Kharshandi did not verify the balance with reference to the concerned pass books as the balances of several SB (TPF) accounts recorded by her in the report do not tally with the balance of the pass books or with the date of last transactions recorded in the pass book during the period of doing the 100% verification. Some of the instances are as follows :-

Shillong - 1

| Sl No | Acc No | DLT as per report | Balance as per 100 % report | Balance as per pass book | Remarks  |
|-------|--------|-------------------|-----------------------------|--------------------------|--|
| 1.    | 830194 | 22-11-01          | 99809.60                    | 88209.60                 | DLT as per pass book prior to date of report 3-4-02 with balance Rs 91293.60.        |
| 2.    | 830238 | 20-2-02           | 108809.35                   | 117390.35                | DLT as per Pass book prior to date of report 21-3-02 with balance Rs 119626.35.      |
| 3.    | 830252 | 20-2-02           | 103864.80                   | 109414.15                | DLT as per Pass book prior to date of report is 21-3-02 with balance Rs 110508.15.   |
| 4.    | 830256 | 5-7-01            | 56873.40                    | 58967.40                 | Nil  |
| 5.    | 830257 | 5-7-01            | 65808.40                    | 53358.40                 | Nil  |
| 6.    | 830258 | 5-7-01            | 51176.90                    | 51986.90                 | Nil  |
| 7.    | 830259 | 5-6-01            | 34713.20                    | No transaction on P.B    | DLT as per pass book prior to date of report is 5-7-01 with balance Rs 36177.20.     |
| 8.    | 830261 | 5-6-01            | 20165.25                    | -do-                     | DLT as per pass book prior to date of report 5-7-01 with balance Rs 21469.25         |
| 9.    | 830282 | 5-7-01            | 24216.05                    | 28208.05                 | Nil  |
| 10.   | 830237 | 20-2-02           | 13158.45                    | 128517.00                | DLT as per pass book prior to date of report 21-3-02 with balance Rs 131033/-.       |
| 11.   | 830313 | 28-11-01          | 25875.00                    | 28953.45                 | DLT as per pass book prior to date of report 21-3-02 with balance Rs 30681.45.       |
| 12.   | 830336 | 20-2-02           | 18215.50                    | 19579.50                 | DLT as per pass book prior to date of report 21-2-02 with balance Rs 20451.50.       |
| 13.   | 830301 | 22-11-01          | 20986.30                    | 20980.30                 | DLT as per pass book prior to date of report is 20-3-02 with balance as Rs 21416.30. |
| 14.   | 830310 | 28-11-01          | 67285.20                    | 69185.20                 | DLT as per pass book prior to date of report is 21-3-02 with balance Rs 72059.20.    |
| 15.   | 830312 | 28-11-01          | 30910.95                    | 34594.95                 | DLT prior to date of report in pass book is 21-3-02 with balance Rs 36685.95.        |

Had Smti K. Kharshandi practically collected the pass books or issued SB 46 notices to the depositors to verify the actual balances in the pass books with office records, the fraud committed by Shri B. Ru Das could have been detected at that time only and continuance of the same could have been arrested. Due to the failure of Smti Kharshandi to collect the pass books / issue notices in the form of SB-46 to the depositors, Shri B. Ru Das got opportunity to defraud the department to the tune of Rs 3,55,592/- (Rs Three lakhs fifty five thousand five hundred ninety two) only.

By the above act said Smti Kharshandi is alleged to have failed to maintain devotion to duty and thus alleged to have violated the provision of Rules 3 (1) (ii) of CCS (Conduct) Rules 1964.



ANNEXURE III

List of document by which the articles of charges framed against Smti Kerlinmon Kharshandi are proposed to be sustained.

1. 100 % verification report of Smti K. Kharshandi vide letter No. AI/CPC/SB Vfn/02 dtd 15-4-2002.
2. Original pass book No. 830194, 830238, 830252, 830256, 830257, 830258, 830259, 830261, 830282, 830237, 830313, 830336, 830301, 830310, 830312.
3. SB ledgers of Cherra bazar S.O.
4. SB long book w.e.f 31-7-99 to 18-3-04.

ANNEXURE IV

List of witness by whom the articles of charge framed against Smti K. Kharshandi SDIPOs Central Sub Division Shillong are proposed to be sustained.

1. Smti S. Kharthangmaw, O/A Fraud Branch, Divisional Office.
2. Smti F. Khongbri, SDI (North) Sub Division, Shillong.

*Represented by m5.*

ANNEXURE

B

DEPARTMENTAL ENQUIRY UNDER RULE 14 OF CCS (CCA) RULES, 1965 AGAINST SMT K. KHARSHANDI UNDER REFERENCE OF SSPOs SHILLONG NO. F4-5/03/CHERRA BAZAR

ORDER 8

30-5-06

Took up the regular hearing. The following members are attended in the hearing and take part in the case.

1. I.O. Sri U. Basumatary.
2. P.O. Sri B.C. Das.
3. C.O. Smt. K. Kharshangdi
4. DA Lelaluddin Ahmed.
5. Witness Smti. S. Khanthongmaw (SW-1)
6. Witness Smt. F. Khongbri (SW-2)

the examination of witnesses is started at the time prescribed. The deposition of SW-1 and S.W. 2 are recorded and the deposition of SW1 and SW2 are enclosed separately herewith.

During the course of examination of SW 2 the name of Sri Santosh Chakraborty became very much material. The P.O. proposed to call as witness additional witness of Sri Santosh Charaborty, I have examined the proposal of the P.O. for calling Sri Santosh Chakraborty as additional witness and found relevant. Hence I agreed with the P.O.

The C.O. is submitted an application for supply the following additional document.

1. IR on Cherrabazar dtd. 2-8-2001 recorded by A.R. Bhowmik.

Certified to be true copy.

*S. Saiti*

Advocate.

2. IR on Cherrabazar dated 27-11-2002 recorded by H.R. Devchoudhury C98
3. IR on Cherrabazar dated 1-11-2003 recorded by Sri A.K. Shyam, ASPDR

The CO also applied for additional witnesses of 15 depositors. The matter will be examined carefully and will intimate in due course.

The hearing adjourned too today and the date of next hearing will be intimated in due course.

No. A1/Misc.-Inquiry/02/2006

Dated 30-5-06

Copy to:-

1. The Supdt. Of POS, Meghalaya Dvn. Shillong.
2. Sri B.C. Das.
3. Smt. K. Khanshandi.
4. Smti. F. Khongbri.
5. Smti. S. Khanthongnaw.

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

NO: B2-IPO/Misc/II

Dated at Shillong the 23<sup>rd</sup> June 2006

In pursuance of the Chief Postmaster General, N.E. Circle memo No. Staff/9-7/04 dated 12-6-06 and this office memo of even No. dated 14-6-06 Shri Bidhan Ch. Das officiating ASP (HQ), Meghalaya Division, Shillong now on leave on Medical ground for the period from 14-6-06 to 23-6-06 is hereby ordered to join his new assignment i.e SDI (P) Second Sub Division, Imphal on expiry of his leave producing Medical Certificate of fitness.

*cat*  
Supdt of Post Offices  
Meghalaya Division  
Shillong - 793001

Copy to:-

1. Shri Bidhan Ch. Das officiating ASP (HQ), Meghalaya Division now on leave at Plot No. 198 - R.R. Colony, Rynjah Shillong - 793006.
- 2-3 The Sr. Postmaster Shillong G.P.O / Postmaster Imphal H.O for information.
4. The Director of Postal Services, Manipur Division, Imphal.
5. P/F of the official.
6. O/C.

*D*  
Supdt of Post Offices  
Meghalaya Division  
Shillong - 793001

Certified to be true copy

*g. h. h.*  
Advocate.

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

NO: B2-B-Das

Dated at Shillong the 29<sup>th</sup> June 2006

To,

Sri Bidhan Ch. Das  
ASP (HQ) - Officiating  
Meghalaya Division, Shillong - 793001  
Plot No. 198 R.R. Colony Rynjah  
Shillong - 793006.

Rgd/AD

Prayer for granting stay order of transfer - case of Shri Bidhan Ch. Das,  
ASPOs (HQ), Divisional office, Shillong.

In pursuance of Chief Postmaster General N.E Circle, Shillong letter No. Staff/S-202/95 dated 27-6-06 it is intimated that the representation regarding the above mentioned subject submitted by you to the Chief Postmaster General (Staff), N.E Circle, Shillong on 16-6-06 has been examined by the Competent authority but could not be acceded to on administrative grounds. As you are on leave, you are hereby directed to report to DPS Imphal on expiry of your leave.

Supdt of Post Offices  
Meghalaya Division  
Shillong - 793001

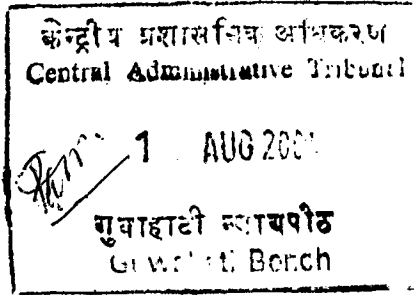
Copy to:-

The Chief Postmaster General (Staff) N.E Circle, Shillong for information. Sri Bidhan Ch Das officiating ASP (HQ), Meghalaya Division was ordered to join his new assignment i.e SDI (P) Second Sub Division, Imphal on expiry of his leave applied for from 14-6-06 to 23-6-06 producing medical Certificate of fitness as ordered vide this office <sup>Adm</sup> No. B2-IPO/Misc/II dated 23-6-06.

edt  
Supdt of Post Offices  
Meghalaya Division  
Shillong - 793001

Certified to be true copy

Advocate.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI

O.A. NO. 180 /2006

Sri Bidhan Chandra Das

Applicant

-Vs-

Union of India & Ors

Respondents.

IN THE MATTER OF:

An additional Affidavit filed by the  
applicant.



ADDITIONAL AFFIDAVIT

I, Sri Bidhan Chandra Das s/o Late Bir Bikram Das, aged about 43 years resident of plot No. 198, Rynjah Re-habilitation Colony, Shillong, Meghalaya do hereby solemnly affirm and declare as follows:

1. That I am the applicant of this case and I am acquainted with the facts and circumstances of the case.
2. That I have filed the O.A. No. 180/2006 challenging the transfer order dated 1-6-2006 passed by the Chief Post Master General, N.E. Circle,

h  
Sd/- Registrar  
2nd Class, Guwahati

Filed by the applicant

Bidhan Ch. Das  
17-8-06  
Sd/- Registrar  
2nd Class, Guwahati

Shillong on the ground that the transfer order was issued malafide and there is no public interest involved in it. The allegations of malafide made in the original application are not supported by any affidavit since the application was filed in the format. This affidavit has been filed to support the allegations of malafide made in the original application.

3. That in paragraph 6 (X) of the original application the deponent stated that the ill will of the respondents in passing the transfer order would be evident from the order dated 20<sup>th</sup> June 2006 issued by the Superintendent of Post Offices, Meghalaya Division, Shillong, whereby the applicant who was functioning as Presenting Officer has been substituted by one Sri Paul Zoramthanga for early finalisation of the disciplinary proceeding. Inadvertently the order dated 20<sup>th</sup> June 2006 was not annexed the original application. Therefore the deponent has produced the same along with this affidavit.

B. Bidhan Ch. Das.



A copy of the order dated 20-6-2006 is annexed as annexure 'E' to this affidavit.

1/2  
 Public Registrar  
 and Class. Registrar

4. That the statements made in paragraph 1, 2 and 4 of this affidavit are true to my knowledge and those made in paragraph 3 being matters of record are true to my information. The statements made in paragraph 6 (I) to 6(XIII) of the original application No. 180/06 are true to my knowledge and I believe them to be true.

12  
And I sign this affidavit on this 11<sup>th</sup> day of August, 2006 at Guwahati.

Identified by

Rupam Sarma.  
1-8-06.

Advocate

Bidhan. Ch. D.  
DEPONENT



Solemnly affirmed by the deponent  
before me who is identified by Sri  
Rupam Sarma, Advocate on this 11<sup>th</sup>  
day of August, 2006 at Guwahati.

11/5  
11.8.06  
MAGISTRATE, GUWAHATI  
Sd/- [Signature]



- 4 -

Annex 'E'

N

DEPARTMENT OF POSTS

O/O THE SUPDT OF POSTS OFFICES: MEGHALAYA DIVISION  
SHILLONG - 793001

NO: F4-5/03-04/Cherra Bazar (A)

Dated at Shillong the 20<sup>th</sup> June 2006

Shri B.C Das ASPOs (HQ) Shillong was appointed as the Presenting Officer vide SSPOs Shillong memo of even No. dated 30-5-05 to present the case in connection with inquiry under Rule 14 of CCS (CCA) Rules 1965 against Smti K. Kharshandi SDIPOs Central Sub Division Shillong.

And whereas, Shri B.C. Das is transferred vide Circle Office Shillong memo No. Staff/9-7/04 dated 12-6-06, hence appointment of a new Presenting Officer is necessary for early finalisation of the case.

Now therefore, the undersigned hereby appoint Shri Paul Zoramthanga SDIPOs Jowai Sub Division as the Presenting Officer to present the case on behalf of the undersigned.

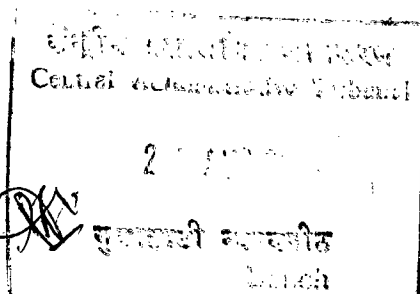
sd -  
Supdt of Post Offices  
Meghalaya Division  
Shillong - 793001

Copy to:-

1. Shri Paul Zoramthanga SDIPOs Jowai Sub Division for information and necessary action.
2. Shri U. Basumatary Sr. Postmaster Shillong G.P.O. and I.O for information.
3. Shri B.C Das ASPOs (HQ) (on leave). He is requested to hand over all the related documents to this office.
4. The Assistant Postmaster General (Vig) N.E Circle, Shillong for approval.
5. Smti K. Kharshandi SDIPOs, Central Sub Division, Shillong.

*Allotted  
Smti Kharshandi  
Adv.  
17-8-06.*

Supdt of Post Offices  
Meghalaya Division  
Shillong - 793001



BEFORE THE CENTRAL ADMINISTRATIVE

GUWAHATI BENCH: GUWAHATI

O.A. NO.180/2006

SHRI BIDHAN CHANDRA DAS

.....APPLICANT.

-VERSUS-

UNION OF INDIA & OTHERS

.....RESPONDENTS.

Filed by  
the Respondent No. 1 to  
Through 42  
Alpha Das  
Addl CHS of  
25/18/06

WRITTEN STATEMENT FILED BY THE RESPONDENTS NO. 1 TO 4.

1) That the respondents have received copy of the OA and have gone through the statement made therein and have understood the contention made therein. Save and except the statements, which are specifically admitted herein below, rest may be treated as total denial. The statements, which are not borne on records, are also denied and the applicant is put to the strictest proof thereof.

2) That with regard to the statement made in paragraph 6.1 of the O.A., the respondents beg to offer no comment.

3) That with regard to the statement made in paragraphs 6.II to 6.IV of the O.A., the respondents stoutly deny the contentions made therein and beg to state that the applicant has been transferred from Shillong to Imphal, in the interest of service. There is no other ground of transfer of the Applicant. The so called Disciplinary proceedings against other official and being the applicant Presenting Officer in that Disciplinary proceedings, have no relation with the impugned transfer order.

4) That with regard to the statement made in paragraph 6.V of the O.A., the respondents have no comment to offer.

Contd.....2

- 2 -

5) That with regard to the statement made in paragraph 6.VI of the O.A. the respondents beg to state that they have no comment to offer because the Disciplinary proceedings mentioned in this paragraph, by the applicant, is completely separate and it has no relation with the impugned transfer order of the applicant. The narration is mere attempt of the applicant to mislead the Hon'ble Tribunal to get favorable order.

6) That with regard to the statement made in Paragraphs 6.VII of the O.A., the respondents beg to state that there is no connection between the transfer of the applicant and the Disciplinary Proceedings against Smt. K. Kharshandi, another official. The applicant is just trying to mislead the Hon'ble Tribunal to get favorable order.

7) That with regard to the statement made in paragraph VIII of the O.A., the respondents beg to state that Sri Santosh Chakraborty and Sri Niranjana Das, mentioned in this Paragraph, are most junior in rank than the Chief Postmaster General who is Head of the Postal Circle and who ordered the transfer of the applicant in the interest of service. Being most junior officials/officers, Sri Chakraborty and Sri Das can not influence the Head of the Circle. Moreover, the transfer of the applicant was ordered by the Chief Postmaster General, the respondent No.2, but **not** by the Superintendent of Post Offices, Meghalaya Division, Shillong, respondent No.3., who is also most junior to the Chief Postmaster General. The Superintendent of Post Offices, Meghalaya Division, Shillong, respondent No.3, only communicated the order of the Chief Postmaster General, vide letter dtd.23.6.06. (Annexure 'C' to the O.A.)

3 -

44

8) That with regard to the paragraph X of the O.A., the respondents beg to state that the incident mentioned in this paragraph is not supported by any documentary evidence nor it has any relation to the transfer of the applicant.

9) That with regard to the statement made in paragraph XI of the O.A., the respondents beg to state that in view of transfer of Sri Bidhan Chandra Das, from Shillong to Manipur, vide order dtd. 12.6.06, to have immediate effect, Sri Paul Zoramthanga, another SDI(POs) of Jowai Postal Sub Division, was appointed as Presenting officer of the Disciplinary proceedings vide order dtd. 20.6.06, since the inquiry of the Disciplinary proceedings was being held at Shillong only. The fact is clearly indicated in the order No. F4-5/03-04/Cherra bazaar(A) dtd 20.6.06. As such, the transfer order of the applicant was issued by the Head of the Circle earlier and consequently his appointment as Presenting officer of a Disciplinary Proceedings, based on Shillong, was also changed by the competent authority. A copy of the order dtd.20.6.06 is annexed herewith and marked as Annexure-R I.

10) With regard to the statement made in paragraphs 6.XII and 6.XIII of the O.A., the respondents beg to submit that the representation of the applicant has been considered by the Chief Postmaster General, the Head of the Postal Circle, but the impugned transfer order could not be cancelled or kept in abeyance on administrative ground since the transfer of the applicant was ordered in the interest / exigency of service. Transfer is an incidence of service and if every Govt. servant tries to evade transfer from one place to another, making some excuses like this, it will be very difficult for the Department to function properly and smoothly.

11) That with regard to the statement made in Paragraph 6.XIV of the O.A., the respondents have no comment.

Contd.....4

- 4 -

45

12) That with regard to the statement made in paragraph 7.I to 7.VII of the O.A., the respondents while denying the contentions made therein, beg to rely and refer upon the statement made above. The respondents further beg to submit that there is no other reasons for transfer of the applicant. The applicant has been transferred to Imphal in the interest of service and the Hon'ble Tribunal may be pleased to direct the applicant to join to the transferred place without delay.

13) That with regard to the statement made in paragraphs 8 and 9 of the O.A. the respondents have no comment to offer.

14) That with regard to the statement made in paragraphs 10(a) to 10(c) of the O.A. the respondents beg to submit that in view of the statement made above the applicant could not make out any case for which he is not entitled for any of the relief sought for in these paragraphs. The applicant has been transferred by the competent authority on administrative ground considering the interest and exigency of service and as such the Hon'ble Tribunal may be pleased to dismiss the O.A and to direct the applicant to join at Imphal, the new place/post of his posting.

15) That with regard to the statement made in paragraph 11 of the O.A. the respondents beg to submit that the Hon'ble Tribunal may be pleased to vacate the stay order dtd.26.7.06, in view of the facts mentioned above.

16) That in view of the facts and circumstances of the case, the respondents pray that the Hon'ble Tribunal may be pleased to dismiss the O.A. directing the applicant to join his new place/post of posting at Imphal. Contd.....5

16

5

VERIFICATION

I, Sri. Niranjan Das,  
aged about 60 years, at present working as  
Asstt. Postmaster General, of the C.M.G., N.E. Circle  
Shillong  
who is one of the respondents and taking steps in this case, being duly authorized  
and competent to sign this verification for all respondents, do hereby solemnly  
affirm and state that the statement made in  
paragraphs 1, 2 are true to my  
knowledge and belief, those made in paragraphs 3 to 14 being  
matter of records, are true to my information derived there from and the rest are  
my humble submission before the Hon'ble Tribunal. I have not suppressed any  
material fact.

And I sign this verification this 20th day of August 2006  
at Shillong

Niranjan Das  
DEPONENT

Annexure - R. I. - 6-

DEPARTMENT OF POSTS  
O/O THE SUPDT OF POSTS OFFICES: MEGHALAYA DIVISION  
SHILLONG - 793001

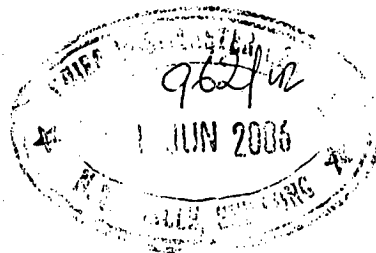
NO: F4-5/03-04/Cherra Bazar (A)

Dated at Shillong the 20<sup>th</sup> June 2006

Shri B.C Das ASPOs (HQ) Shillong was appointed as the Presenting Officer vide SSPOs Shillong memo of even No. dated 30-5-05 to present the case in connection with inquiry under Rule 14 of CCS (CCA) Rules 1965 against Smti K. Kharshandi SDIPOs Central Sub Division Shillong.

And whereas, Shri B.C. Das is transferred vide Circle Office Shillong memo No. Staff/9-7/04 dated 12-6-06, hence appointment of a new Presenting Officer is necessary for early finalisation of the case.

Now therefore, the undersigned hereby appoint Shri Paul Zoranthanga SDIPOs Jowai Sub Division as the Presenting Officer to present the case on behalf of the undersigned.



*sd-*  
Supdt of Post Offices  
Meghalaya Division  
Shillong - 793001

Copy to:-

1. Shri Paul Zoranthanga SDIPOs Jowai Sub Division for information and necessary action.
2. Shri U. Basumatary Sr. Postmaster Shillong G.P.O and I.O for information.
3. Shri B.C Das ASPOs (HQ) (on leave). He is requested to hand over all the related documents to this office.
4. The Assistant Postmaster General (Vig) N.E Circle, Shillong for approval.
5. Smti K. Kharshandi SDIPOs, Central Sub Division, Shillong.

*D. D. D.*  
Supdt of Post Offices  
Meghalaya Division  
Shillong - 793001

1-1 DEC 2006

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
Guwahati Bench  
GUWAHATI BENCH, GUWAHATI

OA NO. 180 OF 2006

Sri Bidhan Chndra Das

----- Petitioner

-Versus-

Union of India & Others

----- RESPONDENTS

filed by

Santosh Chakraborty

Respondent No. 5. Dtt-22.11.06

IN THE MATTER OF

An affidavit filed by the respondent No. 5

I, Shri Santosh Chakraborty, Asstt. Superintendent of Post Offices (Vigilance), O/O the Chief Postmaster General, North East Circle, Shillong, who has been made Respondent No.5, in the present O.A, do hereby solemnly affirm and declare as under .

1. That the deponent has been working as Asstt. Supdt. of POs (Vigilance), Office of the Chief Postmaster General, N.E. Circle, Shillong, w.e.f.31.5.05, on regular basis. In Vigilance Section of the office, the deponent deals with all the files relating to Vigilance cases, Court cases, Consumer's Forum Cases and CAT cases. The deponent also deals with the monthly statements of all the aforesaid pending cases but does not deal with any Staff matter or transfer cases.
2. That the deponent knows nothing about the pending Disciplinary Proceedings against one Smt. K. Kharshandi, SDIPOs, Central Sub Division, Shillong, nor is concerned with the Disciplinary Proceedings in any way, as stated by Sri Bidhan Chandra Das in Para 6.V) – 6.VIII) of the O.A. The deponent has not received any information about the proposal of his name as additional witness in the Disciplinary proceedings, from any source, till today. The deponent has not received any summon or any information from the I.O. of the Disciplinary proceedings also, till today.

Contd.....2.



3. The so-called apprehension of becoming guilty in the Disciplinary Proceedings against one, Smt K. Kharshandi, being summoned and attended as additional witness proposed by the Presenting Officer, Sri Bidhan Ch. Das, is nothing but a Cock and Bull story fabricated by Sri Das. It is most probably a tactics of Sri Das to divert the attention of the Authority and the Hon'ble CAT, to get his transfer-order stalled.
4. The deponent beg to state that if he is really guilty in any case, what-so-ever, his higher authority would definitely take action against him under the rules of the Department. Other officials need not point out the fact before the Hon'ble CAT. The deponent is working in the rank of Asstt. Supdt. of POs, his next higher authority is Asstt. Postmaster General, his next higher Authority is Director Postal Services, his higher authority is Postmaster General and his higher authority is the Chief Postmaster General who is the Head of the Postal Circle and the Joint Secretary to the Ministry of Communication, Govt. of India. So, it is not only impossible but obviously ridiculous to say that the deponent could influence the Chief Postmaster General to transfer Sri Bidhan Chandra Das, the applicant of the O.A.
5. The deponent also beg to state that Sri Niranjana Das, Respondent No. 6 of the O. A., working as Asstt. Postmaster General (Vigilance) in the Office w.e.f. April'06 to 31.10.06, was his next higher Officer of Group 'A' cadre. Earlier Sri Niranjana Das worked as Sr. Supdt. of POs, Meghalaya Division, Shillong and Supdt. of POs, Dharmanagar. Except the normal official relation in between a Group 'A' officer and his subordinates, w.e.f. April'06, the deponent had no other relation with Sri Niranjana Das. Sri Niranjana Das has since been retired on superannuation. As such, the Cock and Bull story fabricated by Sri Bidhan Chandra Das, the applicant of the O.A. is completely false and baseless.

#### AFFIDAVIT

Affidavit signed and verified on this 29<sup>th</sup> day of Nov. 2006, that the contents of the affidavits are true and correct to the best of my knowledge and belief. Nothing is false and the Deponent has not suppressed any material fact before the Hon'ble Tribunal.

  
Deponent

গণপ্রজাতন্ত্রী বাংলাদেশ  
Central Administrative Tribunal

১২

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

Filed by the  
applicant to

Bidhan Chandra Das  
Sourav Sarker, Advn 12-12-0

O.A. NO. 180 OF 2006

Sri Bidhan Ch. Das  
..... Petitioner

-Vs-

Union of India & Ors.  
..... Respondents.

IN THE MATTER OF:

A rejoinder filed by the applicant  
against the affidavit filed by  
respondent No. 5.

[REJOINDER]

I, Sri Bidhan Ch. Das, S/o Late Bir Bikram Das, aged about 43 years resident of plot No. 198, Rynjah Re-habilitation Colony, Shillong, Meghalaya do hereby solemnly affirm and declare as follows:

1. That I am the applicant of this case and as such I am acquainted with the facts and circumstances of the case.
2. That I have been served with a copy of the affidavit filed by respondent No. 5 in this case. I have gone through the affidavit and understood the contents thereof. Hence this rejoinder.

Bidhan Chandra Das,

3. That with regard to paragraph No. 2 of the affidavit the deponent states that the evidence of both the sides i.e. prosecution and the defence has been closed in the disciplinary proceeding in which the applicant acting as a Presenting Officer proposed the name of respondent No. 5 as a witness for the Department. It is very unfortunate that the respondent No. 5 has not received any summons to appear as a witness for the department. This fact lends support to the allegation of mala fide made by the applicant in his original application.

Subsequent

It is pertinent to mention here that there is another disciplinary proceeding pending against Smti. Kharshandi where also the applicant has been appointed the Presenting Officer. The allegations against Smti. Kharsandi is failure to physically verify the balance in original pass-book by her in Banasree Sub-Post Office, Shillong which led to commission of fraud by another employee to the tune of more than Rs. 3 lakhs. Respondent No. 5 was the Inspector of the Central Postal Sub-Division, Shillong and Banasree office was under his charge at the relevant time. On 18-11-05 when the date was fixed for inspection of documents<sup>et.</sup> by the charged official, and the present applicant was also present, respondent No. 5 whose presence was not necessary at all, physically presented himself and in an angry mood applied physical force to disrupt the proceedings. Consequently the Enquiry Officer had to adjourn the proceedings to 4 O'clock of the same day.

4. That the deponent denies the assertion made by respondent No. 5 that except the normal official relation he had no other relationship with respondent No. 6. As a matter of fact respondent No. 5 and 6 were the members of Inspectors' Association and they were holding important portfolios of Secretary and Treasurer respectively. Besides, they worked together in the Office of the C.P.M.G., Shillong before the transfer of respondent No. 6 to Dharmanagar, Tripura.
5. That the statements made in this affidavit and those made in paragraphs 1 to 4 are true to my knowledge and belief and I sign this affidavit on this 11<sup>th</sup> day of December, 2006 at Guwahati.

*Bidhan Chandra Das,*  
DEPONENT

Identified by  
*Somen Saikia*  
*12-12-06*  
Advocate

Solemnly affirm and declare before me by the deponent who is identified by Sri Somen Saikia..... Advocate on this 11<sup>th</sup> day of December 2006 at Guwahati.



*[Signature]*  
MAGISTRATE  
*12-12-06*  
Dist. Magistrate, Guwahati