

12

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 192/2006
R.A/C.P No.....
E.P/M.A No.....

1. Orders Sheet..... Pg. 1..... to 11.....
2. Judgment/Order dtd. 17.11.2009 Pg. 1..... to 4. Allowed
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 192/2006 Pg. 1..... to 33.....
5. E.P/M.P..... Pg..... to.....
6. R.A/C.P..... Pg..... to.....
7. W.S. No. 3..... Pg. 1..... to 24.....
8. Rejoinder..... Pg..... to.....
9. Reply..... Pg..... to.....
10. Any other Papers..... Pg..... to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendement Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Shahley
25/10/17

(S. O. No. 12)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 192/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) S. B. Hazarika

Respondent(s) U.O. P. Tums

Advocate for the Applicant(s) ... in person

Advocate for the Respondent(s) C. A. C. M. I. Ahmed

Notes of the Registry	Date	Order of the Tribunal
The application is filed in the office of the Respondent No. 4.	08.08.2006	Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman.
File No. 064325873		Hon'ble Sri Gautam Ray, Administrative Member.
Dated 3.8.06		While the Applicant was working as Sub-Divisional Inspector of Post Offices, Ukhrul Sub-Division in Manipur (1996-1998), the Director of Postal Services, Manipur, Imphal had placed the Applicant under suspension under Rule 10(1) of the CCS (CC&A) Rules, 1965 in contemplation of a disciplinary proceeding against him. The order of suspension was revoked by the Suspending Authority, i.e. the Respondent No. 4 during the pendency of the investigation into the case and on revocation of the suspension order, the Applicant was transferred and posted as Inspector of Post Offices (Complaints), in the office of the Director of Postal Services, Nagaland, Kohima. No charge sheet was issued to the Applicant in connection with the suspension even after the expiry
<i>Sheet No. 1 of 2</i>		

Steps taken with
envelopes.

P.S.

*N.S.
4850*

Contd/-

-2-

08.08.2006 of 5 years. The Applicant submitted appeal to the Appellate Authority, i.e. the Chief Postmaster General, N.E. Circle, Shillong, but to no avail. The Applicant filed O.A. No. 322 of 2004 before this Tribunal and the Tribunal disposed of the Application on 27.01.2005 directing the Respondent Nos. 2 and 4 to dispose of the representation within a period of three months. Thereafter, the appeal was disposed of by the Respondent No. 3 and the suspension period was regularised as leave as admissible. The Applicant quoted Sub-rule (5) of FR 54-B and submitted that it is the option of the suspended official that the suspension period could be converted to leave not on the prerogative of the Respondents to regularise the leave as admissible. The Applicant also stated that the Appellate Authority and the Postmaster General was the same person who issued the suspension order, but such order cannot be passed under Rule 24(2)(ii) of the CCS (CCA) Rules 1965. Challenging the said order, the Applicant has filed this Application.

Notice & order.
Sent to D/Section
for issuing to
resp. nos. 1 to 4
by regd. A/D post.

21/8/06. D/No 853 to 856
Dt. - 23/8/06.

Service report awaited.

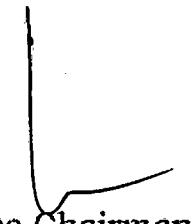
20
20.9.06.

Heard Mr S.B. Hazarika, the Applicant in person and Mr M.U. Ahmed, learned Addl. C.G.S.C. for the Respondents.

Considering the issue involved, we are of the view that the O.A. has to be admitted. Admit. Issue notice to the Respondents.

Post on 21.09.2006.


Member


Vice-Chairman

/mb/

2189.06

Counsel for the Respondents prays for time to file written statement. Let it be done. Post the matter on 10.11.06.

Vice-Chairman

Notice duly served

lm

on rese. no - 1.

Cm
11/11/06

9-11-06

10.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Learned Counsel for the Respondents wanted to have time to file reply statement. Post on 03.01.2007.

Vice-Chairman

① Notice duly served
on R. No - 1, Service
awarded from R. No.

2 to 4.

/mb/

② No. Wts has been
filed.

9.11.06

24.01.07

Counsel for the respondents wanted further time to file written statement. Several opportunities have been given to the respondent to file the same.

Post the matter on 19.2.07. as a last chance.

Vice-Chairman

No Wts has been
filed.

27-2-07

lm

24.01.07

Counsel for the respondents wanted further time to file written statement. Let it be done.

Post the matter on 28.2.07.

Vice-Chairman

lm

28.2.07.

Counsel for the respondents wanted to file written statement. Let it be done. Post the matter on 29.3.07.

Ce

Member

Vice-Chairman

lm

2828.3.07.

No. W18 has been filed.

No. W18 has been filed.

3030.4.07.

29.3.07. Another four weeks time is granted to the counsel for the respondents to file written statement. Post the matter on 1.5.07.

Vice-Chairman

lm

1.5.07. At the request of learned counsel for the Respondents four weeks time is granted to file written statement. Post the matter on 5.6.07.

Vice-Chairman

lm

No. W12 filed.

26.6.07.

5.6.2007

No reply statement is filed. Three weeks' further time is allowed.

Post on 27.6.2007.

Vice-Chairman

/bb/

27.6.2007

Further time is granted to the Respondents to file reply statement.

Post on 27.7.2007.

27.7.06.

For compliance

W13 not filed.

26.7.07.

/bb/

Vice-Chairman

27.7.07..

Counsel for the respondents is permitted to file written statement to-day itself. Post the matter before the next available Division Bench.

27-7-07

W/S filed by the
Respondent No. 3, page 1m

1 to 24. The applicant
is in person. Applicant
is not available to serve
the copy of W/S. Hence
Service copy kept in C file.

Vice-Chairman

Phm:

Service copy of the W/S of
Rep. 3 on behalf of all
respondents received.

Om W/S

Date: 15/11/07

At: 15/11/07

W/S filed on behalf

of R. No-3, other
respondents not filed.3
12.5.08.

13.05.2008

Dt. 13.5.08

Pl. send copies of this order to the Applicant and to the Respondents

Y
13.5.08

The Applicant is not present to prosecute this case. However, Mr M.U. Ahmed, learned Addl. Standing Counsel for the Union of India, is present. In order to give one more chance to the Applicant, call this matter on 20.06.2008 for hearing.

Order dt. 13/5/08
Send to D/Section
for issuing to applicant
and to the respondents
by post.

(per) D/No-2442 to 2445
21/5/08. Dt. 23/5/08.

nkm

- ① Wts billet by R.No-3.
- ② Respondents No-1,2&4
bom awaiting.

My
19.6.08.

Dt. 20.6.08.

Pl. send a copy of this order to the Applicant
by post in the add.
given in the OA.

20.06.2008

None appears for the Applicant nor the
Applicant is present. Mr. M.U. Ahmed, learned
Addl. Standing Counsel appearing for the
Respondents is on accommodation for to-
day.

In the aforesaid premises, call this
matter on 8th August, 2008 for hearing.

Send a copy of this order to Applicant
by post in the address given in the OA.

My
(Khushiram
Member(A))

Y
(M.R. Mohanty
Vice-Chairman)

Lm

Copy of order dt. 20/6/08
Send to D/Section for issuing
to applicant by post.

(per)
23/6/08. D/No-2906
Dt = 23/6/08.

Dt. 6.8.08

A letter dt. 6.8.08-Sent
by the Applicant (in person)
placed at Flag 'A' is a prayer
to decide this OA on per-
usal of records.
Submitted for kind orders

Y
6.8.08

O.A. 192 of 2006

08.08.2008

Dt 8.8.08

Pl. supply a brief
to the case to Ms. Pah-
micia Khatoon Zannat
who has been appointed
as a counsel to assist
the court as Amicus Curie
and argue the case
for the Applicant.

11.8.08

The Applicant, who has filed the case in person,
has written a letter dated 06.08.2008
expressing his inability to attend the case from
Tripura. In the aforesaid premises, Ms.
Pahmicla Khatoon Zannat, Advocate is
appointed as a counsel to assist the Court as
Amicus Curie' and argue the case for the
Applicant.

Registry to supply a brief to Ms.
Pahmicla Khatoon Zannat, who should get
ready to argue the case for the Applicant.

Call this matter on 21st August, 2008
before Division Bench for hearing.



(M.R. Mohanty)

Vice-Chairman

Lm

① W/S filed by R.No.3

② Respondents No.1,
2 & 4 not filed.

20.08.2008

Dt. 21.8.08

Pl. issue notice to the
Respondents requiring them
to serve their reply on the
Applicant by 16.9.08

Pl. send a copy of this order
to the Applicant.

25.8.08

Copies of order dated
21/8/08 sent to the
D/Sec. for issuing to
respondents and to the
applicant by post.

29/08.

D/No-3874-79

Dt-31/9/08

No W/S filed by R.No.1, 2 & 4.

22/8/08
(Khushiram)
Member(A)

21.08.2008

The Applicant, who is appearing in
person in this case, is absent.

However, Ms. P. K. Zannat, learned
counsel appearing as Amicus Curie, is
present.

Mr. M. U. Ahmed, learned Addl.
Standing Counsel appearing for the
Respondents is to verify and report as to
whether the copy of the written statement
filed by the Respondent No.3 has been
served on the Applicant or not.

Issue notice to the Respondents
requiring them to serve their reply on the
Applicant by 16.09.2008.

Also send a copy of this order to the
Applicant.

Call this matter on 16.09.2008.


(M.R. Mohanty)
Vice-Chairman

0.11.192/06 8-

16.09.2008 On the prayer of learned counsel appearing for both the parties, call this matter on 17.11.2008 for hearing.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

No W/S filed by

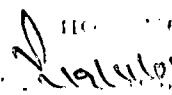
lm

R.No-1,2,3,4


14.11.08

DL: 17.11.08

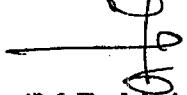
Pl. send copy of this order to the Applicant in the address given in the O.A.


14.11.08

17.11.2008 Ms P.K. Zannat, learned Advocate appearing in this case ~~as~~ Amicus Curie, is present. Mr M.U. Ahmed, learned Addl. Standing Counsel for the Union of India is present. In order to give one more chance to the Applicant to appear and prosecute the case, call this matter on 05.01.2009 for hearing.

Send a copy of this order to the Applicant in the address given in the O.A.


(S.N. Shukla)
Member(A)


(M.R. Mohanty)
Vice-Chairman

Copy to

copy of this order nkm

Send to D/Sec. for issuing to the applicant

by post.

D/No-4438


20/11/08. DL 24.11.08

W/S filed

05.01.2009 Mr S.B. Hazarika, the Applicant in person, and Ms P.K. Zannat, learned Counsel, appearing as Amicus Curie, are present. Mr M.U. Ahmed, learned Addl. Standing Counsel for the Union of India, is also present.


2.1.09
On the prayer of Mr S.B. Hazarika, call this matter on 28.01.2009.

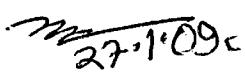

(M.R. Mohanty)
Vice-Chairman

list of documents submitted by the Applicant

nkm


5.1.09

No W/S filed by
R.No-1,2,3,4


27.1.09

28.01.2009

Call this matter on 16.03.2009 for hearing.

M
(M.R.Mohanty)
Vice-Chairman

/bb/

16.03.2009

Mr.M.U.Ahmed, learned Addl.C.G.S.C. is present. As the Applicant is not present in the Court, the case is adjourned.

List on 24.04.2009.

- ① No W/S filed
by R.No. 1, 2, & 4,
② W/S filed by
R.No. 3.

22.4.09

/bb/

24.04.2009

None appears for the Applicant. Mr.Kankan Das, learned Sr. Standing counsel representing the Respondents states that he has got no instruction in the matter.

By order dated 02.04.2009, the Respondents (who have failed to put up the written statement) were asked to cause production of records through Mr.Kankan Das, learned Addl. Standing counsel.

Despite the said order, the Respondents have chosen not to file written statement and to produce the records.

On the insistence prayer of Mr.Kankan Das, learned Addl. Standing counsel, this matter is adjourned to be taken up on 15.05.2009; by which time the Respondents should produce the records specified by order dated 02.04.2009. The Respondents shall also remain free to file their written statement by 15.05.2009.

AB
Contd..

10/07/09

192/06
O.A.220/08

Contd.
24.04.2009

Send a copy of this order along with copies of this order dated 02.04.2009 to the Respondents and free copy of this order dated 02.04.2009 and of today be handed over to Mr. Kankan Das, learned Addl. Standing counsel.

P/R
/bb/

(M.R.Mohanty)
Vice-Chairman

24.04.2009

Call this matter on 05.06.2009 for hearing.

/bb/

(M.R.Mohanty)
Vice-Chairman

No w/s biled by

R.No. 1, 2 & 4.

05.06.2009 Call this Division Bench matter on 30.07.2009 for hearing.

9.6.09

Send copies of this order to the Applicant

who should remain present at the time of hearing of this case.

9.6.09

Copies of this order
send to the DPs for issuance
the same to the Applicant
vide no. 8008 dt. 11.6.09
/bb/

(M.R.Mohanty)
Vice-Chairman

30.07.2009

Ms P.K. Zannat, learned Counsel
appearing as Amicus Curiae is present.

9.6.09

Call this matter on 11.09.2009 for

No w/s biled
by, R.No. 1, 2 & 4.

29.7.09

(M.K. Chaturvedi)
Member (A)

(M.R. Mohanty)
Vice-Chairman

nkm

No w/s biled by
R.No - 1, 2 & 4.

30.9.09.

-11-

O.A.192-06

11.09.2009

Applicant is absent. Ms.P.K.Zannat, Advocate appearing as amicus curiae is present. On her prayer, call this matter on 11.11.2009.

- ① wks bked by R.No.3.
② No wks bked by
R.No-1,2 & 4.

/bb/


(M.K.Chaturvedi)
Member (A)


(M.R.Mohanty)
Vice-Chairman

3
10.11.09

11.11.2009

The applicant is posted at Tripura and had not been appearing in the matter which ~~led~~ to the appointment of Ms P.K.Zannat as Amicus curiae. Learned proxy counsel for the amicus curiae prays for adjournment due to her illness.

List on 13.11.2009 for hearing.

No wks bked by
R.No- 1,2 & 4.

3
12.11.09


(Madan Kr. Chaturvedi)
Member (A)


(Mukesh Kr. Gupta)
Member (J)

/pg/

13.11.2009

On the request of learned counsel for parties, list on 17.11.2009.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

nkm

17.11.2009

Heard learned counsel for the parties.

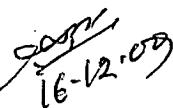
For the reasons recorded separately, this O.A. is allowed. No costs.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

/bb/

Issue vide memo
No. 12735-12739
At 03.12.2009


16-12-09

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.192 of 2006

DATE OF DECISION 17.11.2009

Sri S.B.Hazarika

.....Applicant/s.

Shri S.Bhuyan

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

- Versus -

U.O.I. & Ors

.....Respondent/s

Dr.J.L.Sarkar, Railway Standing counsel

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR.MUKESH KUMAR GUPTA, MEMBER (J)

THE HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)

1. Whether Reporters of local newspapers may be allowed to see the Judgment?
2. Whether to be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?

Yes/No

Yes/No

Yes/No

Judgment delivered by

Hon'ble Member (J)

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application Nos. 192 of 2006

Date of Order: This, the 17th Day of November, 2009

HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J).

HON'BLE SHRI MADAN KUMAR CHATURVEDI, MEMBER (A).

Sri S.B.Hazarika
Sub-Divisional Inspector of Post Offices
Ukhrul (1996-1998) at present at
Anandapara
P.O: SABROOM-799145
Tripura (S).

...Applicant

By Advocate: Ms.P.K.Zannat, Amicus Curiae

-Versus-

1. Union of India
Represented by the Secretary
Department of Posts, Dak Bhawan
Sansad Marg, New Delhi-110 001.
2. The Chief Postmaster General
N.F. Circle, Shillong
793 001.
3. The Postmaster General
N.F. Circle, Shillong
793 001.
4. The Director of Postal Services
Manipur, Imphal
795 001.

...Respondents

By Advocate: M.U.Ahmed, Addl. C.G.S.C.

ORDER (ORAL)
17.11.2009

MUKESH KUMAR GUPTA, MEMBER (J):

S.B.Hazarika, Sub-Divisional Inspector of Post Offices in this
O.A. challenges validity of order dated 08.09.2005 whereby period of
suspension w.e.f. 18.04.1998 to 31.12.1998 has been treated "Leave as

admissible". He further seeks declaration that his order of suspension was malafide and consequently he is entitled to full pay and allowances for said period as well as to treat said period as on duty for all purposes and intent. He also seeks direction to the Respondents to release his pay and allowances for said period along with 12% interest per annum including costs,

2. Admitted facts are that the Director of Postal Services, Manipur Division, Imphal vide memorandum dated 19.02.2008 initiated departmental proceedings against him under Rule 14 of the CCS (CCA) Rules, 1965 alleging certain misconduct. He was also placed under suspension vide order dated 17.04.1998 with immediate effect. The competent authority decided that he should be transferred to Kohima and therefore, issued order dated 22.10.1998. Consequently said suspension order had been revoked by the Director of Postal Services, Manipur Division, Imphal vide memorandum dated 31.12.1998 with immediate effect. On completion of aforesaid departmental proceedings, vide memorandum dated 24.05.2004 a penalty of reduction by three stages from Rs.6650-6125/- for a period of three years w.e.f. 01.06.2004 with cumulative effect without any increment during said period, had been inflicted. On statutory appeal filed, the Postmaster General, N.E.Region, Shillong being Appellate Authority, vide order dated 26.07.2005 reduced the punishment from aforesaid penalty to "reduction of pay in one stage for a period of four years without cumulative effect.

Thus, question arose how to regularize afore-noted period of suspension. The Postmaster General, N.E.Region, Shillong vide order dated

08.09.2005 (Annexure-9) treated said period as "**Leave as admissible**".

Validity of aforesaid order has been challenged in this case.

3. Since none appeared for the Applicant for a long time, this Tribunal appointed Ms.P.K.Zannat, learned counsel as amicus curiae to assist the Bench. Learned counsel vehemently contended that aforesaid order suffers from illegality in as much as mandate of FR 54-B, has not been observed while making said order as no opportunity of hearing or making a representation had been offered before treating said period as "**Leave as admissible**".

4. By filing reply Respondents have reiterated what has been said in impugned order dated 08.09.2005 to the effect that though major penalty was imposed upon Applicant but the same has been reduced by the Appellate Authority vide order dated 26.07.2005. Therefore, said Appellate Authority treated said period of suspension as "**Leave as admissible**". Not even a word has been stated therein as to whether Mandate of FR 54-B has been observed or not prior to passing the said order.

5. We have heard Ms.P.K.Zannat, learned amicus curiae for Applicant and Mr.M.U.Ahmed, learned Addl. C.G.S.C. for Respondents, perused the pleadings, and other materials placed on record. We record our great appreciation for the assistance rendered by Ms.P.K.Zannat, learned amicus curiae in the present case. During the course of argument, no materials has been brought to our notice by the Respondents even remotely suggesting that before passing order by the Appellate Authority dated 08.09.2005 treating the suspension period as

leave admissible, whether any opportunity of hearing, as required under FR 54(B), had been afforded to Applicant, or not. In other words, Respondents have not followed required procedure prescribed under FR 54-B before treating period of suspension as "**Leave as admissible**". We may note that under the provisions of FR 54(B) period of suspension can be treated as justified and pay and allowances can be restricted to subsistence allowance already paid only when the authority comes to a conclusion that period of suspension was wholly justified, which finding could be recorded only after delinquent official has been afforded opportunity of hearing. In absence of any opportunity of hearing being afforded to Applicant, said order dated 08.09.2005 suffers from violation of mandatory procedure and consequently is rendered unsustainable in the eyes of law. Thus, we have no hesitation to quash impugned order dated 08.09.2005.

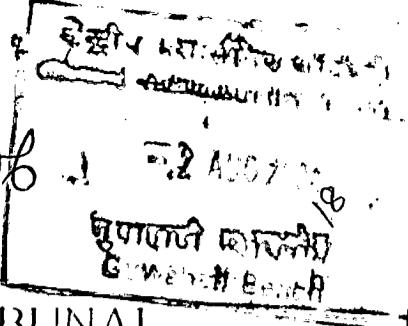
6. In the circumstances, O.A. is allowed. The matter is remitted back to the competent authority to decide the treatment of suspension period strictly in accordance with rules and law. The aforesaid exercise shall be undertaken and completed within a period of four months from the date of receipt of this order. No costs.

Chaturvedi
(MADAN KUMAR CHATURVEDI)
MEMBER (A)

Mukesh
(MUKESH KUMAR GUPTA)
MEMBER (J)

/BB/

O.A. No. 192 of 2006



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWATHI BENCH : GUWATHI-5

*APPLICATION UNDER SECTION 19 OF
THE CENTRAL ADMINISTRATIVE TRIBUNAL ACT 1985*

Title :- S.B.Hazarika
Vs.
Union of India & Others

*Filed for hearing
by S.B. Hazarika
Bench*

03/07/06

- 2 AUG

गुवाहाटी बैच
Guwahati Bench

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI -5 : ASSAM**

O.A. No. 192 of 2006

Application under Section 19 of the Administrative Tribunal Act, 1985.

Title : S.B. Hazarika -Vs- U.O.I. & others

INDEX/SYNOPSIS

SL. No.	Annexure No.	Description of documents	Page No.
1.		Application	1 - 10
		Left Over	11-14
2.	A-1	Copy of suspension order dated 17.4.98 (I.P.)	15
3.	A-2	Copy of Charge Report dtd. 13.5.98 (I.P.)	16
4.	A-3	Copy of recovation order dtd. 31.12.98 (I.P.)	17
5.	A-	Omitted	--
6.	A-5	Copy of representation dtd. 12.8.03 (2 P)	18-19
7.	A-6	Copy of reminder dtd 15.10.03 (I.P.)	20
8.	A-7	Copy of representation dtd 23.02.04 (2 P)	21-22
9.	A-8	Copy of CAT/GHY's order dtd. 27.01.05 (IP)	23
10.	A-9	Copy of PMG's order dtd 8.9.05 (IP)	24
11.	A-10	Copy of Govt. order dtd 4.2.71 (IP)	25
12.	A-11	Copy of Govt. orders dtd. 9.11.82 (IP)	26
13.	A-12	Copy of Charge-sheet dtd. 19.2.98 (5 P)	27-31
14.	A-13	Copy of Punishment order dtd. 24.5.004 (3 P)	32-34
15.	A-14	Copy of appellate order dtd. 8.9.05 (3 P)	35-37

Date : 04-08-2006

Place : Guwahati



Signature of the Applicant

FOR USE IN THE TRIBUNAL'S OFFICE

1. Date of filing :-
Or
Date of receipt by post :-

2. Registration No.

Signature
For Dy. Registrar

20

Amol Singh

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI -5 : ASSAM**

O.A. No. 192 /2006

IN THE MATTER OF :--

An application under Section 19 of the Administrative
Tribunal Act, 1985.

AND

IN THE MATTER OF :-

Sri S.B. Hazarika

Sub-Divisional Inspector of Post Offices,
Ukhrul (1996-1998) at present at
Anandapara
P.O.-SABROOM-799145
Triupura (S).

.....**APPLICANT**

-Versus-

1. The Union of India
Represented by :-
The Secretary, Department of Posts
Dak Bhawan, Sansad Marg,
New Delhi-110001.
2. The Chief Postmaster General,
N.E. Circle, Shillong
793 001.
3. The Postmaster General
N.E. Circle, Shillong,
793 001.
4. The Director of Postal Services
Manipur, Imphal
795 001.

.....**RESPONDENTS**

Contd....

DETAILS OF THE APPLICATION

1. **Particulars of the orders against which the application is made :**
 - (i) Suspension order No.H-4/LE/GNRL Dated 17.4.98 passed by the Director of Postal Services, Manipur, Imphal (Annexure A-1 at page 15)
 - (ii) Appellate order No. Vig/LC-12/04 (CAT) dated Shillong, the 8th September, 2005 (Annexure A-9/Page 24)
2. **Jurisdiction of the tribunal :**

The applicant declared that the subject matter of the application is within the jurisdiction of the Tribunal.
3. **Limitation :**

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal, 1985.
4. **Facts Of The Case :**
 - 4.1 That, while the applicant was working as the Sub-Divisional Inspector of Post Offices (SDIPOS for Short), Ukhrul Sub-Division in Manipur (1996-1998), the Director of Postal Services, Manipur, Imphal (R.4) had placed the applicant under Suspension under Rule 10(1) of the C.C.S. (C.C. & A) Rules, 1965 in contemplation of a disciplinary proceeding agianst him vide his order No.H-4/LE/GENL dated Imphal, 17.4.98 (Annexure A-1/at Page 15)

(A copy of the suspension order is enclosed as Annexure A-1 at Page 15).
 - 4.2 That, on 31/12/98 the order of suspension was revoked by the suspending authority ie. R-4 during the pendency of investigation into the case and on revocation of the suspension order, the applicant was transferred and posted as Inspector of Post Offices (Complaints), commonly designated as C.I. in the office of the Director of Postal Services, Nagaland, Kohima with a view to guarding against tempering

Contd...

with evidence during investigation. The applicant resumed duties as C.I., Divisional Office., Kohima, on 02/02/1999.

(A copy of the revocation order is enclosed as Annexure A-3 at Page 17)

2/2
Om B.
J. M. S.
Dated

4.3 That in as much no charge-sheet was served on the applicant in connection with that suspension over even after the expiry of 5 years the matter was taken up with the Director of Postal Services, Manipur, Imphal for regularising the period of suspension from 14.5.98 (actual date of proceeding on suspension) till 02/02/98 (actual date of resumption of duty on revocation) as the applicant was re-instated by that authority. The applicant made a representation on 12/8/03 (Annexure A-5/at page 18-19) to the Respondent No.4 to issue order of regularisation of suspension period as prescribed by F.R. 54 B allowing full pay and allowances for the period of suspension and treating the period as the period spent on duty for all purposes, as the order of suspension was not followed by a Charge-Sheet, rendering the suspension as wholly unjustified. The representation was followed by a reminder on 15.10.03, but to NO ACTION by the Resp. No.4.

(A copy of the representation dtd. 12.8.03 is enclosed as Annexure-5 at page 18-19).

(A copy of the reminder dated 15.10.03 is enclosed as Annexure A-6 at Page 20)

4.4 That, being not replied or intimated anyway by the respondent No.4, the applicant made an appeal in form of a representation to the appellate authority, ie. The Chief Postmaster General N.E. Circle, Shillong (R-2) on 23/2/2004 (Annexure A-7 at page 21-22) urging him to direct R.4 to issue orders under F.R. 54-B disposing of the application dated 12.8.03 a copy of which was also furnished to him for perusal,, but no action was taken by the R.4 though a period of 10(ten) months expired.

(A copy of the appeal (Representation) dated 23.2.2004 is enclosed as Annexure A-7 at Page 21-22)

4.5 That, being constrained, the applicant agitated before this Hon'ble Tribunal on 16.12.2004 vide O.A. No.322 of 2004 and the Hon'ble

Tribunal disposed of the application 27.1.2005 directing the Respondent 2 and 4 to reply on both the representation within 3 months of the order to the applicant ; but yet the Resp. 2 & 4 were sitting over the representations though a period of 6 months expired.

(A copy of the Hon'ble C.A.T. order dated 27.1.2005 is enclosed as Annexure A-8 at Page 23)

4.6 That, the appeal dated 23.2.2004 was disposed of by the Postmaster General (R.3) on 8th Syst. 2005 (Annexure A-9/at Page 24) with the orders that the period of suspension from 18.4.99 to 31.12.1998 was totally justified as the applicant was charge-sheeted and punished with a major penalty of reduction of pay for 1 yr for 4 yrs. Vide Memo staff/109-9/04 dated 26-7-05 but the period of suspension may be regularised as "leave as admissible"

(A copy of the appellate order dtd.23/2/2004 is enclosed as Annexure-9 at Page 24)

4.7 That the appellate orders passed by the R.3 is arbitrary, illegal and not in consonance with law on the subject and hence this application has been made.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION .

5.1. *The order of Suspension was malafide and invalid as it was not followed by charge sheet even after 5 yrs. Of re-instatement :-*

The order of suspension was issued on 17.4.98 on contemplation of a disciplinary proceeding against the applicant. As per Rule on the subject the charge-sheet should be served within 3 months of suspension vide G.I.C.S. (Dept. of Per). O.M. No. 39/70-Ests(A) dated 4th Feb, 1971 (vide Annexure A-10/at page 25). Again it has provided in para 3 of G.I., M.H.A. , D.P. & A.R., O.M. No. 35014/1/81 -Ests (A) dated 9th Nov, 1982 (vide Annexure A-11/at page 26) that where a Govt. servant is placed under suspension on the ground of "Contemplated" disciplinary proceeding the chargesheet should be finalised/against the Govt. servant within 3 months of suspension.

The order of revocation dated 31/12/98 (Annexure A-3/ at Page 17) shows that the Charges against the applicant could not be finalised within 3 months of suspension as investigations into the charges was in progress even at

the time of revocation /reinstatement. The charge-sheet could not be served on the applicant even after 5 yrs. Of reinstatement . It therefore, shows that the suspension was wholly unwarranted, malafide and unjustified for which the applicant is entitled to full pay and allowances for the period of suspension from 14.5.98 to 01.02.99 and the said period of absence from duty owing to unjustified suspension should be treated as the period spent on duty for all purposes.

Om Prakash

Legal provisions relied upon :-

- (i) G.I., C.S. (Dept. of) O.M. No.39/70-Ests (A) dated 4th Feb/1971, (Annexure A-20/Page 25)
- (ii) G.I., M.H.A., D.P. & AR., O.M. No.35014/1/81-Rests (A) dtd. 9th Nov 1982 (Annexure A-11/Page 26)

5.2 *Appeal was not decided by the prescribed appellate authority :-*

The appeal dated 23.2.2004 was preferred to the Chief Postmaster General (R.2) as the Postmaster General (R.3) was the same person (Sri Lalhuna) who passed the suspension order dated 17.4.98 (Annexure A- / at page) when he was the Director of Postal Services, Manipur. Sri Lalhuna subsequently was promoted and appointed as Postmaster General, Shillong and as such he was debarred from functioning as the appellate authority in the instant case and so the appeal lies to the Chief Postmaster General to whom the Postmaster General (Sri Lalhuna) is subordinate vide Rule 24(2) (ii) of the CCS(CCA) Rules, 1965. The Postmaster General (Sri Lalhuna) acted as a judge in his own cause which is a serious infringement of the principles of Natural Justice. The appeal has, therefore, been decided by an authority who has not been prescribed as the appellate authority. The appellate order therefore, is arbitrary and invalid.

Legal provisions relied upon : Rule 24 (2) of the CCS (CCA) Rules, 1965.

5.3 Appellate order was passed by borrowing charge-sheet & punishment from another case :

The applicant was placed under suspension in contemplation of a disciplinary proceeding against him vide suspension order dated 17.4.98 (Annexure A-1 at Page 15). The fact that the applicant was placed under suspension in contemplation of a disciplinary proceeding becomes very clear from the order of revocation in which in the first para it was said :-

“Whereas Sri S.B. Hazarika, SDIPOS Ukhru Sub-Dvn. Was placed under suspension vide this office Memo of even No. dtd. 17.4.98 on contemplation of a disciplinary proceeding against him”.

(Annexure A-3 at page 17, 1st para)

Again the fact that the charge-sheet was not issued till the day of revocation is clear from the 3rd para of the revocation order which reads as follows :-

“.....would not only serve the purpose that he may not influence the investigation in programs and may not be in a position to hamper the evidence.....”

It is, therefore, clear that till the date of revocation investigation of the case was in progress and was to continue even after revocation and so no charge-sheet was issued till then. Thereafter, no charge-sheet was served till the expiry of 5 yrs. of suspension.

The Postmaster General (R.3) has imported the charge-sheet (Memo) No. Diary/SDIPOS -Ukhru/97 dated 19.2.98 (Annexure A-12 at Page 27-31) and subsequent punishment order 24.5.05 (Annexure A-13 at Page 32-34) appellate orders dtd. 26.7.05 (Annexure A-14 at Page 35-37) completely from another case. This Charge-Sheet was issued on 19.2.98 which was prior to 2 months of the suspension order dated 17.4.98 (Annexure A-1/ at Page 15) which are quite independent cases. If the Charge-sheet dated 19.2.98 was related to the suspension case then the question of “Contemplation” and “investigation in progress” in the revocation order does not arise. As such the charge-sheet dtd 19.2.98 & the suspension order dated 17.4.98 and subsequent punishment as mentioned by the R.3 are not the same case. When the

department found that no charge-sheet was issued in the Suspension Case even after 5 yrs. of the Suspension the department was at Bay and tried to catch at the straw. The plea of the Postmaster General in his order dated 8th Sept./2005 that the applicant was charge-sheeted and subsequently punished with a major penalty of reduction of pay is baseless, unfounded and fanciful in face of the evidences on record.

D.M.L

5.4 *Suspension period cannot be converted to “leave as admissible” without the option of the suspended official :*

The Respondent No.3 in his order date 8th Sept/2006 (Annexure A-9 at Page 24) ordered that the period of suspension from 18.4.1998 to 31.12.98 should be treated as “leave as admissible” . As per proviso to sub-rule (5) of FR.54-B the period of suspension can be converted into leave of any kind due and admissible if the Govt. Servant so desires, i.e. with the option of the suspended official. But in the instant case the applicant did not desire that the period of suspension should be converted into leave as due and admissible. The Resp. No.3, therefore in this respect also exercised his powers outside the ambit of sub-rule (5) of FR. 54 B. The order therefore, passed in breach of FR. 54-B(5) is arbitrary and invalid.

Legal provisions relied upon :- FR-54-B (5 Provisio)

5.5 *Duty period treated as suspension :-*

The R.3. has calculated the suspension period from the date following the date of order of suspension i.e.-18.4.98 to 31.12.98 (Date of revocation order). But this is not correct. Though suspension order was issued on 17.4.98 the applicant was relieved of his duties only on 13.5.98 (A/N) and suspension counts from 14.5.98 prior to that day i.e. 14.5.98. He was on duty upto 13.5.98(A/N). Again though revocation order was issued on 31.12.98 the order was served on him on 01.02.99 and he resumed duties on 02.02.99 and hence suspension continued upto 01.02.99. As a result the period suspension should be from 14.5.98 to 01.02.99 and not from 18.4.98 to 31.2.98. The Resp. No.3 did not

Contd.....

calculate the suspension period as per facts on record and hence the period of suspension so calculated by Resp. No.3 is not correct.

6. DETAILS OF THE REMEDIES EXHAUSTED :-

- (i) 12/8/2003 :- Representation to Resp. No.4 but **no action**
(Annexure A-5/at page 18-19)
- (ii) 15/10/2003 :- Reminder to above representation;
but **no Action** (Annexure A-6 /at page 20)
- (iii) 23/2/2004 :- Representation (Appeal) to the appellate
authority but **no action** (Annexure A-7/at
Page 21 -22)

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

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

8. Relief (s) Sought :

In view of the facts mentioned above in para 6 the applicant pray for the following relief (s):-

The application be allowed and orders be passed ;

- (i) **quashing** the orders dated 8th Sept./2005 passed by the Postmaster General, Shillong (Resp. 3) (Annexure A-9 at page 24) as arbitrary and invalid being violative of the principles of natural justice;
- (ii) holding the order of Suspension as malafide and unjustified and **allowing full pay and allowances** for the period of suspension from 14.5.98 to 01.02.99;
- (iii) treating the period of suspension as the period spent on duty for all purposes and ;

(iv) allowing 12% interest per annum on the total amount of pay and allowances illegally withheld during the period of unjustified suspension to be paid to the applicant.

(v) allowing the cost as deems fit.

9. Interim orders, if any prayed for :

No interim orders has been prayed for at present.

10. In the event of the application being sent by registered post :-

Filed in person.

11. Particulars of the Bank Draft/Postal orders filed in respect of the application fee :

(i) I.P.O. No.26 G 325873

For Rs. 50/-

(ii) Office of issue :- Guwahati G.P.O.

(iii) Date of issue :- 03-08-2006

(iv) Payable to :-Dy. Registrar, C.A.T., Guwahati-5.

12. List of Enclosures :

(i) I.P.O. No.26 G 325873

For Rs.50

(ii) Annexure A-1 to A

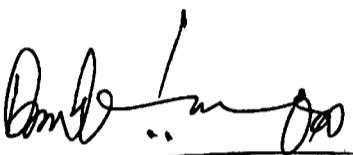
Contd....

VERIFICATION

I, Shri S.B. Hazarika, S/o-Lt. Khargeswar Hazarika, aged about 56 yrs., SDIPOS, Ukhrul, Manipur (1996-1998) resident of vill.-Bhaluckmari, P.O.-Goshaibari, P.S-Sadar, Nagaon, Assam staying at Anandapara, P.O.-Sabroom, Tripura, Pin-799145 do hereby verify that the contents of para 4.1-4.2 are believed to be true on legal advice and I have not suppressed any material fact.

Date : 04-08-2006

Place : Guwahati



Signature of the Applicant

To,

**The Dy. Registrar,
Central Administrative Tribunal
Guwahati Bench, Guwahati-5.**

(11)

30

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

No. H-4/LE/GENL

Dated at Imphal the 17.4.98.

- O R D E R -

Whereas a disciplinary proceeding against Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Divn, Ukhrul is contemplated/pending.

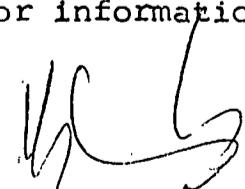
Now, therefore, the President/the undersigned in exercise of the powers conferred by Sub-rule(I) of Rule-10 of the Central Civil Services(Classification, Control and Appeal) Rules, 1965, hereby places the said Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Division, Ukhrul under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the Headquarters of Shri S.B. Hazarika SDIPOS, Ukhrul Sub-Division should be Ukhrul and the said Shri S.B. Hazarika SDIPOS, Ukhrul Sub-Division, Ukhrul shall not leave the headquarters without obtaining the previous permission of the undersigned.

SD /-
 (LALHLUNA)
 Director Postal Services
 Manipur Divn. Imphal-795001.

Copy to:-

- ✓ 1. Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Dn, Ukhrul orders regarding subsistence allowance admissible to him during the period of his suspension will be issued separately.
2. Shri T. Netrajit Singh, Postmaster Imphal HO for information and necessary action.
3. The Staff Branch O/o DPS, Imphal for information.
4. The Punishment register ASP,(HQ) O/o DPS/ Imphal.
5. The Chief Postmaster General(Staff) N.E. Circle, Shillong for information.
6. Spare.


 (LALHLUNA)
 Director Postal Services
 Manipur Divn. Imphal-795001.

ATTESTED

25/7/98
 ABL

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

Memo No. H-4/LE/Genl

Dated at Imphal the 31.12.98.

Whereas Shri S.B. Hazarika, SDIPOS, Uthrul Sub-Dn, was placed under suspension vide this office Memo of even No. dtd. 17.4.98 on contemplation of disciplinary proceeding against him;

And Whereas the said Shri Hazarika on revocation of his suspension has been ordered to be transferred and posted as C.I. Divisional office, Nagaland, Kohima Cide C.O. Shillong memo No. Staff/8-92/83 dtd. 22.10.98.

And whereas the undersigned consider that the aforesaid transferred and posting of the said Shri Hazarika to a place outside Manipur Divn. would not only serve the propose that he may not influence the investigation in progress and may not be in a position to hamper the evidences, but also would justify the revocation of his suspension as the same would minimise the prolongation of the suspension of said Shri Hazarika;

Now therefore, the undersigned in exercise of power conferred in Rule-10(5) of CCS(CCA) Rules, 1965 revokes the suspension of the said Shri Hazarika, with immediate effect.

No
Copy to:-

(LALHLUNA)
Director Postal Services
Manipur Divn, Imphal-795001.

1. The CPMG/NE Circle Shillong w.r.to his letter No. Staff/8-92/83 dtd. 22.10.98 cited above.
2. The PM/Imphal HO. We will please forward the LPC, S/Book etc. to the PM/Kohima HO
3. The DPS/Nagaland, Kohima.
4. The DA(F), Calcutta (through PM/Imphal HO)
5. The Postmaster, Kohima H.O.
6. Shri S.B. Hazarika, designate C.I. Divl. office, Nagaland Divn, Kohima now at Sagolband Moirang Leirak, Imphal-795001.
7. Office copy.
8. Spate.

ATTESTED

(LALHLUNA)
Director Postal Services
Manipur Divn, Imphal-795001.

To

The Director of Postal Services,
Manipur, Imphal- 795001.

Sub :- Regularisation of period of Suspension from
14/5/98 to 2/2/99.

Ref :- 1) Your Memo of suspension No. H-4/LE/GENL. dtd.17-4-98.
2) Your Memo of revocation of Suspension No. H-4/LE/GENL.
Dated Imphal, 31-12-98.

Sir,

Most humbly and respectfully I beg to state as follows on the above subject for your early action please.

1. That, while I was functioning as SDMPOS, ,Ukhrul sub-Division, Ukhrul, Manipur (1996-1998) I was placed under suspension by the DPS, Manipur, Imphal on Contemplation of a disciplinary proceeding under S. rule (1) of Rule 10 of the CCS(CCA) Rules, 1965 Vide suspension Order No. H-4/LE/Genl dtd. Imphal, 17-4-98 which was given effect from 13-5-98 (A/N).
2. That, the said Order of suspension was revoked by the DPS, Manipur, Imphal pending investigation Vide revocation Order No. H-4/LE/GENL. dated Imphal 31-12-98 and I was transferred and posted as C.I., Nagaland, Kohila on revocation of the suspension Order.
3. That, on revocation of the suspension Order I rejoined duties on 2/2/99 as C.I., Nagaland at Kohima terminating suspension.
4. That, neither any charge-sheet has been served to me in connection with that suspension Order nor any Order was issued after reinstatement :-
 - (a) regarding the pay and allowances to be paid to me for the period of suspension, and
 - (b) whether or not the said period be treated as a period spent on duty;
 as the re-instating authority is required to issue the above Orders under FR-54-B and in this case, the DPS, Manipur was the reinstating authority as the Order of suspension was revoked by him and so he was to issue Orders on (a) & (b) above.
5. That, as no charge-sheet was served on me within 3 months subject to a maximum of 6 months from the date of suspension as per rules and in as much as 5 yrs has elapsed without any charge-sheet from the date of suspension the Order of suspension deems to have

ATTESTED

25/3/98
Ab

(Contd....to page No. 2)

-1/2/-

been unjustified and so, on consequence, I am entitled to full pay and allowances for the period of suspension and the said period of suspension deems to have been treated as the period spent on duty, for all purposes.

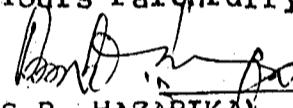
I have, therefore, earnestly requested you kindly to issue orders under FR-54-B regularising the period of suspension and for this act of your kindness I will ever pray.

A copy of the Order suspension dated 17.4.98 and a copy of the Order of revocation dtd. 31.12.98 are enclosed as ready reference for your kind perusal and action please.

Enclo:-

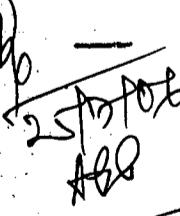
- 1) Copy of Suspension Order dtd. 17/4/98.
- 2) Copy of revocation Order dtd. 31.12.98.

Yours faithfully,


 (S.B. HAZARIKA).
 C.I., Nagaland, Kohima,
 Now U/S at Imphal,
 C/O.M. Basumatary,
 ASPOS, Imphal.

Dated :- 12/8/03.

ATTESTED


 25/8/03
 AB

REMINDER.

To,

The Director of Postal Services,
Manipur, Imphal- 795 001.

Sub : Regarding regularising the period of suspension from 14/5/98 to 02/2/99.

Ref : Your suspension Order No.H-4/LE/Genl. dtd. 17/4/98 and Order revocation of even No. dated 31.12.98.

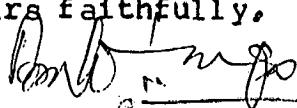
Sir,

I shall be grateful and thankful to you if kindly refer to my representation dated 12/8/2003 on the above subject and issue the Orders as prayed for therein at an early date.

A copy of the representation dated 12/3/03 is enclosed with its enclosures as ready reference and early action please.

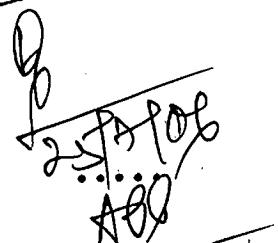
Enclo:- As stated above.

Yours faithfully,


(S.B. HAZARIKA).
C.I., Nagaland, Kohima (U/S).
C/O. U.Basumatary,
ASPOS, Imphal- 795 001.

Date :- 15/10/2003.

ATTESTED


A.B.

To,

The Chief Postmaster General,
N.E.Circle, Shillong- 793 001.

Sub : Regarding Non-regularising the period of suspension from 14.5.98 till 01.2.99 by the DPS, Manipur, Imphal.

Ref : DPS, Manipur, Imphal's Order Nos : -

- 1) H-4/LE/Genl. dtd. Imphal, 17.4.98 (Order of Suspension).
- 2) H-4/LE/Genl. dtd. Imphal, 31.12.98 (Order of revocation).

Sir,

Most humbly and respectfully I beg to state as follows on the above subject for your early action please.

1. That, while I was functioning as SDIPOS, Ukhru, Sub-Division, Ukhru, Manipur (1996-1998) I was placed under suspension by the DPS, Manipur, Imphal on contemplation of a disciplinary proceeding under Sub-rule (I) of Rule 10 of the CCS(CCA) Rules, 1965. Vide suspension Order No. H-4/LE/Genl. dtd. Imphal, 17/4/98 which was given effect from 13/5/98 (A/N).
2. That, the said Order of suspension was revoked by the DPS, Manipur, Imphal pending investigation Vide revocation Order No. H-4/LE/Genl. dtd. Imphal 31/12/98 and I was transferred and posted as C.I., Nagaland and Kohima on revocation of the suspension Order.
3. That, on revocation of the suspension Order I rejoined duties on 2/2/99 as C.I., Nagaland at Kohima terminating suspension.
4. (a) regarding the pay and allowances to be paid to me for the period of suspension, and
 (b) Whether or not the said period be treated as a period spent on duty;

As the re-instating authority is required to issue the above orders under FR-54-B and in this case, the DPS, Manipur was the reinstating authority as the order of suspension was revoked by him and so he was to issue Orders on (a) & (b) above.

5. That, as no charge-sheet was served on me within 3 months subject to a maximum of 6 months from the date of suspension as per rules and in as much as 5 years has elapsed without any charge-sheet from the date of suspension the Order of suspension deems to have been unjustified and so, on consequence,

ATTESTED

JGJ/Phb
Abu

(18)

-1/2-

1/2

32

I am entitled to full pay and allowances for the period of suspension and the said period of suspension deems to have been treated as the period spent on duty, for all purpose.

6. That, I made a representation to the DPS, Manipur Imphal on 12/8/2003 followed by reminder on 15/10/2003 stating everything on the subject; but to no action at all.

I have, therefore, earnestly requested you kindly to look into the matter personally and cause to issue necessary orders as early as possible as it is feared that the matter will be lost sight of in course of time if not attended to in time as I have limited years service at hand.

Enclo:

Yours faithfully,


(S.B. HAZARIKA).
C.I., Nagaland, Kohima (U/S),
C/O. U. Basumatary,
ASPOS, Imphal - 795 001.Date :- 23/2/2004.
b
25/3/06
ADD

FORM NO.4

(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

822/04

Original Application No.

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicants: S. B. Hognan

Respondents: M. D. L. Gang

Advocates for the Applicant: In Person

Cafe

Advocates of the Respondents

Notes of the Registry Date Order of the Tribunal

27.1.2005 Present: The Hon'ble Mr. K.V. Prahladan, Member (A)

None present for both the parties.

The application for regularisation of the period of suspension. The applicant was suspended vide order dated 17.4.1998 (Annexure - A-1). The suspension was revoked on 31.12.98 (Annexure - A-2). His two representations (Annexures- A-3 & A-5) have not been given reply. The Respondent No. 2 is directed to give reasoned and speaking reply of the representation dated 18.08.2003 (Annexure -A-3). The Chief Postmaster General, N.E. Circle, Shillong is directed to give reasoned and speaking reply of the representation dated 23.2.2004 (Annexure - A-5). The reply of these two representations shall be given within three months from the date of receipt of this order.

The application thus stands disposed of. No order as to costs.

17.1.05
अनुग्राम अधिकारी
Section Officer (Jud.)
Central Administrative Tribunal
गवर्नर-के
GUWAHATI-6

Sd/MEMBER(A)

ATTESTED

25/10/05
ABP

DEPARTMENT OF POSTS : INDIA
 OFFICE OF THE CHIEF POSTMASTER GENERAL
 NORTHEAST CIRCLE : SHILLONG- 793 001

No. Vig/LC-12/04 (CAT)

Dtd. at Shillong-1, the 8th September, 2005.

1. Disciplinary proceeding under Rule 14 of C.C.S. (C.C.A.) Rules, 1965 was initiated by the then Director Postal Service, Manipur Division, Imphal; vide his Memo. No. Diary/SDIPOs-Ukhrul/97 dtd. 19.2.1998 against Sri S. B. Hazarika, the then SDIPOa, Ukhrul Sub Division under Manipur Postal Division.
2. Consequently, said Sri S.B. Hazarika, SDIPOs, Ukhrul Sub Division under Manipur Postal Division, was placed under suspension by the then Director Postal Services, Manipur Division, Imphal, vide his memo. No. 11-4/L.E/GENL, dtd. 17.4.98, 'with immediate effect'.
3. Said Sri S.B. Hazarika was ordered to join on transfer as C.I., Divisional Office, Nagaland, Kohima, vide Circle Office memo no. Staff/8-72/83 dtd. 22.10.1998, and as such the aforesaid suspension of Sri Hazarika was revoked by the then Director Postal Services, Manipur Division, Imphal, vide his memo. No. 11-4/L.E/GENL dtd. 31.12.1998, 'with immediate effect'. Since the Disciplinary Proceeding was not complete, the period of Suspension w.e.f. 18.4.1998 to 31.12.1998, was not regularized.
4. On completion of the Disciplinary proceeding, the new Disciplinary authority, the Director Postal Services, Nagaland Division, Kohima, awarded said Sri S.B. Hazarika, working as C.I., Divisional Office, Nagaland, Kohima, the penalty of 'Reduction in Pay by three stages for a period of three years w.e.f. 01.06.2004, with cumulative effect and without any increment during the period of reduction, vide his memo. No. Rule 14/S.B. Hazarika dtd. 24.05.04. On appeal, the Appellate Authority reduced the quantum of penalty and imposed penalty of 'Reduction of Pay in one stage for a period of four years without cumulative effect, vide Circle Office, memo No. Staff/109-9/04 dtd. 26.7.2005.
5. Since said Sri S.B. Hazarika was awarded major penalty on completion of the Disciplinary proceeding and on appeal also, his suspension during the period w.e.f. 18.4.1998 to 31.12.1998 was "Totally justified". However, to regularize the period of suspension w.e.f. 18.4.1998 to 31.12.1998, as required by F.R. 54-B, I incline to pass the following Order:

ORDER

I, Sri Lalhluna, Postmaster General, North East Region, Shillong, do hereby order that the period of suspension of Sri S.B. Hazarika, w.e.f. 18.4.1998 to 31.12.1998, while he was working as SDIPOs, Ukhrul Sub Division, under Manipur Division, will be treated as 'Leave as admissible.'

(Lalhluna)

Postmaster General
 North east Region
 Shillong-793 001

Copy to :

- Re: 1) Sri S.B. Hazarika, ex-C.I., Kohima. Vill.-Anandapara, P.O. Sabroom-799 145, S. Tripura
 2) The Dy SPOs, Kohima, with reference to his letter No. F5/CAT/SB Hazarika/Imphal dtd. 31.8.05.
 3) Staff Section, Circle Office, Shillong.
 4) Spare.

ATTESTED

25/9/05 ABB

Speedy follow-up action in suspension cases and time-limits prescribed.—1. Instances have been noticed where inordinate delay has taken place in filing charge-sheets in Courts in cases where prosecution is launched and in serving charge-sheets in cases where disciplinary proceedings are initiated.

2. Even though suspension may not be considered as a punishment, it does constitute a very great hardship for a Government servant. In fairness to him, it is essential to ensure that this period is reduced to the barest minimum.

3. It has, therefore, been decided that in cases of officers under suspension, the investigation should be completed and a charge sheet filed in a Court of competent jurisdiction in cases of prosecution or served on the officer in cases of departmental proceedings as a rule. If the investigation is likely to take more time, it should be considered whether the suspension order should be revoked and the officer permitted to resume duty. If the presence of the officer is considered detrimental to the collection of evidence, etc., or if he is likely to tamper with the evidence, he may be transferred on revocation of the suspension order.

[G.I., M.H.A., O.M. No. 221/18/65-AVD, dated the 7th September, 1965]

4. In partial modification of the above orders, it has been decided that every effort should be made to file the charge-sheets in Courts or serve the charge-sheets on the Government servant in the case, may be within the time-limit of one month of suspensions and in cases in which it may not be possible to do so, the Disciplinary Authority should report the matter to the next higher authority explaining the reasons for the delay.

[G.I., C.S. (Dept. of Per.), O.M. No. 39/39/70-Ests. (A), dated the 4th February, 1971.]

5. It would be observed that the Government have already reduced the period of suspension during investigation, barring exceptional cases which are to be reported to the higher authority, from six months to three months. It has now been decided that while the orders contained in the O.M. of 4th February, 1971, would continue to be operative in regard to cases pending in Courts in respect of the period of suspension pending investigation before the filing of a charge-sheet in the Court as also in respect of serving of the charge-sheet on the Government servant in cases of departmental proceedings, in cases other than those pending in Courts, the total period of suspension, viz., in respect of investigation and disciplinary proceedings, should not ordinarily exceed six months. In exceptional cases where it is not possible to adhere to this time-limit, the Disciplinary Authority should report the matter to the next higher authority, explaining the reasons for the delay.

[G.I., C.S. (Dept. of Per.), O.M. No. 39/33/72-Ests. (A), dated the 16th December, 1972.]

6. In spite of the instructions referred to above, instances have come to notice in which Government servants continued to be under suspension for unduly long periods. Such unduly long suspension, while putting the employee concerned to undue hardship, involves payment of subsistence allowance without the employee performing any useful service to the Government. It is, therefore impressed on all the authorities concerned that they should scrupulously observe the time-limits laid down in the preceding paragraph and review the cases of suspension to see whether continued suspension in all cases is really necessary. The authorities superior to the Disciplinary Authorities should also give appropriate directions to the Disciplinary Authorities keeping in view the provisions contained above.

[G.I., M.H.A., O.M. No. 11012/7/76-Ests. (A), dated the 14th September, 1978.]

7. It is once again reiterated that the provisions of the aforesaid instructions in the matter of suspension of Government employees and the action to be taken thereafter should be followed strictly. Ministry of Finance, etc., may, therefore, take appropriate action to bring the contents of the aforesaid instructions to the notice of all the authorities concerned under their control, directing them to follow those instructions strictly.

[G.I., M.H.A., D.P. & A.R., O.M. No. 42014/7/83-Estt. (A), dated the 18th February, 1984.]

8. All authorities receiving information/report about the continued suspension of officials from their subordinate authorities should carefully examine each case and see whether the continued suspension of an official is absolutely necessary or the suspension should be revoked by transferring the official to another post or office.

9. In order to ensure that above instructions are scrupulously observed by subordinate authorities, all cases of suspension may be reviewed regularly, particularly those where officials are under suspension for more than six months, and wherever it is found that the official can be allowed to resume duties by transferring him from his post to another post, orders should be issued for revoking the suspension and allowing the official to resume duties with further direction as may be considered desirable in each individual case.

10. In respect of cases where it is found that the Competent Authorities have not made reports in terms of these instructions, serious notice on the lapses of such authorities should be taken as also considering making adverse entries in their annual confidential reports. Similarly, when an Appellate Authority finds that an official has remained under suspension for a period exceeding six months and the Competent Authority has not made reports in terms of these instructions, the Appellate Authority should also take serious notice of the lapses of the concerned subordinate authority and consider making adverse remarks in annual confidential reports.

[I.D.G., P & T's Letter No. 2014/1/76 Dep. II, dated the 15th July, 1976.]

ATTESTED

25/7/86
AFB

Opportunity to suspended Government servant to appeal against suspension.

2. Where a Government servant is placed under suspension, he has a right of appeal against the order of suspension *vide* Rule 23 (i) of the CCS (CCA) Rules, 1965. This would imply that a Government servant who is placed under suspension should generally know the reasons leading to his suspension so that he may be able to make an appeal against it. Where a Government servant is placed under suspension on the ground that a disciplinary proceeding against him is pending or a case against him in respect of any criminal offence is under investigation, inquiry or trial, the order placing him under suspension would itself contain a mention in this regard and he would, therefore, be aware of the reasons leading to his suspension.

3. Where a Government servant is placed under suspension on the ground of contemplated disciplinary proceeding, the existing instructions provide that every effort would be made to finalize the charges against the Government servant within three months of the date of suspension. If these instructions are strictly adhered to, a Government servant, who is placed under suspension on the ground of contemplated disciplinary proceedings will become aware of the reasons for his suspension without much loss of time. However, there may be some cases in which it may not be possible for some reason or the other to issue a charge-sheet within three months from the date of suspension. In such cases, the reasons for suspension should be communicated to the Government servant concerned immediately on the expiry of the aforesaid time-limit prescribed for the issue of a charge-sheet, so that he may be in a position to effectively exercise the right of appeal available to him under Rule 23 (i) of the CCS (CCA) Rules, 1965, if he so desires. Where the reasons for suspension are communicated on the expiry of the time limit prescribed for the issue of charge-sheet, the time-limit of forty-five days for submission of appeal should be counted from the date on which the reasons for suspension are communicated.

4. The provision contained in the preceding paragraph will not, however, apply to cases where a Government servant is placed under suspension on the ground that he has engaged himself in activities prejudicial to the interests of the security of the State.

[G.I., M.H.A., D.P. & A.R., O.M. No. 35014/1/81-Ests. (A), dated the 9th November, 1982.]

ATTESTED

25/12/82
APP

DEPARTMENT OF POSTS, INDIA

OFFICE OF THE DIRECTOR POSTAL SERVICES: MANIPUR: IMPHAL-795001.

No. Diary/SDIPOS-Ukhrul/97

Dated at Imphal the 19.2.98

M E M O R A N D U M

The undersigned proposes to hold a inquiry against Shri S.B. Hazarika, SDIPOS-Ukhrul, Sub-Dn, Ukhrul . . . under Rule -14 of the Central Civil Services (Classification, Control and Appeal) Rules 1965. The substance of the imputation of misconduct and/or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure-I). A statement of the imputation of misconduct or misbehaviours in support of each article of charge is enclosed (Annexure -II). A list of documents by which and a list of witnessnes by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

1. Shri S.B. Hazarika, SDIPOS-Ukhrul Sub-Dn, Ukhrul. is directed to submit within 10 days of the receipt of this memorandum as written statement of his defence and also to state whether he desires to be heard in person.

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

4. Shri S.B. Hazarika, SDIPOS-Ukhrul Sub-Dn, Ukhrul. is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiry authority or otherwise fails or refuses to comply with the provision of Rule -14 of the CCS(CCA) Rules, 1965 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him EX-PARTE.

5. Attention of Shri S.B. Hazarika, SDIPOS-Ukhrul Sub-Dn, Ukhrul. is invited to Rule 20 of the CCS(Conduct) Rules, 1964, under which no Govt. Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Dn, is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule -20 of the CCS(Conduct) Rules 1964.

6. The receipt of the Memorandum may be acknowledged.

Copy to:-

1. Shri S.B. Hazarika
SDIPOS, Ukhrul Sub-Dn,
Ukhrul.
2. Viz/Stt.

Name and designation of
competant Authority.

(LALHLUNA)
Director Postal Services
Manipur Division, Imphal-795001.

ATTESTED

25/2/98
AAB

ANNEXURE-I

Statement of article of charges framed against
Shri.S.B.Hazarika, SDIPS/Umhrul Sub-Div., Umhrul.

24

13

Article-I

Shri.S.B.Hazarika, while working as SDIPS/
Umhrul Sub-Div., during the period from 29/01/96 (A/N)
to 31/01/98, he had shown to have inspected as
many as 54(Fifty four) Post Offices in the year
1996, but had not submitted a copy of the Inspection
Remarks in respect of each of these 54(Fifty four)
Post Offices, to the Supdt. of Post Offices, Manipur
Division, Imphal or any other appropriate auth-
ority in place of the Supdt. of Post Offices, Manipur
Division, Imphal. Similarly, the said Shri.S.B.
Hazarika, had shown to have inspected as many as
78(Seventy) Post Offices during the period from
01/01/97 to 31/12/97, but had not submitted a
copy of the Inspection Remarks in respect of
45 (Fifty five) Post Offices, to the
Supdt. of Post Offices, Manipur Division, Imphal
or any other appropriate authority in place of
the Supdt. of Post Offices, Manipur Division, Imphal.
By his above acts, the said Shri.S.B.Hazarika
violated the provisions of Rule-368(2) of P&T
Man. Vol. VIII read with Deptt. of Posts/New Delhi
letter No. 17-3/92-Inspn. Dated 02/07/1992, and
Rule-3(1)(ii) of CCS(Conduct)Rules, 1964.

Article-II

Shri. S. B. Hazarika, while working as SDIPS/Umhrul Sub-Div., during the period from 29/01/96 to 31/01/98, he had shown to have inspected the following EOBs in Umhrul Sub-Div., on the date noted against each.

Name of the EOB	Date of Inspn. shown by Shri. S. B. Hazarika
1. Chingjarei EOB	25-02-1997
2. Sirarakhong EOB	29-03-1997
3. Komang Kakching EOB	19-05-1997
4. Shangshak EOB	18-06-1997
5. Nungshong EOB	15-07-1997
6. Pushing EOB	28-07-1997

But, in fact, the said Shri.Hazarika, did not at all inspect the above mentioned EOBs either on the date noted against each or on any other date in the year 1997. Therefore, by his above acts, the said Shri.S.B.Hazarika, violated the provisions of Rule-368(1) of P&T Man.Vol.VIII, Rule-3(1)(i) of CCS(Conduct)Rules, 1964 and Rule-3(1)(iii) of CCS(Conduct)Rules, 1964.

ATTESTED

25/7/98
APP

(LALHUNA)
Director Postal Services,
Manipur: Imphal: 795001.

ANNEXURE-II

Statement of imputations of misconduct and/or misbehaviour in support of the articles of charges framed against Shri. S.B.Hazarika, SDIPOs/Ukhrul Sub-Dn., Ukhrul.

Article-I

That as many as 66(Sixty six) EOOS and 1(One) S.O in Ukhrul Sub-Dn., were allotted to the share of Sub-Divisional Inspector of Post Offices, Ukhrul Sub-Dn., Ukhrul for inspection during the year 1996 vide SDIPOs/ Imphal letter No.Inspection/Tour Programme/1996 dtd. 19/02/96 alongwith a copy of inspection programme for the year 1996. The said Shri.S.B.Hazarika, took over the charge of SDIPOs/Ukhrul Sub-Dn on 29/01/96(A/N) and prior to taking over the charge of the Sub-Dn., by the said Shri.S.B.Hazarika, one Shri.Moba Maring P.A., Imphal H.O was officiating as SDIPOs/Ukhrul Sub-Dn from 01/01/96 to 29/01/96(A/N). Of the 66(Sixty six) EOOS assigned to the SDIPOs/Ukhrul Sub-Dn., for inspection during the year 1996, the said Shri.Moba Maring already inspected as many as 13(Thirteen) EOOS during the period from 01/01/96 to 29/01/96. Thus, as many as 53(Fifty three) EOOS and 1(One) S.O were remaining for inspection, by the said Shri.S.B.Hazarika, during the year 1996 at the time of taking over the charge of Ukhrul Sub-Dn by the said Shri.Hazarika on 29/01/96(A/N). The said Shri.S.B.Hazarika, in his fortnightly diaries and monthly summaries of the SDIPOs/Ukhrul for the period from 29/01/96(A/N) to 31/12/96, had shown to have inspected all the 53(Fifty three) EOOS and 1(One) S.O which were remaining for inspection by the said Shri. S.B.Hazarika as on 29/01/96(A/N). The list of 53(Fifty three) EOOS and 1(One) S.O shown to have been inspected by the said Shri.Hazarika has been enclosed as "ANNEXURE-A".

Similarly, as many as 71(Seventy one) Post Offices i.e. 69(Sixty nine) EOOS and 2(two) S.Os were assigned to the SDIPOs/Ukhrul Sub-Dn., for inspection during the year 1997 vide SDIPOs/ Imphal letter No.Inspection/Tour Programme/ 1997 Dtd.29.1.97 alongwith a copy of Inspection programme for the year 1997. Of the 69(Sixty nine) EOOS and 2(Two) S.Os in the Ukhrul Sub-Dn., which were assigned for inspection by the said Shri.S.B.Hazarika as SDIPOs/Ukhrul Sub-Dn., he had shown to have inspected all the 69(Sixty nine) EOOS and 1(One) S.O on different date/dates during the period from 01/01/97 to 31/12/97, in his fortnightly diaries and monthly summaries of the SDIPOs/Ukhrul submitted by the said Shri.Hazarika, for the aforementioned period from time to time. The list of 69(Sixty nine) EOOS and 1(One) S.O which were shown to have been inspected by the said Shri.S.B.Hazarika during the year 1997 has been enclosed as "ANNEXURE-B".

That, as per Rule-300(2) of P&T Man. Vol.VIII, the said Shri.S.B.Hazarika, SDIPOs/Ukhrul had to submit the copy of Inspection Remarks, in respect of the each of the EOOS and S.O inspected by him, to the Supdt.of Post Offices, Manipur Division, Imphal, and in accordance with Dept.of Posts/New Delhi Letter No. 17-3/92-Inspn. Dtd.02/07/92 the time limit for

ATTESTED

Contd.P/2...

25/10/96
AM

--(2)--

submission/issuance of Inspection Remarks/Inspection Reports in respect of EOBO and S.O are 10(Ten) days and 15(Fifteen) days from the date of inspection respectively. But, the said Shri.S.B.Hazarika, had not, at all, submitted the copy of Inspection remarks in respect of 53(Fifty three) EOBOs and 1(One) S.O, which were shown to have been inspected by him ~~as~~ in 1996, as per ANNEXURE-A, to the Suptd.of Post Offices, Manipur Division, Imphal either within the prescribed time limit as specified above, or on any subsequent/ date. Similarly, the said Shri.S.B.Hazarika, had not, at all submitted the copy of Inspection remarks in respect of 44 (forty four) EOBOs and 1(One) S.O, which were shown to have been inspected by the said Shri.Hazarika on different date/dates during the year 1997. The list of 44 (forty four) EOBOs and 1(One) S.O, which were shown to have been inspected by the said Shri.Hazarika ~~but~~ in the year 1997, but he did not submit I.Rs has been enclosed as ANNEXURE-C.

Therefore, it is imputed that the said Shri.S.B.Hazarika, by his above acts, violated the provisions of Rule-300(2) of P&T Man.Vol.VIII and orders contained in Dep'tt.of Posts/New Delhi letter No.17-3/92-Inspn. Dated.02/07/1992, and also failed to maintain absolute devotion to his duties in violation of Rule-3(1)(ii) of CCS(Conduct)Rules, 1964.

Article-II

The following EOBOs in Ukhrul Sub-Dn, which were assigned to the SDIPOs/Ukhrul Sub-Dn., for annual inspection for the year 1997 vide SSPOs/Imphal letter No.Inspection/Tour Programme/1997 Dtd.29.01.'97, were shown to have been inspected by the said Shri.S.B.Hazarika as SDIPOs/Ukhrul, on the date noted against each.

<u>Name of the EOBO</u>	<u>Date of Inspn.</u>
1. Chingjaroi EOBO	25-02-1997
2. Sirarakheng EOBO	29-03-1997
3. Kamang Kakching EOBO	19-05-1997
4. Shangshak EOBO	18-06-1997
5. Nungsheng EOBO	15-07-1997
6. Pushing EOBO	20-07-1997

The said Shri.S.B.Hazarika was working as SDIPOs/Ukhrul during the period from 29/01/96(A/N) to 31/01/98 and, he had shown to have inspected the above post offices as mentioned above in his fortnightly diaries pertaining to that period and also in the ~~as~~ monthly summaries of the SDIPOs/Ukhrul Sub-Dn., Ukhrul, submitted by the said Shri.Hazarika, for the respective months on which these offices had been shown to have been inspected. But, the EOBOPMs of the above EOBOs have intimated, to the Director Postal Services, Manipur, Imphal, in writing that the said Shri.S.B.Hazarika, SDIPOs/Ukhrul did not inspect their respective EOBOs in the year 1997 till the time of submission of respective intimations by each of the EOBOPMs of above EOBOs in the months of Sept'97/Oct'97/Nov'97.

~~Exhibit~~

Therefore, it is imputed that the said Shri.S.B.Hazarika, did not at all inspect the aforementioned EOBOs on the dates noted against each and thereby violated the provisions of Rule-300(1) of P&T Man.Vol.VIII. In addition

ATTESTED

Contd.P/Exhibit 3....

19/2/98
b
b
b
b
b

the said Shri. Bazarika, by his act of submission of false information regarding inspection of these above mentioned ED80's, failed to maintain absolute integrity and also acted in a manner unbecoming of a Govt. servant, and thereby violated Rule 3(1)(i) and 3(1)(iii) of CCS(Conduct)Rules, 1964.

(LALHLUNA)
Director Postal Services,
Manipur: Imphal: 795001.

ATTESTED

25/10/09
AFL

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES
NAGALAND : KOHIMA - 797 001

No.Rule 14/S.B.Hazarika

Dated at Kohima the 24.05.04

CAT, Guwahati Bench in its judgement dated 07.08.2003 in OA No. 59/2002 has directed the disciplinary authority for appropriate order in terms of sub-rule 4 of Rule 15 for imposition of appropriate penalty as per law. It has specifically set aside the findings of disciplinary authority on charge No.1 dtd. 08.06.01 and also the orders of appellate order to the extent indicated above.

A) Vide office memo No. Diary/SDIPOs-Ukhrul/97 Dtd.19.02.98 of DPS, Manipur Imphal, it was proposed to hold an inquiry under Rule 14 of the CCS (CCA) Rules 1965 against Shri S.B.Hazarika, the then SDIPOs, Ukhrul Dn., Ukhrul. A statement of article of Charges and a statement of imputation of misconduct and mis-behaviour in support of article of charges and a list of documents by which and a list of witness by whom the article of charges were proposed to be sustained were also enclosed with the said memo.

2. Shri S.B Hazarika was given an opportunity to submit within 10 days of the receipt of the memo a written statement of defence and to state whether he desires to be heard in person.

Statement of articles of charges framed against Shri S.B.Hazarika the then SDIPOs Ukhrul-Dn., Ukhrul, is follows

ARTICLE - I

Shri S.B Hazarika ; while working as SDIPOs Ukhrul Sub-Dn, during the period from 29-01-96 (A/N) to 31-01-98, he had shown to have inspected as many as 54 (fifty four) Post Offices in the year 1996, but had not submitted a copy of the inspection remarks in respect of forty five Post Offices, to the Supdt. of Post Offices, Manipur-Dn. Imphal. By his above acts, the said Shri S.B Hazarika violated the provision of Rule-300 (2) of P & t Man. Vol VIII read with Dept. of Posts/New Delhi letter No. 17-3/92-Inspn. Dated 02-07-1992, and Rule-3 (1) (ii) of CCS (Conduct) Rules, 1964.

ARTICLE - II

Shri S.B Hazarika, while working as SDIPOs ukhrul Sub Dn., during the period from 29-01-96 to 31-01-98, he had shown to have inspected the following EDBOs in Ukhrul Sub-Dn, on the date noted against each.

<u>Name of the EDBO</u>	<u>Date of inspn. shown by</u>
<u>Shri S.B.Hazarika</u>	
1. Chingjarai EDBO	25-02-1997
2. Sirarakhang EDBO	29-03-1997
3. Kamang Kakching EDBO	19-05-1997
4. Shangshak EDBO	10-06-1997

ATTESTED

25/05/04
 25/05/04
 25/05/04

(2)

5. Nungshong EDBO
6. Pushing EDBO

15-07-1997
20-07-1997

But in fact, the said Shri S.B.Hazarika did not at all inspect the above mentioned EDBO either on the date noted against each or on any other date in the year 1997. Therefore, by his above acts, the said Shri S.B.Hazarika, violated the provisions of Rule 300 (1) of the P & T Man. Vol. VIII, Rule-3 (1) (i) of the CCS (Conduct) Rules, 1964 and Rule-3 (1) (iii) of the CCS (Conduct) Rules, 1964.

3. Shri Sunil Das, the then Supdt. of Post Offices, Agartala Division, was appointed as the inquiry officer to inquire into the charges framed against Shri S.B.Hazarika. After adducing both oral and documentary evidences, the inquiry officer submitted his enquiry report vide his letter No. SP-1/N9 dtd.27.09.2000.

4. The disciplinary authority, the then Director, Postal Services, Nagaland Dn., Shri F.P.Solo, after going carefully through the chargesheet, deposition of state witnesses, written briefs of the presenting officer (P.O) and the charged official (CO), the inquiry proceedings, report of the inquiry officer and the representation of the CO against the inquiry report, accepted the findings of inquiry officer in respect of the Article II of the charges but disagreed with the I.O in respect of I.Os findings on Article I of charges due to various reasons recorded in his punishment order dated 08.06.2001. CAT, Guwahati bench in it's judgement dtd.19.02.98 has specifically stated the Article -I is not proved and unsustainable in law and set aside the orders of disciplinary authority and appellate authority to that extent.

5. That leaves Article No.-II only for consideration. I.O in his inquiry report dated 29.09.2000 has concluded that charges framed under Article -II is partially proved to the extent that out of 6 GDSBO's (earlier known as EDBO) alleged not to have been inspected, non-inspection of three B.O's, namely Kamang Kanching, Pushing and Shangshak B.O's could only be proved.

The I.O has based his findings of non-inspection of 3 out of 6 GDSBO's alleged not to have been inspected on categorical oral and written statement of Shri L.Ito Singh, GDSBPM, Kamang Kakching B.O., Shri. Yarngai, GDSBPM, Pushing B.O and Shri V.S. Vareise, GDSBPM, Shangshak B.O that their offices were not inspected till 25.09.97, 09.1097 and Sept. 97 respectively. C.O has pleaded that the deposition of the three GDSBPM's suffered from shortcomings of (a) The original letter stated to be written by them to the SPO's, Imphal were not shown to them at the time of deposition. (b) The evidence are not conclusive. The C.O further added that inspection of a B.O cannot be confirmed only on the basis of oral statement of a BPM who does not constitute the establishment. There are other staff and equally relevant material. The I.O did not agree with the averments of the C.Os as photocopies of the letters written by 3 GDSBPM's of Kamang Kakching B.O, Pushing B.O and Shangshak B.O were shown to them at the time of deposition made before the I.O. and they admitted that these documents were written by them and sent by them to SPO's concerned. The I.O has further stated in his inquiry report that these evidences can not be stated to be non-conclusive simply on the ground that no other staff of these offices were produced as witness. I.O further held that GDSBPM's being in-charge of the respective B.Os are mainly concerned with the inspection and without them their offices can not be inspected while other staff of the establishment may or may not be present. He further stated that unless the veracity of the deposition of a witness is in question, no collaborative evidence is necessary. The other alleged shortcomings noticed out by C.O has been discussed in detail by the I.O in his inquiry report dtd.27.09.2000 and most of these were found to be extraneous and not having a bearing on the case.

ATTESTED

25/7/06
AB

(3)

6. After carefully going through the various records relevant to the case like the chargesheet, deposition made by state witnesses, written briefs of the P.O and the C.O, the inquiry proceedings, report of the inquiry officer, representation of the C.O against the enquiry report, the punishment order passed by my predecessor dtd.08.06.01 and the CAT judgement dtd.07.08.2003 in OA No.59/2002, I am of considered view that 3 B.Os namely Kamang Kakching B.O, Pushing B.O, Shangshak B.O were not inspected by the C.O on the dates shown by the C.O as reflected in his fortnightly diaries. The fact of non-inspection of 3 GDSBPM's could not be established as GDSBPM's of Changaraj B.O, Sirarakhang B.O, Nungshang B.O could not attend the hearing on account of one reason or another. The charges of non-inspection and showing them as inspected falsely is a serious omission. One of the prime duties and responsibilities of an I.P.O is to inspect the Post Offices allotted to him and submit the inspection reports in time. But, Shri Hazarika failed to carry out this major duties and responsibilities of an I.P.O, while working as SDI(P), Ukhrul sub-division between 29.01.96 to 31.01.98. Further, he tried to mislead the divisional office, Imphal that these three (3) offices were already inspected on different dates as mentioned in the article of Charges II (Para - 2). Such type of irresponsible behaviour and conduct is not expected out from a responsible officials of the department like that of an I.P.O. After going through the case very carefully and considering all relevant fact, I am of considered view that the following punishment should be imposed on Shri S.B.Hazarika so that this acts as a deterrence for his future work behaviour and conduct. It is hoped that he will take the punishment in the right spirit and try to transform himself in to a responsible and dedicated official of this department.

ORDER

Therefore, I, Shri. Rakesh Kumar, 'Director of Postal Services', Nagaland Division, Kohima and the disciplinary authority hereby order that the pay of Shri. S.B.Hazarika, the then SDIPO's Ukhrul Sub-Dn, now posted as C.I, divisional office, Kohima (U/S) be reduced by three stages from Rs.6650.00/- to Rs.6125.00/- in the time scale of pay of Rs.5500-175-9000/- for a period of three years w.e.f 01.06.2004 with cumulative effect. It is further directed that Shri. S.B.Hazarika, C.I divisional office, Kohima, presently under suspension will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will have the effect of postponing his future increments of pay.

Rakesh Kumar
(Rakesh Kumar)

Director Of Postal Services.
Nagaland : Kohima - 797001.

Copy to :-

- 1) The CPMG (Inv.), N.E Circle for information.
- 2) The Postmaster, Kohima H.O for information and necessary action.
- 3) The DA(P), Kolkata (Through the Postmaster, Kohima H.O)
- 4) The Director of Postal Services, Manipur, Imphal for information.
- 5) Shri. S.B.Hazarika, C.I, divisional Office, Kohima (Presently under suspension)
- 6) PF of the official.
- 7) CR of the official
- 8) Office Copy.

Shri. S.B. Hazarika

Complaint Inspector (U/S), Nagaland Dn.

c/o Shri. V. Basumatary

ASPO's, first sub-division

Manipur, Imphal -

ATTESTED

*20/8/08
ASB*

DEPARTMENT OF POSTS
 OFFICE OF THE CHIEF POSTMASTER GENERAL, NORTH-EAST CIRCLE
SHILLONG-793 001.

Memo No. Staff/109-9/04,

Dated at Shillong, the 26 July, 2005

ORDER

1. Shri S.B. Hazarika, ex-Inspector of Post Offices (Public Grievance), Office of the Director Postal Services, Nagaland Division, Kohima was charge-sheeted under Rule-14 of C.C.S. (CCA) Rules, 1965 for the misconduct and misbehaviour committed by him while he was functioning as Sub-Divisional Inspector of Post Offices, Ukhrul Sub-Division in Manipur Division vide Director Postal Services, Manipur letter No. Diary/SDIPOs-Ukhrul/97 dated 19.2.98. The said Shri S.B. Hazarika denied the charge. The disciplinary authority appointed Inquiry Officer & Presenting Officer for conducting enquiry under Rule-14 of C.C.S. (CCA) Rules, 1965 and referred the case to the Inquiry Officer accordingly.
2. In the meantime, the said Shri S.B. Hazarika was placed under suspension pending disciplinary case against him which was revoked on his transfer to Nagaland Division as Inspector of Post Offices (PG), Nagaland. The said Shri Hazarika joined the new assignment on 2.2.1999.
3. The Inquiry Officer held the said enquiry on various dates giving due opportunities to the appellant, who did not participate in the enquiry till the closure of the case for the prosecution side. He, however, produced his defense before the Inquiry Officer without having assistance although he was apprised of the facilities available to him. The Inquiry Officer submitted his report on 27.9.2000 with findings that the Article No.I was not proved and Article No.II partially proved.
4. The succeeding disciplinary authority viz. Director Postal Services, Kohima did not agree with the findings of the Inquiry Officer and he served disagreement note along with the Inquiry Officer's report to the appellant. On receipt of the representation from the appellant, the Disciplinary Authority awarded the punishment of reduction to the lower stage of pay from Rs.6550/- to Rs.5500/- for a period of three years with cumulative effect with further direction that the appellant shall not earn increment of pay during the period of reduction. The appellant then preferred an appeal to the Chief Postmaster General, North-East Circle, Shillong who after due consideration rejected the appeal.
5. Being aggrieved, the appellant approached the Hon'ble Central Administrative Tribunal, Guwahati in O.A. NO.59 of 2002. The Hon'ble Central Administrative Tribunal, Guwahati, duly examined the Inquiry Officer's report, disagreement note, punishment order and connected documents. It agreed with the Inquiry Officer's findings and set aside the punishment imposed by the disciplinary authority and disposed of the application with direction to the disciplinary authority to impose appropriate penalty as per Law in the light of the findings in respect of Charge No.II keeping in mind observations made by the Hon'ble Central Administrative Tribunal.

ATTESTED

Case filed in
 C.A. No. 254/05
 on 28.9.05.

25/A/POB
 ABB

32

6. The disciplinary authority viz. Director Postal Services, Kohima implemented the order of the Hon'ble Central Administrative Tribunal by modifying the punishment order to the extent of reduction of the pay of the delinquent appellant by three stages from Rs.6550/- to Rs.6025/- for a period of three years with effect from 1.6.04 with cumulative effect with further direction that the appellant shall not earn increment of pay during the period of reduction and that on expiry of this period the reduction will have the effect of postponing his future increment of pay vide his Memo No. Rule 14/S.B. Hazarika dated 24.05.04.

7. Again being unsatisfied, the appellant submitted this appeal with a prayer to set aside the punishment order imposed on him as it is arbitrarily cruel, conjecture and surmise.

8. I have gone through all the connected documents, and the appeal submitted by the appellant very carefully and objectively and my observations are as follows :-

(a) At para 2.2 of the appeal the appellant pleaded that the charge under Article No. II is erroneous, illogical and unmaintainable on the ground that he was allotted for inspection 71 offices out of which 70 offices were inspected. IRs were not received against 45 offices and naturally IRs were received against 25 offices. So, there remains only one office uninspected. He further added that out of six offices mentioned at Article No. II, names of two offices were not mentioned. The argument as it were is sheer surmise and conjecture and with ulterior motive to create ambiguity in the mind of the authority concerned. The Article of charge No. II was for showing six offices as inspected but without practically being inspected. The Article of charge No. II is irrespective of whether the IRs were submitted or not, but for showing the appellant had not inspected them but shown them as inspected. Therefore, his argument is not tenable.

(b) At para 2.1, 2.3 and 2.4 the appellant argued that the quantum of punishment is not commensurate with the gravity of offences. He stated that the allegations brought against him are neither embezzlement of Government money, nor moral turpitude, nor insubordination, but for non-inspection of some Branch Offices, which are, according to him, internal administration and not at all interruption of public service. He further added that non-conveyance of mail, non-availability of stamps & stationeries, delay in delivery of articles should have been the concern of the Department. His view is quite illogical. The annual inspection work is a very important work activity to ensure efficient functioning of over-all postal system. It gives important feedback on various issues, which may require intervention of Divisional and higher level management for smooth, efficient and optimal functioning system. Inspections are not only to be carried out casually but also purposefully. The appellant had failed to perform the given task miserably by intentionally not inspecting many post offices although he had given false report of completion of inspection, which is a moral turpitude. Inspector of Posts is an administrative officer, who has been entrusted with the job of supervision, vigilance etc. over the subordinate offices and officials. If such a responsible person takes the recourse of submission of false statement and information to the higher authority then the efficiency of the administration undoubtedly deteriorates.

(c) The Hon'ble Central Administrative Tribunal, Guwahati in O.A. No. 59 of 2002, filed by appellant, after duly scrutinizing the records recorded that " on consideration of the materials on record, the findings of the Inquiry Officer, Disciplinary Authority and the Appellate Authority, we do not find any illegality as regards findings in respect of Article

ATTESTED

25/7/08
AB

BB

of Charge No. II. The Inquiry Officer rightly considered the evidence on record and reached his own conclusion. The Article of Charge No. II was partially proved. There were materials to show that out of six offices alleged to be not inspected by the applicant, there are evidences to arrive at conclusion that at least three offices, namely Kamang Kakching, Shangshak, Nungshong and Pushing EDBOs were rightly found to be not inspected. The Disciplinary Authority rightly assessed his mind to the relevant facts and on consideration of the facts, situation agreed with the findings of the Inquiry Officer and held that the Article of Charge No. II of the charges against the charged official was partially proved. No illegality is discernible in holding the applicant guilty in Charge No. II". Therefore, no further observation on the charge leveled against the appellant deserves to be made.

(d) The appellant sought for the personal hearing before disposal of the appeal on the ground that it is a major proceeding. I find no personal hearing in this case is required to be made as the records were scrutinized and the findings were already embodied by the judiciary. There is no question of further evaluation of records and drawing conclusion thereof as to the guilt. No personal hearing is therefore, allowed.

(e) No controlling authority expects his subordinate staff to take recourse of submission of false information and keep himself from performing the job entrusted to him. Therefore, the misconduct or misbehaviour so exhibited by the appellant is tantamount to moral turpitude and deserves severe punishment. However, I also hold that the punishment imposed upon the appellant by the disciplinary authority was too severe in view of the offence and I decide to show an extent of leniency.

9.

ORDER

Based on the discussion in the foregoing above, I, Shri Lalhluna, Postmaster General, North East Region, Shillong, being the appellate authority hereby reduces the punishment imposed upon Shri S.B. Hazarika, ex-Inspector of Post Offices (PG), Nagaland, Kohima by the disciplinary authority, Director of Postal Services, Nagaland, Kohima to reduction of pay in one stage for a period of four years without cumulative effect, which will not debar him from earning increment or pay during the period of the operation of the punishment.

Shri Lalhluna,
Postmaster General
North East Region
Shillong 793001
&
Appellate Authority

Copy to:

- Revd AD
1. Shri S.B. Hazarika, ex-C.I. Kohima, Vill. Ananda Para, PO Sabroom 799145 South Tripura.
 2. The Dy. SPOs, Kohima 797001
 3. Office Copy
 4. Spare

ATTESTED

25/7/08
Aff

27 JUL 2007

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

34

57

Filed by the Respondent
through M. V. Ahmed Chaw

1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

IN THE MATTER OF

OA NO. 192/2006

Shri S. B. Hazarika

...Applicant

-Versus-

Union of India & others

.... Respondents

-AND-

IN THE MATTER OF

Written Statement submitted by the Respondent No. 3

WRITTEN STATEMENT:

The humble answering respondents submitted their written statement as follows:

1(a) That I am Mrs. M. Landplumia and
Postmaster General, N.E. Region, Silvlong
..... and respondent No. 3 in the above case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is specifically admitted in this written statements, the contentions and statements made in the application and authorized to file the written statement on behalf of all the respondents.

- (b) The application is filed unjust and unsustainable both ⁱⁿ facts and in law.
- (c) That the application is bad for non-joinder of necessary parties and misjoinder of unnecessary parties.
- (d) That the application is also hit by the principles of waiver estoppels and acquiescence and liable to be dismissed.

Contd. - - - 2

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

2) The BRIEF HISTORY OF THE CASE is appended below, and the same may be treated as integral part of this reply.

BRIEF HISTORY OF THE CASE

Disciplinary proceedings under rule 14 of CCS (CCA) Rules 1965, was initiated by the then Director Postal Services, Manipur Division, Imphal, vide memo No. Diary/SDIPO-Ukhrul/97 dated 19-02-1998 (Annexure R-1) against Shri S.B.Hazarika (the applicant), the then SDIPOs, Ukhrul Sub Division under Manipur Postal Division. Consequently, the applicant was placed under suspension by the then Director Postal Services, Manipur Division, Imphal, vide memo No. II-4/LE/GENL dated 17-4-1998 with immediate effect (Annexure-R-2). The applicant was ordered to join on transfer as CI. Divisional Office, Nagaland, Kohima, vide Circle Office memo No. Staff/8-72/83 dated 22.10.1998 and as such the aforesaid suspension of the applicant was revoked by the then Director of Postal Services, Manipur Division, Imphal vide his memo No. II-4/LE/GENL dated 31.12.1998. Since the disciplinary proceeding was not completed the period of suspension was not regularized and outcome of the Disciplinary proceedings was being awaited (Annexure-3).

On completion of the Disciplinary proceeding the new Disciplinary Authority, the then Director of Postal Services, Nagaland Division, Kohima awarded the applicant working as C.I. Divisional Office, Nagaland, Kohima, the penalty of reduction in pay by three stage for a period of three years w.e.f 01.6.2004 with cumulative effect and without any increment during the periods of reduction, vide his memo No. 14/S.B.hazarika dated 24.5.1994 (Annexure R4). On appeal, the Appellate Authority reduced the quantum of penalty and imposed penalty of Reduction of pay in one stage for a period of four years without cumulative effect, vide Circle Office memo No. Staff/109-9/04 dated 26.7.2005.

In pursuance of the Order dated 27.1.2005 of the Hon'ble Tribunal, Guwahati Bench, in respect of OA No. 322/2005 (Annexure-5) filed by the applicant for regularization of the period of his suspension, the appellate Authority disposed of the appeal of the applicant by ordering that since, major penalty was awarded to the applicant and on completion of the disciplinary proceeding and on appeal also his suspension during the period w.e.f 18.4.1998 to 31-12-1998 was found "totally justified", therefore the aforesaid period of his suspension while he was working as the SDIPOs, Ukhrul Sub Division, under Manipur Division, was ordered to be treated as "leave as admissible" vide memo No. Vig/LC-12/04(CAT) dated 08.09.2005 (Annexure R6).

Consequently, the applicant vide his application dated 30-5-2006 (Annexure-R7) requested to release the difference of pay & allowances for the period of his suspension, treated as leave, in accordance with the order of the Appellate Authority, the Postmaster General, N.E. Circle Shillong . In support of his request, he also forwarded a copy of the aforesaid order. The applicant was subsequently informed vide DPS/Kohima letter No. F5/CAT/Hazarika/Imphal dated 21.7.2006 (Annexure R 8) that since he had no other leave in credit, the period of suspension was treated as Extra Ordinary Leave (E.O.L) entailing the period without any pay & allowance as per Rule. After which, the applicant has filed this OA.

- 3) That with regard to this statement made in paragraph 1,2,3 of the OA, the answering respondents do not admit anything except those are based on records. The applicant is put to the strictest proof thereof.
- 4) That with regard to the statement made in paragraph 4.1 of the OA, the answering respondents beg to submit that the Disciplinary proceeding under Rule 14 of CCS (CCA) Rules 1965 was initiated by the then DPS, Manipur Division, Imphal vide memo No. Diary/SDIPOOs-Ukhrul/97 dated 19-2-1998 against the applicant. Consequently, he was placed under suspension by the DPS/Manipur vide memo no. II-4/LE/GENL dated 17-4-1998 "with immediate effect".
- 5) That with regard to the statement made in paragraph 4.2 of the OA, the answering respondents beg to submit that the suspension was revoked by the then DPS, Manipur Division, vide memo No. II-4/LE/GENL dated 31-12-1998 on review and subsequently transferred and posted as the Complaint Inspector, Divisional Office, Kohima, Nagaland in order to prevent him from influencing the ongoing inquiry and tampering the evidences.
- 6) That with regard to the statement made in paragraph 4.3 and 4.4 of the O.A., the answering respondents beg to submit that the regularization of the suspension period of the applicant w.e.f 18.4.1998 has been a subject of litigation in OA No. 322/2005 filed by the applicant before the Hon'ble Tribunal, Guwahati bench. The Hon'ble Tribunal in its judgment and order dated 27-1-2005 had ordered the authorities to give reasoned and speaking order of the representation of the applicant dated 12-8-2003 (Annexure R 9) and 23.2.2004 (Annexure R 10) . The Appellate Authority, in pursuance of the above order, had disposed of representation by ordering the period of suspension to be treated as "Leave as admissible" vide memo No. Vig/LC-12/04(CAT) dated 08.09.2005.

37

7) That with regard to the statement made in paragraphs 4.5 of the OA, the answering respondents beg to submit that the respondents, as ordered by the Hon'ble Tribunal, had to give reasoned and speaking order on a matter which was more than six years old at that point of time. Such a task calls due application of mind, thorough review of all the relevant records, some of which were more than six years old and moreover, the records had to be consulted from two Postal Divisions viz Nagaland and Manipur Division and after taking into the due consideration all the facts and the circumstances of the case, the Competent Authority disposed of the representation by ordering the period of suspension to be treated as leave as admissible. In view of the above the time frame prescribed by the Hon'ble CAT, which was forwarded by the S.O (J) under memo No. 643 on 29-4-2005 was received by the Circle Office, Shillong on 09-5-2005 and subsequently disposed of on 08-9-2005.

8) That with regard to the statement made in paragraph 4.6 of the OA, the answering respondents beg to submit that the respondents do not admit anything except those are based on records.

9) That with regard to the statement made in paragraph 4.7 of the OA, the answering respondents beg to submit that the contention of the applicant that the order of the Appellate Authority, the Postmaster General, N.E. Circle, Shillong is arbitrary, illegal and not in consonance with law, is false and in total contradiction of his actions. The applicant has failed to mention a very important fact, from which it can be clearly seen that objection raised by the applicant is frivolous and unfounded. The applicant, vide his letter dated 30-5-07, had requested this Office to release the differences of pay and allowance for the period of suspension subsequently treated as leave as ordered by the Post Master General, N.E. Circle, Shillong vide memo No. Vig/LC-12/04 (CAT) dated 08-09-2005, a copy of the memo was also forwarded in support of his request. In response to which, the applicant was informed vide this Office letter No. F5/CAT/Hazarika/Imphal dated 21-7-2006, that the aforesaid period comprising of 258 days was adjusted as Extra ordinary Leave (E.O.L) as because he had no leave in his credit entailing the period without any pay and allowance. The question arises, if the applicant had objections to the aforesaid order on ground of being arbitrary, illegal etc., why did he rely on this very memo of the Post Master General in his letter dated 30-5-2006, to request for releasing the difference of pay and allowance for the period of his suspension treated as "leave as admissible".

10) That with regard to the statement made in paragraph 5.1 of the OA, the answering respondents beg to submit that the applicant has argued that charge sheet was not served to him in respect of the suspension order dated 17-4-1998 even after five years of reinstatement and to buttress his claim, he has cited selected words from the suspension and revocation order. The argument of the applicant is hogwash but not the factual position. The applicant was charge sheeted vide memo dated 19-2-1998 and was subsequently, placed under suspension vide memo dated 17-4-1998. Before finalization of the disciplinary proceeding, in order to minimize the suspension period of the applicant, the suspension order was revoked vide memo dated 31-12-1998. The applicant was transferred outside Manipur Division and posted as C.I, Divisional Office, Kohima, Nagaland, to prevent him from influencing the investigation in progress. Investigation, as defined in the dictionary means to carry out a systematic inquiry so as to establish the truth. The disciplinary proceeding initiated under Rule 14 of the CCS (CCA) Rules 1965 against the applicant vide memo dated 19-2-1998, was to find out the truth of the charges framed against him. Moreover, the Appellate Authority, the Post Master General, N.E. Circle, Shillong, at para No.5 of its order dated 8-9-2005, in response to the appeal preferred by the applicant for regularization of his suspension period, had clearly spelt out that, since major penalty was awarded to the applicant on completion of the disciplinary proceeding, the periods of his suspension w.e.f. 18.4.1998 to 31.12.1998 was "totally justified", and consequently it was ordered to regularize the period as "leave as admissible". At that point of time the applicant had not raised any objection to the aforesaid order. It was only later, when this Office informed him that the aforesaid period was adjusted as E.O.L, as because he had no leave in his credit, entailing the period without any pay and allowance, he has raised objection on flimsy ground.

11) That with regard to the statement made in paragraph 5.2 of the OA, the answering respondents beg to submit that as mentioned in the aforesaid paras, the applicant has found fault with the order of the Appellate Authority, only when it was seen by him that no monetary benefit was yielded from the order. If he had any grievance, whatsoever, against the Post Master General, N.E. Circle, Shillong, functioning as Appellate Authority in the case, he should not have relied upon the memo to request to release the difference of pay and allowance, for the period of suspension. On the contrary, he should have objected to the order straight way, instead of taking the aforesaid step.

12) That with regard to the statement made in paragraph 5.3 and 5.4 of the OA, the answering respondents beg to submit that it is the repetition of same fact stated in paras 4.7, 5.1 and 5.2 and the same are already replied in the foregoing.

13) That with regard to the statement made in paragraph 5.5 of the OA, the answering respondents beg to submit that in para No. 5 of the order of the Appellate Authority dated 08-9-2005, it was clearly mentioned that the suspension period of the applicant w.e.f 18-4-1998 to 31-12-1998 was "totally justified" as the applicant was awarded major penalty on completion of the disciplinary proceeding. In the period, between the issue of the aforesaid order and filing of the OA, the applicant has vide his letter dated 30-5-2006, forwarded the aforesaid order of the Appellate Authority to this office, without raising any objection to the period of his suspension mentioned above, requesting for release of his pay and allowances for the aforesaid period, as specified in the order. Thus, the opportunistic face of the applicant is revealed and it has become crystal clear that his objections raised in the O.A. are on second thought, false, frivolous and unfounded. Therefore the O.A. is liable to be dismissed.

14) That with regard to the statement made in paragraph 6(i), 6(ii) and 6(iii) of the OA, the answering respondents have replied in para 4.3 of this reply.

15) That with regard to the statement made in paragraph 8(i), 8(ii) and 8(iii) of the OA, the answering respondents beg to submit that the reply of this para are already given in the foregoing Paras.

16) That with regard to the statement made in paragraph 8(iv) of the OA, the answering respondents beg to submit that from the aforesaid paras it is clear that no pay and allowances is due to the applicant and as such the question of allowing interest does not arise.

17) That with regard to the statement made in paragraph 8(v) of the OA, the answering respondents beg to submit that from the aforementioned paras, there is not even a shred of doubt that when some monetary benefit was implied in the order of the Appellate Authority, the applicant had accepted the decision without any hesitation. But, as soon as the result of the order negated his expectations, as communicated to him vide letter dtd. 21.7.2006, he has raised so many objections against the said order. Such opportunistic stand, on the basis of which the objection has been raised ought to be dismissed, allowing the department the cost of the litigation for not only wasting the valuable time and energy of the Department but also of the Hon'ble Tribunal.

18) That the answering respondents submit that the application is devoid of any merit and without any rational/legal foundation and as such liable to be rejected/dismissed with costs to the respondents for the ends of justice and equity.

(40)

51

VERIFICATION

I, Mrs. M. Lawphniaw, aged
 about 56 years, at present working as
Postmaster General, N.E. Region, Shillong.

....., who is one of the respondents and taking steps in this case, being
 duly authorized and competent to sign this verification for all respondents,
 do hereby solemnly affirm and state that the statement made in paragraph

2, ch 15 are true

to my knowledge and belief, those made in paragraph

4, 5 being matter of records, are
 true to my information derived there from and the rest are my humble
 submission before this Humble Tribunal. I have not suppressed any material
 fact.

And I sign this verification this 27th day of July 2007 at Gauhati.

Mildred Lawphniaw

DEPONENT

एम लावफिन्याव

M. Lawphniaw

पोस्टमास्टर जनरल

Postmaster General

उत्तर पूर्व ईत्र

North East Region

रिसांग - 793001

Shillong - 793001

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

. Diary/SDIPOS-Ukhrul/97

Dated at Imphal the 19.2.98

M E M O R A N D U M

The undersigned proposes to hold a inquiry against Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Dn, Ukhrul under Rule -14 of the Central Civil Services (Classification, Control and Appeal) Rules 1965. The substance of the imputation of misconduct and/or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure-I). A statement of the imputation of misconduct or misbehaviours in support of each article of charge is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

1. Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Dn, Ukhrul is directed to submit within 10 days of the receipt of this memorandum as written statement of his defence and also to state whether he desires to be heard in person.

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

4. Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Dn, Ukhrul is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiry authority or otherwise fails or refuses to comply with the provision of Rule -14 of the CCA Rules, 1965 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him EX-PARTE.

5. Attention of Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Dn, Ukhrul is invited to Rule 20 of the CCS(Conduct) Rules, 1964, under which no Govt. Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Dn, is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule -20 of the CCS(Conduct) Rules 1964.

6. The receipt of the Memorandum may be acknowledged.

Copy to:-

1. Shri S.B. Hazarika
SDIPOS, Ukhrul Sub-Dn,
Ukhrul.
2. Vtg/Stt.

Name and designation of
competent Authority.
(LALHLUNA)

Director Postal Services
Manipur Division, Imphal-795001.

ANNEXURE-I

Statement of article of charges framed against
Shri.S.B.Hazarika, SD IPOs/Ukhrul Sub-Div., Ukhrul.

Article-I

Shri.S.B.Hazarika, while working as SD IPOs/
Ukhrul Sub-Div., during the period from 29/01/96 (A/N)
to 31/01/98, he had shown to have inspected as
many as 54(Fifty Four) Post Offices in the year
1996, but had not submitted a copy of the Inspection
Remarks in respect of each of these 54(Fifty Four)
Post Offices, to the Supdt. of Post Offices, Manipur
Division, Imphal or any other appropriate auth-
ority in place of the Supdt. of Post Offices, Manipur
Division, Imphal. Similarly, the said Shri.S.B.
Hazarika, had shown to have inspected as many as
78(Seventy) Post Offices during the period from
01/01/97 to 31/12/97, but had not submitted a
copy of the Inspection Remarks in respect of
~ 45 (Fifty five) Post Offices, to the
Supdt. of Post Offices, Manipur Division, Imphal
or any other appropriate authority in place of
the Supdt. of Post Offices, Manipur Division, Imphal.
By his above acts, the said Shri.S.B.Hazarika
violated the provisions of Rule-360(2) of P&T
Man. Vol. VIII read with Deptt. of Posts/New Delhi
letter No. 17-3/92-Inspn. Dated: 02/07/1992, and
Rule-3(1)(ii) of CCS(Conduct)Rules, 1964.

Article-II:

Shri.S.B.Hazarika, while working as SD IPOs/
Ukhrul Sub-Div., during the period from 29/01/96
to 31/01/98, he had shown to have inspected the
following EDDOs in Ukhrul Sub-Div., on the date
noted against each.

Name of the EDDO	Date of Inspn. shown by Shri.S.B.Hazarika
1. Chingjoroi EDDO	25-02-1997
2. Sirarakheng EDDO	29-03-1997
3. Kmang Kakching EDDO	19-05-1997
4. Shengshak EDDO	18-06-1997
5. Nungahong EDDO	15-07-1997
6. Pushing EDDO	28-07-1997

But, in fact, the said Shri.Hazarika, did not at
all inspect the above mentioned EDDOs either on
the date noted against each or on any other date
in the year 1997. Therefore, by his above acts,
the said Shri.S.B.Hazarika, violated the provisions
of Rule-360(1) of P&T Man. Vol. VIII, Rule-3(1)(i)
of CCS(Conduct)Rules, 1964 and Rule-3(1)(iii) of
CCS(Conduct)Rules, 1964.

(LALHLUNIA)
Director Postal Services,
Manipur: Imphal: 795001.

--(2)--

Submission/issuance of Inspection Remarks/Inspection Reports in respect of EDDOs and S.O are 10(Ten) days and 15(Fifteen) days from the date of inspection respectively. But, the said Shri.S.B.Hazarika, had not, at all, submitted the copy of Inspection remarks in respect of 53(Fifty three) EDDOs and 1(One) S.O, which were shown to have been inspected by him in 1996, as per ANNEXURE-A, to the Supdt.of Post Offices, Manipur Division, Imphal either within the prescribed time limit as specified above, or on any subsequent date. Similarly, the said Shri.S.B.Hazarika, had not, at all submitted the copy of Inspection remarks in respect of ~~44 (forty four)~~ EDDOs and 1(One) S.O, which were shown to have been inspected by the said Shri.Hazarika on different date/dates during the year 1997. The list of ~~44 (forty four)~~ EDDOs and 1(One) S.O, which were shown to have been inspected by the said Shri.Hazarika but in the year 1997, but he did not submit I.Rs has been enclosed as ANNEXURE-C.

Therefore, it is imputed that the said Shri.S.B.Hazarika, by his above acts, violated the provisions of Rule-300(2) of P&T Man.Vol.VIII and orders contained in Deptt.of Posts/New Delhi letter No.17-3/92-Inspn. Dated.02/07/1992, and also failed to maintain absolute devotion to his duties in violation of Rule-3(1)(ii) of CCS(Conduct)Rules, 1964.

Article-II

The following EDDOs in Ukhrul Sub-Dn, which were assigned to the SDIPOs/Ukhrul Sub-Dn., for annual inspection for the year 1997 vide SSPDc/Imphal letter No.Inspection/Tour Programme/1997 Dtd.29.01.97, were shown to have been inspected by the said Shri.S.B.Hazarika as SDIPOs/Ukhrul, on the date noted against each.

Name of the EDDO	Date of Inspn.
1. Chingjoroi EDDO	25-02-1997
2. Sirarekhong EDDO	29-03-1997
3. Kamang Kakching EDDO	19-05-1997
4. Shengshak EDDO	10-06-1997
5. Nungshemg EDDO	15-07-1997
6. Pushing EDDO	20-07-1997

The said Shri.S.B.Hazarika was working as SDIPOs/Ukhrul during the period from 29/01/96(A/N) to 31/01/98 and, he had shown to have inspected the above post offices as mentioned above in his fortnightly diaries pertaining to that period and also in the monthly summaries of the SDIPOs/Ukhrul Sub-Dn., Ukhrul, submitted by the said Shri.Hazarika, for the respective months on which those offices had been shown to have been inspected. But, the EDDPMs of the above EDDOs have intimated, to the Director Postal Services, Manipur, Imphal, in writing that the said Shri.S.B.Hazarika, SDIPOs/Ukhrul did not inspect their respective EDDOs in the year 1997 till the time of submission of respective intimations by each of the EDDPMs of above EDDOs in the months of Sept'97/Oct'97/Nov'97.

Therefore, it is imputed that the said Shri.S.B.Hazarika, did not at all inspect the aforementioned EDDOs on the dates noted against each and thereby violated the provisions of Rule-300(1) of P&T Man.Vol.VIII. In addition

~~Annexure A-2~~

(11)

~~Page No 21~~

(44)
69

--(3)--

the said Shri. Bazarika, by his act of submission of false information regarding inspection of these above mentioned EDDOs, failed to maintain absolute integrity and also acted in a manner unbecoming of a Govt. servant, and thereby violated Rule-3(1)(i) and 3(1)(iii) of CCS(Conduct)Rules, 1964.

LALHLUNA
(LALHLUNA)
Director Postal Services,
Manipur; Imphal; 795001.

Annexure A-1

Page No 78

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

No. H-4/L.E/GENL

Dated at Imphal the 17.4.98.

- O R D E R -

Whereas a disciplinary proceeding against Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Divn, Ukhrul is contemplated/pending.

Now, therefore, the President/the undersigned in exercise of the powers conferred by Sub-rule(I) of Rule-10 of the Central Civil Services(Classification, Control and Appeal) Rules, 1965, hereby places the said Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Division, Ukhrul under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the Headquarters of Shri S.B. Hazarika SDIPOS, Ukhrul Sub-Division should be Ukhrul and the said Shri S.B. Hazarika SDIPOS, Ukhrul Sub-Division, Ukhrul shall not leave the headquarters without obtaining the previous permission of the undersigned.

SJ / -
(LALHLUNA)
Director Postal Services
Manipur Divn. Imphal-795001.

Copy to:-

1. Shri S.B. Hazarika, SDIPOS, Ukhrul Sub-Div, Ukhrul orders regarding subsistence allowance admissible to him during the period of his suspension will be issued separately.
2. Shri T. Netrajit Singh, Postmaster Imphal HO for information and necessary action.
3. The Staff Branch O/o DPS, Imphal for information.
4. The Punishment register ASP,(HQ) O/o DPS/ Imphal.
5. The Chief Postmaster General(Staff) N.E. Circle, Shillong for information.
6. Spare.


(LALHLUNA)
Director Postal Services
Manipur Divn. Imphal-795001.

(13)

(16)

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

Memo No. H-4/L2/Genl.

Dated at Imphal the 31.12.90.

Whereas Shri S.B. Hazarika, SDIPOS, Uthrul Sub-Div, was placed under suspension vide this office Memo of even No. dtd. 17.4.90 on contemplation of disciplinary proceeding against him;

And Whereas the said Shri Hazarika on revocation of his suspension has been ordered to be transferred and posted as C.I. Divisional office, Nagaland, Kohima vide C.O. Shillong memo No. Staff/8-92/83 dtd. 22.10.98.

And Whereas the undersigned consider that the aforesaid transfer and posting of the said Shri Hazarika to a place outside Manipur Divn. would not only serve the propose that he may not influence the investigation in progress and may not be in a position to hamper the evidences, but also would justify the revocation of his suspension as the same would minimise the prolongation of the suspension of said Shri Hazarika;

Now therefore, the undersigned in exercise of power conferred in Rule-10(5) of CCS(CCA) Rules, 1965 revokes the suspension of the said Shri Hazarika, with immediate effect.

(LALHLUNA)

Director Postal Services
Manipur Divn, Imphal-795001.

Copy to:-

1. The CPMG/NE Circle Shillong w.r.t. to his letter No. Staff/8-92/83 dtd. 22.10.98 cited above.

2. The PM/Imphal HO. He will please forward the LPC, S/Book etc. to the PM/Kohima HO

3. The DPS/Nagaland, Kohima.

4. The DA(F), Calcutta (through PM/Imphal HO)

5. The Postmaster, Kohima H.O.

6. Shri S.B. Hazarika, designate C.I. Divl. office, Nagaland Divn, Kohima now at Sagolband Moirang, Leirak, Imphal-795001.

7. Office copy.

8. Spate.

(LALHLUNA)

Director Postal Services
Manipur Divn, Imphal-795001.

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES
NAGALAND : KOHIMA - 797 001

No. Rule 14/S.B.Hazarika

Dated at Kohima the 24.05.04

CAT, Guwahati Bench in its judgement dated 07.08.2003 in OA No. 59/2002 has directed the disciplinary authority for appropriate order in terms of sub-rule 4 of Rule 15 for imposition of appropriate penalty as per law. It has specifically set aside the findings of disciplinary authority on charge No.1 dtd. 08.06.01 and also the orders of appellate order to the extent indicated above.

A) Vide office memo No. Diary/SDIPOs-Ukhrul/97 Dtd.19.02.98 of DPS, Manipur Imphal, it was proposed to hold an inquiry under Rule 14 of the CCS (CCA) Rules 1965 against Shri S.B.Hazarika, the then SDIPOs, Ukhrul Dn., Ukhrul. A statement of article of Charges and a statement of imputation of misconduct and mis-behaviour in support of article of charges and a list of documents by which and a list of witness by whom the article of charges were proposed to be sustained were also enclosed with the said memo.

2. Shri S.B.Hazarika was given an opportunity to submit within 10 days of the receipt of the memo a written statement of defence and to state whether he desires to be heard in person.

Statement of articles of charges framed against Shri S.B.Hazarika the then SDIPOs Ukhrul-Dn., Ukhrul, is follows

ARTICLE - I

Shri S.B.Hazarika, while working as SDIPOs Ukhrul Sub-Dn, during the period from 29-01-96 (A/N) to 31-01-98, he had shown to have inspected as many as 54 (fifty four) Post Offices in the year 1996, but had not submitted a copy of the inspection remarks in respect of forty five Post Offices, to the Supdt. of Post Offices, Manipur-Dn. Imphal. By his above acts, the said Shri S.B.Hazarika violated the provision of Rule-300 (2) of P & t Man. Vol VIII read with Dept. of Posts/New Delhi letter No. 17-3/92-Inspn. Dated 02-07-1992, and Rule-3 (1) (ii) of CCS (Conduct) Rules, 1964.

ARTICLE-II

Shri S.B.Hazarika, while working as SDIPOs ukhrul Sub Dn., during the period from 29-01-96 to 31-01-98, he had shown to have inspected the following EDBOs in Ukhrul Sub-Dn, on the date noted against each.

<u>Name of the EDBO</u>	<u>Date of inspn. shown by</u> <u>Shri S.B.Hazarika</u>
1. Chingjarai EDBO	25-02-1997
2. Sirarakhang EDBO	29-03-1997
3. Kamang Kakching EDBO	19-05-1997
4. Shangshak EDBO	10-06-1997

(2)

5. Nungshong EDBO 15-07-1997
6. Pushing EDBO 20-07-1997

But in fact, the said Shri S.B.Hazarika did not at all inspect the above mentioned EDBO either on the date noted against each or on any other date in the year 1997. Therefore, by his above acts, the said Shri S.B.Hazarika, violated the provisions of Rule 300 (1) of the P & T Man. Vol. VIII, Rule-3 (1) (i) of the CCS (Conduct) Rules, 1964 and Rule-3 (1) (iii) of the CCS (Conduct) Rules, 1964.

3. Shri Sunil Das, the then Supdt. of Post Offices, Agartala Division, was appointed as the inquiry officer to inquire into the charges framed against Shri S.B.Hazarika. After adducing both oral and documentary evidences, the inquiry officer submitted his enquiry report vide his letter No. SP-1/N9 dtd.27.09.2000.

4. The disciplinary authority, the then Director, Postal Services, Nagaland Dn., Shri F.P.Solo, after going carefully through the chargesheet, deposition of state witnesses, written briefs of the presenting officer (P.O) and the charged official (CO), the inquiry proceedings, report of the inquiry officer and the representation of the CO against the inquiry report, accepted the findings of inquiry officer in respect of the Article II of the charges but disagreed with the I.O in respect of I.Os findings on Article I of charges due to various reasons recorded in his punishment order dated 08.06.2001. CAT, Guwahati bench in it's judgement dtd.19.02.98 has specifically stated the Article -I is not proved and unsustainable in law and set aside the orders of disciplinary authority and appellate authority to that extent.

5. That leaves Article No.-II only for consideration. I.O in his inquiry report dated 29.09.2000 has concluded that charges framed under Article -II is partially proved to the extent that out of 6 (GDSBO's (earlier known as EDBO) alleged not to have been inspected, non-inspection of three B.O's, namely Kamang Kanching, Pushing and Shangshak B.O's could only be proved.

The I.O has based his findings of non-inspection of 3 out of 6 GDSBO's alleged not to have been inspected on categorical oral and written statement of Shri L.Ito Singh, GDSBPM, Kamang Kakching B.O., Shri. Yarngai, GDSBPM, Pushing B.O and Shri V.S. Varisc, GDSBPM, Shangshak B.O that their offices were not inspected till 25.09.97, 09.1097 and Sept. 97 respectively. C.O has pleaded that the deposition of the three GDSBPM's suffered from shortcomings of (a) The original letter stated to be written by them to the SPO's, Imphal were not shown to them at the time of deposition. (b) The evidence are not conclusive. The C.O further added that inspection of a B.O cannot be confirmed only on the basis of oral statement of a BPM who does not constitute the establishment. There are other staff and equally relevant material. The I.O did not agree with the averments of the C.Os as photocopies of the letters written by 3 GDSBPM's of Kamang Kakching B.O, Pushing B.O and Shangshak B.O were shown to them at the time of deposition made before the I.O. and they admitted that these documents were written by them and sent by them to SPO's concerned. The I.O has further stated in his inquiry report that these evidences can not be stated to be non-conclusive simply on the ground that no other staff of these offices were produced as witness. I.O further held that GDSBPM's being in-charge of the respective B.Os are mainly concerned with the inspection and without them their offices can not be inspected while other staff of the establishment may or may not be present. He further stated that unless the veracity of the deposition of a witness is in question, no collaborative evidence is necessary. The other alleged shortcomings pointed out by C.O has been discussed in detail by the I.O in his inquiry report dtd.27.09.2000 and most of these were found to be extraneous and not having a bearing on the case.

(3)

6. After carefully going through the various records relevant to the case like the chargesheet, deposition made by state witnesses, written briefs of the P.O and the C.O, the inquiry proceedings, report of the inquiry officer, representation of the C.O against the enquiry report, the punishment order passed by my predecessor dtd.08.06.01 and the CAT judgement dtd.07.08.2003 in OA No.59/2002, I am of considered view that 3 B.Os namely Kamang Kakching B.O, Pushing B.O, Shangshak B.O were not inspected by the C.O on the dates shown by the C.O as reflected in his fortnightly diaries. The fact of non-inspection of 3 GDSBO's could not be established as GDSBPM's of Changaraj B.O, Sirarakhang B.O, Nungshang B.O could not attend the hearing on account of one reason or another. The charges of non-inspection and showing them as inspected falsely is a serious omission. One of the prime duties and responsibilities of an I.P.O is to inspect the Post Office allotted to him and submit the inspection reports in time. But, Shri Hazarika failed to carry out this major duties and responsibilities of an I.P.O, while working as SDI(P), Ukhrul sub-division between 29.01.96 to 31.01.98. Further, he tried to mislead the divisional office, Imphal that these three (3) offices were already inspected on different dates as mentioned in the article of Charges II (Para - 2). Such type of irresponsible behaviour and conduct is not expected out from a responsible officials of the department like that of an I.P.O. After going through the case very carefully and considering all relevant fact, I am of considered view that the following punishment should be imposed on Shri S.B.Hazarika so that this acts as a deterrence for his future work behaviour and conduct. It is hoped that he will take the punishment in the right spirit and try to transform himself in to a responsible and dedicated official of this department.

ORDER

Therefore, I. Shri. Rakesh Kumar, 'Director of Postal Services', Nagaland Division, Kohima and the disciplinary authority hereby order that the pay of Shri. S.B.Hazarika, the then SDIPO's Ukhrul Sub-Dn., now posted as C.I, divisional office, Kohima (U/S) be reduced by three stages from Rs.6650.00/- to Rs.6125.00/- in the time scale of pay of Rs.5500-175-9000/- for a period of three years w.e.f 01.06.2004 with cumulative effect. It is further directed that Shri. S.B.Hazarika, C.I divisional office, Kohima, presently under suspension will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will have the effect of postponing his future increments of pay.

Rakesh Kumar
 (Rakesh Kumar)
 Director Of Postal Services.
 Nagaland : Kohima - 797001.

Copy to :-

- 1) The CPMG (Inv.), N.E Circle for information.
- 2) The Postmaster, Kohima H.O for information and necessary action.
- 3) The DA(P), Kolkata (Through the Postmaster, Kohima H.O)
- 4) The Director of Postal Services, Manipur, Imphal for information.
- 5) Shri. S.B.Hazarika, C.I, divisional Office, Kohima (Presently under suspension)
- 6) PF of the official.
- 7) CR of the official
- 8) Office Copy.

Shri S.B. Hazarika
Complaint Inspector (U/S), Nagaland Division
c/o Shri V. Basumatary
ASPO's, first sub-division
Manipur, Imphal -

DEPARTMENT OF POSTS : INDIA
 OFFICE OF THE CHIEF POSTMASTER GENERAL
NORTH EAST CIRCLE : SHILLONG- 793 001

No. Vig/LC-12/04 (C/T) Dtd. at Shillong-1, the 8th September, 2005.

1. Disciplinary proceeding under Rule 14 of C.C.S. (C.C.A.) Rules, 1965 was initiated by the then Director Postal Service, Manipur Division, Imphal, vide his Memo. No. Diary/SDIPOs-Ukhrul/97 dtd. 19.2.1998 against Sri S. B. Hazarika, the then SDIPOa, Ukhrul Sub Division under Manipur Postal Division.
2. Consequently, said Sri S.B. Hazarika, SDIPOs, Ukhrul Sub Division under Manipur Postal Division, was placed under suspension by the then Director Postal Services, Manipur Division, Imphal, vide his memo. No. H-4/LE/GENL dtd. 17.4.98, 'with immediate effect'.
3. Said Sri S.B. Hazarika was ordered to join on transfer as C.I., Divisional Office, Nagaland, Kohima, vide Circle Office memo no. Staff/8-72/83 dtd. 22.10.1998 and as such the aforesaid suspension of Sri Hazarika was revoked by the then Director Postal Services, Manipur Division, Imphal, vide his memo. No. H-4/LE/GENL dtd. 31.12.1998, 'with immediate effect'. Since the Disciplinary Proceeding was not complete, the period of Suspension w.e.f. 18.4.1998 to 31.12.1998, was not regularized.
4. On completion of the Disciplinary proceeding, the new Disciplinary authority, the Director Postal Services, Nagaland Division, Kohima, awarded said Sri S.B. Hazarika, working as C.I., Divisional Office, Nagaland, Kohima, the penalty of 'Reduction in Pay by three stages for a period of three years w.e.f. 01.06.2004, with cumulative effect and without any increment during the period of reduction, vide his memo. No. Rule 14/S.B. Hazarika dtd. 24.05.04. On appeal, the Appellate Authority reduced the quantum of penalty and imposed penalty of 'Reduction of Pay in one stage for a period of four years without cumulative effect, vide Circle Office, memo No. Staff/109-9/04 dtd. 26.7.2005.
5. Since said Sri S.B. Hazarika was awarded major penalty on completion of the Disciplinary proceeding and on appeal also, his suspension during the period w.e.f. 18.4.1998 to 31.12.1998 was "Totally justified". However, to regularize the period of suspension w.e.f. 18.4.1998 to 31.12.1998, as required by F.R. 54-B, I incline to pass the following Order:

ORDER

I, Sri Lalhluana, Postmaster General, North East Region, Shillong, do hereby order that the period of suspension of Sri S.B. Hazarika, w.e.f. 18.4.1998 to 31.12.1998, while he was working as SDIPOs, Ukhrul Sub Division, under Manipur Division, will be treated as 'Leave as admissible.'

(Lalhluana)
 Postmaster General
 North east Region
 Shillong-793 001

Copy to : 2.

- R/S/1) Sri S.B. Hazarika, ex-C.I., Kohima, Vill.-Anandapara, P.O. Sabroom-799 145, S. Tripura
 2) The Dy SPOs, Kohima, with reference to his letter No. F5/CAT/SB Hazarika/Imphal dtd. 31.8.05.
 3) Staff Section, Circle Office, Shillong.
 4) Spare.

(This
> Annexure - Part R/AN 869 AD
30/5 C/1 Ref
ANNEXURE - R/7 19
52
5 JUN 2004
Nagaland, Kohima - 793 001
19/5/04)

To

The Director of Postal Services,
Nagaland, Kohima - 793 001.

Sub:- Non-receipt of difference of pay for the period
of suspension treated as leave.

Ref:- Co.'s Memo. No. VJ/LC-10/04 (CAF) dt. 8/6/04,
8/6/04.

Sir,

Most humbly and respectfully I beg to draw
your kind attention to the Co's Memo. as referred to
above on the above subject and to inform you that
the difference of pay & allowance which was due to
be paid to me within a month of the order has not
yet been received by me despite of repeated telephonic
requests following the written request time and
again.

I have, therefore, again requested you kindly
to look into the matter what is withholding the release
of the difference of pay and to cause release of the same
as early as possible.

A Xerox copy of the Co's memo. dt. 8/6/04
is enclosed for kind perusal on ready reference.

Thanking you.

Yours faithfully,

D. D. Singh

30/5/04

Encd:- Co's Memo.
dt. 8/6/04.

Copy to the Postmaster -
General, N.P. Circle, Shillong
(A/c to his Memo. No. even
dt. 8/6/04 Syd., 2004).

(S. B. HAZARIKA)

(S. B. HAZARIKA)
C.I., Kohima (1999-2004)

Anandapura,
P.O. Shillong - 793 005

(Tutor)

Annuity - R-S

X 4

20

**Department of Post : India
Office of the Director of Postal Service
Nagaland : kohima - 797001.**

No.- F5/CAT/Hazarika/Imphal

Dated at Kohima the 21-07-2006.

To,

**Shri S.B. Hazarika (Ex-Cl, Kohima)
Anandapara
PO-Sabroom - 799145
Tripura.**

Corrigendum

Sub:- Regarding suspension period of Shri S.B.Hazarika (Ex-CI), WEF-18-4-98 to 31-12-98 to be treated as "leave as admissible".

Ref:- This office memo of even No. dated the 16-06-2006.

In partial modification of this office memo referred to above, vide which you were granted -

E.L. = 48 days – for the period from 18-4-98 to 4-6-98

E.O.I. = 210 days – for the period from 5-6-98 to 31-12-98.

However, as per Postmaster, Kohima HO, letter no.. 1-1/Service Book/04-05, dated the 17-7-06, you had no leave at credit for the period from 18-4-98 to 31-12-98
And accordingly the leave for the period is adjusted as appended below –

E.O.L. = 258 days – for the period from 18-4-98 to 31-12-98.

(I.Pangernungsang)
Director of Postal Services
Nagaland : Kohima - 797001.

Copy to -

1. The Postmaster Kohima Ho, with reference to his office letter referred to above. For information and necessary action.
 2. The P/F of the Ex-Official.
 3. ~~Office~~ Office copy.

(I.Pangerangang)
Director of Postal Services
Nagaland : Kohima - 797001

Postal Service - 1970-1971
Year 1970-71

To

The Director of Postal Services,
Manipur, Imphal- 795001.

Sub :- Regularisation of period of Suspension from
14/5/98 to 2/2/99.

Ref :- 1) Your Memo of suspension No. H-4/LE/GENL. dtd. 17-4-98.
2) Your Memo of revocation of Suspension No. H-4/LE/GENL.
Dated Imphal, 31-12-98.

Sir,

Most humbly and respectfully I beg to state as
follows on the above subject for your early action please.

1. That, while I was functioning as SDMPOS., Ukhrul
sub-Division, Ukhrul, Manipur (1996-1998) I was
placed under suspension by the DPS, Manipur, Imphal
on Contemplation of a disciplinary proceeding under
Sub-rule (1) of Rule 10 of the CCS(CCA) Rules, 1965
Vide suspension Order No. H-4/LE/Genl dtd. Imphal,
17-4-98 which was given effect from 13-5-98 (A/N).
2. That, the said Order of suspension was revoked by
the DPS, Manipur, Imphal pending investigation Vide
revocation Order No. H-4/LE/GENL. dated Imphal 31-12-98
and I was transferred and posted as C.I., Nagaland,
Kohima on revocation of the suspension Order.
3. That, on revocation of the suspension Order I rejoined
duties on 2/2/99 as C.I., Nagaland at Kohima termina-
ting suspension.
4. That, neither any charge-sheet has been served to
me in connection with that suspension Order nor any
Order was issued after reinstatement :-
 - (a) regarding the pay and allowances to be paid to me for
the period of suspension, and
 - (b) whether or not the said period be treated as a period
spent on duty;
5. That, as no charge-sheet was served on me within 3
months subject to a maximum of 6 months from the date
of suspension as per rules and in as much as 5 yrs
has elapsed without any charge-sheet from the date of
suspension the Order of suspension deems to have

(Contd....to page No. 2)

(22)

(55)

AM

been unjustified and so, on consequence, I am entitled to full pay and allowances for the period of suspension and the said period of suspension deems to have been treated as the period spent on duty, for all purposes.

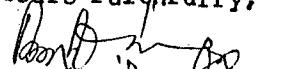
I have, therefore, earnestly requested you kindly to issue orders under FR-54-B regularising the period of suspension and for this act of your kindness I will ever pray.

A copy of the Order suspension dated 17.4.98 and a copy of the Order of revocation dtd. 31.12.98 are enclosed as ready reference for your kind perusal and action please.

Enclos:-

- 1) Copy of Suspension Order dtd. 17/4/98.
- 2) Copy of revocation Order dtd. 31.12.98.

Yours faithfully,



(S.B. HAZARIKA).
C.I., Nagaland, Kohima,
Now U/S at Imphal,
C/O.M. Basumatary,
ASPOS, Imphal.

Dated :- 12/8/03.

n1

To,

The Chief Postmaster General,
N.E.Circle, Shillong- 793 001.

Sub : Regarding Non-regularising the period of suspension from 14.5.98 till 01.2.99 by the DPS, Manipur, Imphal.

Ref : DPS, Manipur, Imphal's Order Nos:-

- 1) H-4/LE/Genl. dtd. Imphal, 17.4.98 (Order of Suspension).
- 2) H-4/LE/Genl. dtd. Imphal, 31.12.98 (Order of revocation).

Sir,

Most humbly and respectfully I beg to state as follows on the above subject for your early action please.

1. That, while I was functioning as SDIPOS, Ukhru, Sub-Division, Ukhru, Manipur (1996-1998) I was placed under suspension by the DPS, Manipur, Imphal on contemplation of a disciplinary proceeding under Sub-rule (I) of Rule 10 of the CCS(CCA) Rules, 1965. Vide suspension Order No. H-4/LE/Genl. dtd. Imphal, 17.4.98 which was given effect from 13/5/98 (A/N).
2. That, the said Order of suspension was revoked by the DPS, Manipur, Imphal pending investigation vide revocation Order No. H-4/LE/Genl. dtd. Imphal 31/12/98 and I was transferred and posted as C.I., Nagaland Kohima on revocation of the suspension Order.
3. That, on revocation of the suspension Order I rejoined duties on 2/2/99 as C.I., Nagaland at Kohima terminating suspension.

~~And~~ regarding the

4. That, neither any charge-sheet has been served to me in connection with that suspension order nor any Order was issued after reinstatement:-
 - (a) regarding the pay and allowances to be paid to me for the period of suspension, and
 - (b) Whether or not the said period be treated as a period spent on duty;

As the re-instating authority is required to issue the above orders under FR-54-B and in this case, the DPS, Manipur was the reinstating authority as the order of suspension was revoked by him and so he was to issue Orders on (a) & (b) above.

5. That, as no charge-sheet was served on me within 3 months subject to a maximum of 6 months from the date of suspension as per rules and in as much as 5 years has elapsed without any charge-sheet from the date of suspension the Order of suspension deemed to have been unjustified and so, on consequence,

(Contd...P/2).

-/2/-

I am entitled to full pay and allowances for the period of suspension and the said period of suspension deems to have been treated as the period spent on duty, for all purpose.

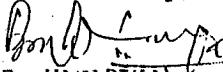
6. That, I made a representation to the DPS, Manipur Imphal on 12/8/2003 followed by reminder on 15/8/2003 stating everything on the subject, but to no action at all.

I have, therefore, earnestly requested you kindly to look into the matter personally and cause to issue necessary orders as early as possible as it is feared that the matter will be lost sight of in course of time if not attended to in time as I have limited years service at hand.

Enclo:

1) Representation dtd.
12/8/03 with its
enclosures.

Yours faithfully,


(S.B. HAZARIKA).
C.I., Nagaland, Kohima (U/S),
C/O. U. Basumatary,
ASPOS, Imphal - 795 001.

Date :- 23/7/2004.