

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 227/06.....

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

E.P/M.A No. 227/08 (O.A 227/06)

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SECTION OFFICER (Judl.)

S. JU. 22
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

Original Application No. 227/06

2. Misc. Petition No.

3. Contempt Petition No.

Review Application No.

Applicant(s) Hienkhawthang Varte

Respondent(s) I.C.T. Gove.

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

Advocate for the Respondent(s) Addl. C.A.S. : Ms. U. Das.

Notice of the Registry	Date	Order of the Tribunal
------------------------	------	-----------------------

05.09.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

The claim for the Applicant is that certain financial irregularities have been shown against him by the Audit Party during the period from 1995 to 1999. The Applicant has filed this Application praying for quashing and setting aside the charge sheet issued against him on the ground of delay and irregularities. Mr M. Chanda, learned Counsel for the Applicant submitted that even no reasonable opportunity was given to the Applicant to inspect the documents in order to file reply statement.

Ms U. Das, learned Addl. C.G.S.C. Counsel for the Respondents would like to take instructions.

Considering the issue involved, I am of the view that notice is to be issued. Issue notice to the Respondents. It is directed that the Respondents will enable the Applicant to inspect the original documents, if not already given. The Applicant is also directed to co-operate in the inquiry. The Respondents will file statement explaining as to why such delay has been caused.

*Opn,
S. Das*

Steps not taken

contd/-

0.227/2006

Contd/-
05.09.2006

Post on 18.10.2006.

Vice-Chairman

Notice & order sent
to D/section for issuing
to resp. 1 to 5 day regd.
A/D post.

~~(Ans)~~ D/No - 964 to 967
11/09/06. Dated:- 18/9/06.

Notice duly served
on resp. No- 5.

~~(Ans)~~
12/9/06.

① Notice duly served
on R.No - 5.

② Service awaited
from R.No- 1,2,3 & 4.

~~(Ans)~~
7.11.06.

No Writs have been
filed.

~~(Ans)~~
7.12.06.

~~(Ans)~~ Writs filed by
in Respdt. nos. 1 to 5.
Copy served.

~~(Ans)~~ Writs have been
filed.

~~(Ans)~~
16.1.07.

~~(Ans)~~ No rejoinder
has been filed.
No Rejoinder filed. ~~(Ans)~~

/mb/

8.11.06.

Considering the issue involved in
this case the application is admitted.
Application is admitted. Issue notice
on the respondents. Respondents are
directed to keep the records ready for
hearing.

Vice-Chairman

08.12.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice - Chairman.

Learned Counsel for the
Respondents wanted to have four weeks
time to file reply statement. Post on
11.01.2007.

Vice-Chairman

~~(Ans)~~
11.1.07.

Counsel for the applicant wanted
to file rejoinder to the written state-
ment. Let it be done. Post the matter on
13.2.07.

Vice-Chairman

~~(Ans)~~

13.2.07

Counsel for the applicant prays for
time to file rejoinder. Four weeks time is
granted to file rejoinder. Post the matter
on 15.3.07.

Vice-Chairman

~~(Ans)~~
15.3.07.

Counsel for the applicant wanted
to file rejoinder. Let it be done. Post
the matter on 2.4.07.

Vice-Chairman

Member

~~(Ans)~~
1m

8A 227/06

Notes of the Registry

Date

Order of the Tribunal

2.4.2007

Post on 24.4.2007 granting time to the applicant to file rejoinder.

3.0.3.07

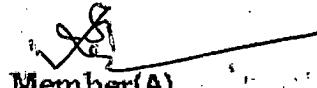
Respn No 1 to 5
has filed w/s on
20.12.06 but the
rejoinder not yet
filed by the applicant
as prayed for.

gk


Vice-Chairman

bb

24.4.07, Mr. S. Nath Counsel for the applicant prays for some more time to file rejoinder. Ms.U.Das learned Addl.C.G.S.C. is appearing for the respondents. Applicant is permitted to file rejoinder. Post the matter before the next available Division Bench.


Member(A)


Member(J)

lm

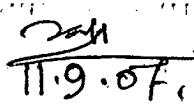
27.8.07.

Counsel for the applicant wanted time to file rejoinder. Let it be done. Post the matter on 12.9.07


Vice-Chairman

lm

Rejoinder not filed.

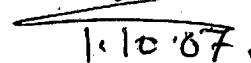

11.9.07.

12.9.07. Counsel for the applicant wanted time to file rejoinder. Let it be done. Post the matter on 3.10.07.


Vice-Chairman

lm

Rejoinder not filed.


1.10.07.

1/5
O.A.227 of 2006

01.02.2008

Mr. M. Chanda, learned counsel appearing for the Applicant states that he has filed Petition for amendment of the Original Application at the final hearing stage and he seeks adjournment in this case. Ms. Usha Das, learned Addl. Standing Counsel appearing for the Respondents states that in absence of any interim order the enquiry against the Applicant has been completed and the enquiry report is awaited.

In the aforesaid premises the prayer for adjournment made on behalf of the Applicant is granted and this matter stands adjourned and to be taken up on 12th February, 2008.

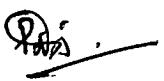
Received copy
Usha Das
Addl. Counsel
05/02/08


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

11.2.08

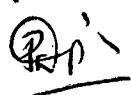
Lim

A report vide No.:
NES/LKv/c/14014/2004/qq
dt. 17.7.2007 submitted
Ms. U. Das, additional Case.
Copy received by Ms. U. Das,


12.02.2008

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

By filing an additional rejoinder the Applicant has brought it to our notice that he has filed a representation on 04.02.2008 (addressed to the Director General of Employment and Training of Govt. of India in the Ministry of Labour

11.2.08
Additional
Rejoinder filed
by the Applicant
undertaking given
by service


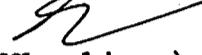
03.10.2007

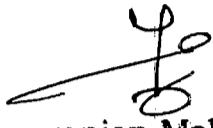
Mr. M. Chanda learned counsel for the applicant undertakes to file rejoinder during the course of the day. After serving the copy of the rejoinder ~~on~~ Ms. Usha Das learned Addl. Standing Counsel for the Central Government, Ms. Usha Das, ~~will~~ obtain instructions ~~in this regard on 11~~ Rejoinder.

Rejoinder not filed.

Ms
4.10.07.

Call this matter on 13.11.2007


(Khushiram)
Member(A)

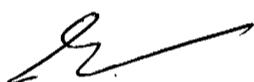

(Monoranjan Mahanty)
Vice-Chairman

lm

05.11.2007 On the prayer of counsel for both the parties, call this matter on 18.01.2008.

Rejoinder not filed.

Ms
17.1.08.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

lm

18.01.2008 Mr. M. Chanda, learned Counsel appearing for the Applicant, and Ms U. Das, learned Addl. Standing Counsel for the Union of India are present.

23.1.08

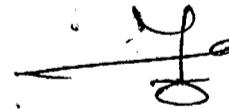
Rejoinder submitted by the Applicant.
Copy served.

Ms

Call this matter on 01.02.2008.

nkm


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

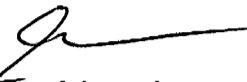
~~Case~~

The case is ready for hearing.

Ms
31.1.08.

O.A. No. 227/2006

15.05.2008 On the prayer of Mr M. Chanda, learned Counsel appearing for the Applicant, call this matter on 13.06.2008 for hearing.

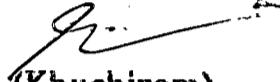

(Khushiram)
Member (A)

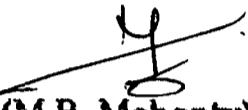

(M.R. Mohanty)
Vice-Chairman

nkm

3
12.6.08

13.06.2008 On the request of the learned Counsel for the parties, call this matter on 29.07.2008.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

nkm

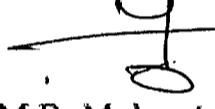
19.6.08

Additional Rejoinder
submitted by the
Applicant. Copy received

29.07.2008

Call this matter on 02.09.2008 for hearing.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

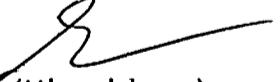
nkm

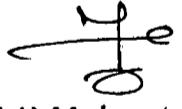
19
The case is ready
for hearing.

28.7.08
The case is ready
for hearing.

28
1.9.08

02.09.2008 Heard learned counsel appearing for both the parties. For the reasons recorded separately, this case stands disposed of.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

1m

copy received
By Ashish Dr.
FOR
M.R. G. BISWAL
SR. L.G. SC. L.G.T.
1.10.08

Received
Maita
16.11.08

28.11.08
Copy of the
order send to
in office for
copy in same date
Regd 3 M.S.

O.A. 227/2006

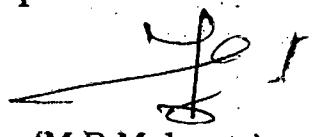
12.02.2008 and Employment, New Delhi) seeking dropping of the proceeding that was initiated with issuance of departmental charge sheet on 16.03.2004.

While adjourning the hearing of this matter to 26.03.2008, the Director General (the disciplinary authority) is hereby called upon to consider the aforesaid representation dated 04.02.2008 of the Applicant and pass a reasoned order, notwithstanding pendency of this case (O.A. 227/2006) and until a reasoned order is passed on the said representation dated 04.02.2008 of the Applicant, no final action should be taken in the disciplinary proceeding that was initiated on issuance of departmental charge sheet dated 16.03.2004.

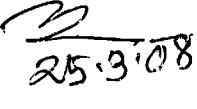
Call this matter on 26.03.2008 for hearing.

Send copies of this order to the Applicant and also to the Respondents in the addresses given in the O.A and free copies of this order be handed over to Mr M.Chanda and Mr M.U.Ahmed, learned counsel appearing for the parties.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.

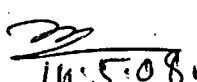

O.A. 227/2006

26.03.2008

Call this matter on 15.05.2008
for hearing.


(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.


14.5.08

im

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 227/2006.

Date of Order : This the 2nd Day of September, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

Sri Lienkhawthang Varte
Son of Sri H.V. Varte,
Assistant Director,
VRC for Handicapped,
Abhoynagar, Agartala-799001.
West Tripura.

.....Applicant

By Advocate Shri M. Chanda.

Versus -

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Labour,
Sharam Shakti Bhawan,
Rafi Marg, New Delhi-110001.
2. Deputy Secretary to the
Government of India,
Ministry of Labour,
New Delhi-110001.
3. The Director General of Employment & Training,
Joint Secretary to the Govt. of India,
Ministry of Labour (DGE & T),
Sharam Shakti Bhawan,
Rafi Marg, New Delhi-110001.
4. The Dy. Director General (Employment)
Ministry of Labour (DGE & T),
Sharam Shakti Bhawan,
Rafi Marg, New Delhi-110001.
5. Assistant Director (Rehab)
V.R.C for Handicapped,
Rehabari, Guwahati-8.Respondents

By Advocate Mr G. Baishya, Sr.C.G.S.C



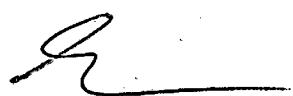
ORDER (ORAL)

KHUSHIRAM, MEMBER(A)

The Applicant while functioning as Superintendent on officiating basis at the Vocational Rehabilitation Centre for handicapped at Guwahati during the period from 31.01.1995 to July 1999 committed grave financial irregularities to the tune of Rs.16,69,670/- which was brought out in audit para, whereas his financial power was only Rs.1500/- rupees per month. For these irregularities, he was charge sheeted and departmental proceeding was initiated against him. He filed the instant O.A. seeking the following reliefs :-

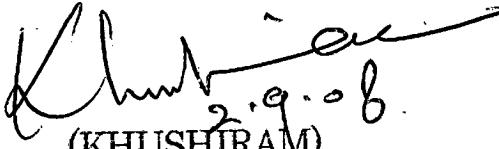
- i) To set aside and quash the impugned memo of charge sheet dated 16.03.2004 (Annexure-1) and grant any relief or reliefs as your Lordship's deemed fit and proper.
2. The Respondents have filed written statement stating that the irregularities were committed by the Applicant by incurring unauthorized expenditure to the tune of Rs.16,69,670/-. The charges included not only incurring expenditure beyond his financial powers/ limit but also sanction of GPF, T.A advance etc. unauthorisedly without proper sanction of his superiors in Delhi. While the matter was pending before the Tribunal, the Respondents have ~~filed~~ a copy of the letter dated 26.05.2008 addressed to the Under Secretary (Adm.II) Vigilance & Foreign Training Admn. Section, DGE&T, New Delhi with the following message :-

"I am directed to convey the approval of the competent authority for closing the case on the basis of the Inquiry Report submitted by Sh. K.L.Kuli, Inquiry Officer/DDT which revealed no serious allegations against Sh. L.K.Varte.



This issues with the approval of the DG/JS vide
their Dy. No.156 dated 15.05.2008." ✓

3. In view of this letter from the Respondents, the Original Application has become infructuous and stands disposed of. No costs.


2.9.08
(KHUSHIRAM)
ADMINISTRATIVE MEMBER


21.09.08
(MANORANJAN MOHANTY)
VICE CHAIRMAN

//pg//

✓ 1 SEP 2006

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O.A. No. 227 /2006

Sri Lienkhawthang Varte

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

16.03.2004- Respondents vide impugned memorandum dated 16.03.04, alleged that applicant while functioning as Superintendent on officiating basis at the Vocational Rehabilitation centre for handicapped at Guwahati during the period of 31.01.95 to July 99 committed grave misconduct and financial irregularities. (Annexure- 1)

05.04.2004- Applicant after receipt of the memorandum dated 16.03.04 submitted his reply, praying interalia to allow him to go through original records, documents, vouchers and other documents basing on which audit submitted his objection of alleged financial irregularities and also prayed for grant of at least 4 weeks time to submit his written statement after perusal of records since the charges were pertaining to the year 1995-99. (Annexure- 2)

13/15.05.2004- Applicant submitted another representation addressed to the DDG, Employment, New Delhi praying interalia for supply of relevant documents. (Annexure- 3)

21.05.2004- Under Secretary to the Govt. of India, Ministry of Labour, New Delhi, rejected prayer of the applicant for supply of original documents and further stated that the same would be shown to him during the course of inquiry, if any. (Annexure- 4)

08.06.2004- Applicant submitted another representation stating that so far the applicant remember many of the audit objection were dropped and in some cases proposal were sent for ex-post-fact sanction. Therefore, it is necessary for him to pursue the relevant records based on which the charges were initiated. (Annexure- 4A)

Lienkhawthang Varte

09.06.2004- Asstt. Director, Rehabilitation informed the applicant that details of the audit paras have already been circulated to the applicant vide letter dated 27.05.2001. (Annexure- 5)

02.07.2004- Director General, Employment and Training informed the applicant he cannot be supplied original copies of the documents involved in the case against him. However, applicant would be given full opportunity to inspect the listed documents during the course of inquiry and the applicant was directed to submit his written statement either by admitting or denying categorically all the charges labeled against him up to 10.07.2004. (Annexure- 6)

09.07.2004, 07.09.04, 16.08.04, 10.09.04- Applicant submitted representation praying for providing an opportunity to look into the original records, vouchers and other relevant documents in order to enable him to submit an adequate reply to the charges labeled against him. (Annexure- 7 series)

05.08.2004- Shri K.L. Koli, Dy. Director, NE Cll, Cuwahati was appointed as inquiry officer to enquire into the charges framed against the applicant vide order dated 05.08.04. Shri R. Lakshmanswami, Asstt. Director, VRC was appointed as Presenting Officer vide order dated 05.08.04. (Annexure- 8 series)

26.06.2006- Applicant submitted a detailed representation addressed to the Director General of Employment and Training, Disciplinary authority against the misbehaviour of Shri R. Lakshmanswami, presenting officer, towards him as well as against his defence assistant and prayed for change of presenting officer. (Annexure- 9)

28.07.2006- Director General of Employment and Training, the Disciplinary authority, rejected the prayer of applicant for change of presenting officer, Shri R. Lakshmanswami. (Annexure- 10)

28.11.2000- Memorandum of charge sheet dated 16.03.04 has been issued to the applicant after a lapse of 8 to 9 years from the alleged financial irregularities. In this connection it may be stated that in every year during 1995 to 1999 internal audit was conducted by the internal audit party as well as the statutory audit, but none of the audit report contained such lapses or financial irregularities. It would be evident from the letter dated 28.11.2000 that there are irregularities committed by the Rehabilitation officer i.e. the applicant. But in the report, it appears that there is no allegation of misappropriation of Govt. money or shortage in the stock register but the audit pointed out that there are irregularities in the matter of purchase and

Shrikant Bhagat

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29

expenditure which has been incurred beyond the delegation of financial power. (Annexure- 11)

PRAYERS

1. That the Hon'ble Tribunal would be pleased to set aside and quash the impugned memo of charge sheet dated 16.03.2004 (Annexure- 1) and grant any relief or relieves as your lordship's deemed fit and proper.
2. Costs of the application.
3. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

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

1. That the Hon'ble Tribunal be pleased to set aside the impugned memo of charge sheet dated 16.03.2004 and to stay the operation of the disciplinary proceeding till disposal of the original application.

LeenkhadGangVarti

30

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

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

Title of the case : O. A. No 227 /2006

Sri Lienkhawthang Varte : **Applicant**

- Versus -

Union of India & Others : **Respondents**

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Filed by

S. Nata

Advocate

Date: *30/08/2006*

Lienkhawthang Varte

31

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 227 /2006

BETWEEN:

Sri Lienkhawthang Varte.
Son of Sri H. V. Varte.
Assistant Director,
VRC for Handicapped,
Abhoynagar,
Agartala- 799001.
West Tripura.

...Applicant.

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Labour,
Sharam Shakti Bhawan,
Rafi Marg, New Delhi- 110001.
2. Deputy Secretary to the
Government of India
Ministry of Labour,
New Delhi- 110 001.
3. The Director general of Employment and Training,
Joint Secretary to the Govt. of India,
Ministry of labour (DGE& T),
Sharam Shakti Bhawan,
Rafi Marg, New Delhi-110001.
4. The Dy. Director General (Employment)
Ministry of Labour (DGE&T),
Shram Shakti Bhawan, Rafi Marg,
New Delhi-110001.
5. Assistant Director (Rehab.)
V.R.C for Handicapped,
Rehabari, Guwahati-8.

... Respondents.

*Filed by the applicant-
Lienkhawthang Varte
30.08.2006*

Lienkhawthang Varte

DETAILS OF THE APPLICATION

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

This application is made against the impugned memorandum of charge sheet dated 16.03.2004 (Annexure-1) containing 6 article of charges, alleging commission of grave misconduct and financial irregularities, the impugned charge sheet has been initiated after a delay of 8 to 9 years and praying for setting aside of the impugned article of charges contained in the memorandum dated 16.03.2004 and also prayed for consideration of promotion to the cadre of as well as the inquiry proceeding.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

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

4. Facts of the Case.

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That your humble applicant is presently working as Assistant Director (Rehabilitation) at vocational Rehabilitation centre for handicapped at Agartala.
- 4.3 That the respondent vide impugned memo bearing letter No. DGET-1-11018/1/99-EE-II dated 16.03.2004, it is alleged that the applicant while functioning as Superintendent of Head of office on officiating basis at the Vocational Rehabilitation centre for handicapped at Guwahati during the

Lirel Chakraborty

period of 31.01.1995 to July '99 committed grave misconduct and financial irregularities.

In Article 1 of the charge sheet, altogether 5 allegations brought against the applicant wherein it is alleged that during the period from 31.01.1995 to 15.03.1999, fixtures and furniture, amounting to Rs. 1,69,851 were purchased without following the prescribed procedure and the said purchase were made beyond his delegated powers, again it is alleged that an amount of Rs. 71,580 was incurred on procurement of tools and equipment, unauthorisedly, in violation of the delegated powers during the period from March '99 to April '99.

In clause 'C' of Article of charge No. 1, it is alleged that during the period from June' 97 to July 99 an unauthorized expenditure of Rs. 96,864 was incurred on purchase of raw materials beyond the delegated powers of head of office. Similarly, in clause No. (d) and (e) of article of charge No. 1, it is alleged that an amount of Rs. 55,548/- and Rs. 75,995/- was incurred on purchase of fuel and repairing for the condemned of his vehicle.

In Article 2 also altogether 6 allegations were brought against the applicant, more or less on the same ground as indicated in Article of Charge No. 1, wherein it is stated that during the period from August' 95 till July' 99 the applicant unauthorisedly incurred expenditure on account of purchase of electronic goods, telephone charges without verification and without certifying calls to be official or personal and executed minor work of floor repairing of motor garage and for purchase of stationary items for the centre without following procedure and without having accounted for the materials purchased at the centre and without making any stock entry on the preface of the bill passed and the payment made similar allegation also brought in Article III, IV, V and VI, wherein procedural violation has been alleged for incurring expenditure unauthorisedly without approval of the competent authority and correct procedure for entries in the cashbook was not followed by him and it is

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also alleged Receipt Book in Form CAR-6 was not maintained and therefore it has been alleged that the applicant has committed grave misconduct in as much as he failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Govt. servant and thus violated the provisions of Rule 3 - (1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964.

In the statement of imputation of misconduct, it is further alleged that procedure has not been followed while purchase were made and there are violation of relevant provisions of GFR and it is also alleged that the applicant has incurred various unauthorized amount for procuring the tools equipments, raw materials and also for purchasing fuel and repairing for condemned office vehicle, purchase of various electronic goods, payment of telephonic charges, purchase of ceiling fans etc.

The Article of charges framed against the applicant are proposed to be sustained through audit report/audit objection, which was conducted during the year 2000, when the allegations are pertaining to the year 1995, 1997, 1998 and 1999. In fact many internal audit inspection was conducted before 2000 and even the audit inspection although conducted in the year 2000, many items were dropped after considering the explanations and in many cases ex-post facto approval has been taken from competent authority and accordingly many of the audit objection were dropped.

On a mere reading of the memo of charge sheet, it appears that basically the audit objection has been raised for procedural violation while purchase or payment were made by the applicant, in his capacity as Head of office in the vocational Rehabilitation Centre at Guwahati. But there is no allegations regarding misappropriation of Govt. money. It is also not the case of the respondents U.O.I that the huge amount of money has been incurred on the basis of any fictitious bill, rather it is the case of the respondents that entries has not been made properly, cash book also not maintained properly and expenditure has been incurred beyond the delegated power of the applicant, such act or omission on the part of the

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applicant at best can be turned as an act of irregularities, negligence, but the said act or omission can be termed as mis-conduct for the purpose of initiation of a disciplinary proceeding under Rule 14 of the CCS (CCA) Rules 1965. Moreover, there is a delay of 8 to 10 years in initiating the disciplinary proceeding and on that score alone impugned memorandum of charge sheet dated 16.03.2004 is liable to be set aside and quashed.

(A Copy of the impugned memorandum dated 16.03.2004 is enclosed as Annexure-1).

4.4 That your applicant after receipt of the impugned memorandum dated 16.03.2004 submitted a reply on 05.04.2004 praying interalia to allow the applicant to go through original records, documents vouchers and other documents basing on which audit submitted its objection of alleged financial irregularities and also prayed for grant of at least 4 weeks time to submit his written statement after perusal of the records, since the charges were pertaining to the year 1995-1999, therefore it is difficult on his part to remember the factual position of the allege financial irregularities without looking into the records at this distant point of time. It is also relevant to mention here that there is no explanation is made for initiation of a disciplinary proceeding after a lapse of near about 9/10 years .The applicant again submitted another representation on 13/15.05.2004 addressed to the DDG, employment, New Delhi praying interalia for supply of relevant documents.

(A Copy of the reply dated 05.04.2004, representation dated 13/15.04.2005 is enclosed as Annexure- 2 and 3 respectively).

4.5 That the office of the Director General of Employment and Training, New Delhi informed the Asstt. Director, VRC for handicapped, Guwahati, wherein it is stated that the applicant has already availed the time of more than 4 weeks in submitting his representation to the charge sheet dated 16.03.2004, therefore he may not be allowed more time. It is further stated

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in the letter bearing No. DCET-A-11018/1/99-EE-II (Part), dated 21.05.2004, since the charge sheet is mainly based on the audit paras and the copies of the relevant audit paras have been supplied to the applicant with the charge sheet, therefore original documents cannot be supplied to the applicant, however the same would be shown to him during the course of inquiry if any. The applicant after receipt of the letter dated 21.05.2004 submitted a representation on 08.06.2004, wherein the applicant categorically submitted that so far the applicant remember, many of the audit objections were already dropped and in some of the cases proposals were sent for ex-post facto sanction. Therefore it is necessary for perusal of the relevant records based on which the charges were in fact initiated, otherwise it would be difficult for him to submit even his defence statement simply on the basis of audit report. The applicant also categorically denied the charges labeled against him through memorandum dated 16.03.2004 and further requested to allow the applicant to look into the relevant records to furnish an adequate reply in his defence.

However, the Asstt. Director, Rehabilitation, Sri R. Laksmanswami informed the applicant that DGET vide letter dated 21.05.2004 stated that it is good and sufficient enough to meet the answer of his representation dated 08.06.2004 and the details of the audit paras have already been circulated to the applicant vide letter dated 27.05.2001.

(Copy of the letter dated 21.05.05, representation dated 08.06.2004 and O.M dated 09.06.2004 are enclosed as Annexure- 4, 4A and 5 respectively).

4.6 That the office of the Director General, Employment and Training vide letter bearing No. DGET-1-11018/1/99-EE (P 1) dated 02.07.2004, it is informed that the applicant cannot be supplied original copies of the documents involved in the case against him. However, applicant would be given full opportunity to inspect the listed documents during the

Sanjeev Chandra Paul

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course of inquiry and the applicant was directed to submit his written statement either by admitting or denying categorically all the charges leveled against him up to 10.07.2004 for further action failing which it would be presumed that the applicant has nothing to submit for further necessary action in the matter. Therefore it appears that the competent authority is determined not to allow the applicant to inspect the relevant documents, before submission of written statement.

(Copy of the letter dated 02.07.2004 is enclosed as Annexure-6).

4.7 That the applicant after receipt of the letter dated 02.07.2004 submitted a representation on 09.07.2004, wherein the applicant specifically stated that he may be provided an opportunity to look into the original records, vouchers and other relevant documents in order to enable him to submit an adequate reply to the charges leveled against him. However, no opportunity is provided to the applicant for inspection of the relevant records. In the meanwhile the Inquiry Officer wrote a letter to the applicant informing him that he has been appointed as Inquiry officer, therefore notice was served by the Inquiry Officer directing the applicant to appear in the first hearing on 28.09.2004 and also gave a liberty to the applicant to engage a Defence Assistant.

The applicant thereafter submitted another application praying for permission and inspection of relevant documents, records, listed documents relying on which the memo of charge sheet dated 16.03.2004 was issued to the applicant. The applicant in his application/representation dated 16.08.2004 specifically stated that it is difficult on his part to put forward an adequate defence without looking into the records inspection of records, documents, vouchers will take sufficient time, therefore opportunity may be provided to the applicant for inspection of the records. It is also pointed out by the applicant that so far he came to learn, many of the audit objections which were included in the charge sheet have already been dropped and against many of the items ex post

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facto sanction has been obtained and some cases request for ex post facto sanctions were placed before the appropriate authority, as such it would be difficult to defend that on the part of the applicant without perusal of the records.

The applicant again submitted a detailed representation for supply of relevant documents for inspection for preparing adequate defence. In the said representation dated 10.09.2004 the applicant categorically mentioned the details about the audit objection and also indicated the items of the audit objection, where ex-post facto sanction is sought to regularize the same under intimation to audit and also indicated the audit objection where the same were dropped subsequently. In the said representation, the applicant further stated that his letter dated 22.06.2001 is not a confession letter. The applicant further requested to summon Mr. Baldev Sarma, vocational instructor (radio & TV), VRC for handicapped as defence witness.

(A Copy of the representation dated 09.07.2004, 07.09.2004, 16.08.2004 and 10.09.2004 are enclosed herewith and marked as Annexure-7 (series)).

4.8 That it is stated that thereafter K.L. Koli, Dy. Director Training, N.E. Cell, Guwahati was appointed as enquiry authority to enquire into the charges framed against the applicant vide order bearing No. DCET-I-11018/1/99-EE-II (P1) dated 05.08.2004. Similarly one Sri R. Lakshmanswami, asst. Director, VRC for handicapped, Guwahati was appointed as Presenting officer vide order dated 05.08.2004.

(A Copy of the order dated 05.08.2004 is enclosed as Annexure-8 Series).

4.9 That it is stated that in spite of repeated request the authority particularly the disciplinary authority did not allow the applicant to inspect the original records, bill, vouchers, sanction order, requisition, supply orders

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etc for preferring his written statement to defend the charges but the said prayer of the applicant for supply of relevant document or prayer for permission of the applicant to inspect the original relevant records has been arbitrarily rejected by the authority vide letter dated 21.05.2004 (Annexure- 4).

It is pertinent to mention here that the allegations of the financial irregularities which is now brought against the applicant during the year 2004 i.e after a lapse of 9 (nine) years as because purchase were made in between the year 1995 to 1999 and the audit inspection was conducted in the year 2000 and the charge sheet was issued only on 16.03.2004, therefore it is difficult on the part of the applicant to submit defence statement without consulting the records at this belated stage i.e after a lapse of 5 to 9 years but the authority in a most unfair manner blocked the scope of inspection of the records. It is impossible on the part of human being to prepare a written statement/defence statement against any memorandum of charge sheet only on the basis of audit report or audit objection without consulting the relevant documents. Therefore it appears that the authorities are working with a pre-determined notion to complete the disciplinary proceeding in the name shake without providing the reasonable opportunity to the applicant by restraining him to inspect the relevant documents to prepare his defence or written statement, when the disciplinary proceeding under Rule 14 of CCS (CCA) Rules 1965 has been initiated after a lapse of 8 to 9 years, therefore on that score alone the entire disciplinary proceedings is liable to set aside and quashed.

4.10 That it is stated that the enquiry proceeding held on the following dates. 28.09.2004, 07.10.2004, 27.12.2004, 09.02.2005, 08.03.2005, 13.04.2005, 13.07.2005, 10.08.2005, 13.12.2005, 10.01.2006, 10.04.2006, 25.05.2006 and only on 12.06.2006. It is pertinent to mention here that in all most all the date of hearing the applicant participated in the enquiry proceeding and extended his best co-operation with the enquiry officer, but surprisingly

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the presenting officer right from the beginning started misbehaving with the applicant during the course of enquiry proceeding and always behaves in very aggressive and in impolite/ugly manner showing hostile attitude towards the applicant. That it stated that on 12.06.2006, when the inquiry proceeding is going on Sri R. Lakshmanswamy misbehaved with the applicant and also with his Defence Assistant Sri T.K. Paul, AAO, C.W.C, Guwahati in course of hearing. It is observed very often Presenting Officer gets agitated and become violent during the course of hearing and it appears that his behaviour is very harsh and vindictive towards the applicant. In each and every occasion whenever there is a sitting of an enquiry proceeding Sri R. Lakshmanswami, P.O creates a very unhealthy situation and makes an attempt to impose orders, restriction and behaves in a very rude manner, with the applicant and his Defence Assistant. But on the last occasion i.e on 12.06.2006, Sri Lakshmanswami lost his temper beyond all proportion without any sort of provocation and misbehaved with the applicant and also with his defence Assistant and thereby in fact obstructing the proceeding to continue smoothly and fairly. In other words the attempt of Sri R. Lakshmanswami, P.O to held the applicant guilty without any detail inquiry. It is further learnt by the applicant that in the event of exoneration, from the charges that there is every possibility on the part of the applicant to gain seniority and promotion over Sri R. Lakshmanswami and therefore R. Lakshmanswami started misbehaving with the applicant in the inquiry proceeding.

In the circumstances stated above, applicant being highly aggrieved with the misbehaviour of Sri R. Lakshmanswami, P.O, submitted a detailed representation to the Director General of Employment and Training/Disciplinary Authority, Govt. of India, New Delhi, wherein the applicant prayed for change of Presenting Officer, on account of misbehaviour with the applicant.

Lokeshwaranjan Maiti

(A Copy of the representation dated 26.06.2006 is enclosed as Annexure- 9).

4.11 That it is stated that the said representation dated 26.06.2006 was rejected by the authority on 28th July 2006 in very arbitrary and unfair manner.

(A Copy of the letter dated 28.07.06 is enclosed as Annexure- 10.)

4.12 That it is stated that the memorandum of the charge sheet dated 16.03.2004 has been issued to the applicant after a lapse of 5 to 9 years. In this connection it may be stated that in every year during 1995 to 1999, internal audit was conducted by the internal audit party as well as by the statutory audit party, in addition to that post audit was done by the pay and accounts office, but none of the audit report contained such lapses or financial irregularities. It is further categorically submitted that statutory audit was by the office of the Accountant General (Audit), Assam, some times during the year 1998/1999 but found no lapses or irregularities which were now pointed out by the statutory Audit Party.

It is pertinent to mention here that during the year 2000, when Sri K.K. Bhatt was working as Supdt. In the VRC for handicapped, Guwahati, at that point of time at the instance of Sri K.K. Bhatt, Audit was conducted and certain procedural irregularities in the matter of purchase of electronic goods, equipments, furniture, fixation, repairing of condemn vehicle were pointed out by the audit and in the said audit report, it is pointed out that the applicant has incurred expenditure beyond the power of delegation and in many cases prior sanction of the competent authority were not obtained before expenditure is made for purchase of electronic goods and other equipments. It is also further alleged that cash book also not maintained as per rule and expenditure has been made without observing the codal provisions of Rule 102.103 and 104 of GFR. The inspection report conducted by the internal audit party during 21.08.2000 to 31.08.2000. It would be evident from the letter bearing No. IA-LAB/VR-

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C-Cuwhati/2000-01/1150 dated 28.11.2000, whereby Shri Bhatt has written to the Deputy Director of Exchanges under Ministry of Labour, New Delhi requesting to submit a reply to the audit objection within a month from date of receipt of such objection. On a careful reading of the audit objection report, it appears that there are irregularities committed by the Rehabilitation Officer, i.e. the applicant, but many of the items where audit objection was raised has been dropped. But in the report, it appears that there is no allegation of misappropriation of Govt. money or shortage in the stock register, but the audit pointed out that there are irregularities in the matter of purchase and expenditure has been incurred beyond the delegation of financial power.

(A Copy of the letter dated 28.11.2000 is enclosed as Annexure-11).

4.13 That it is stated that after receipt of the inspection report the memo of charge sheet was initiated after a lapse of about 4 years, and the allegations were relating to year 1995-99, therefore it is quite difficult on the part of the applicant to prepare his defence at this belated stage after a lapse of 5 to 9 years. Moreover, the applicant has been arbitrarily denied inspection of the relevant documents before submission of his written statement after receipt of the memo of charge sheet dated 16.03.2004. The applicant repeatedly approached the authority to allow him to inspect the relevant documents before submission of written statement, but such opportunity was denied to the applicant. Although the applicant being a loyal and disciplined Govt. Employee participated in all the hearing of the proceeding and extended his best co-operation with the I.O, but the applicant failed to defend his case adequately at this belated stage when the incident for alleged purchases were made during the year 1995-99 i.e. after a lapse of 8 to 9 years that too without providing opportunity to inspect the documents prior to submission of his reply against the memo of charge sheet dated 16.03.2004.

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In the connection, it may be stated that the law relating to public service a delinquent is entitled to inspection of the documents mentioned in the charge-sheet or on which the employer wants to rely and this is generally provided by the rules. If a request is made for such inspection, postponement of the opportunity to the time of final hearing is obviously an erroneous procedure. In Shambhu Saran Pandey the Hon'ble Supreme Court observed that the principles relating to inspection of documents were well-settled and said:

"If the department or the management seeks to rely on any documents in proof of the charge. The principles of natural justice require that such copies of those documents need to be supplied to the delinquent. If the documents are voluminous and cannot be supplied to the delinquent, an opportunity has got to be given to him for inspection of the documents. It would be open to the delinquent to obtain appropriate extracts at his own expense. If that opportunity was not given, it would violate the principles of natural justice. At the enquiry, if the delinquent seeks to support his defence with reference to any of the documents in the custody of the management or the department, then the documents either may be summoned or copies thereof may be given at the request and cost of the delinquent"

In the same case the Court also pointed out the stage when such inspection to be given:

"It is stated in the letter written by the enquiry officer that inspection of documents would be permitted at the time of final hearing. That obviously is an erroneous procedure followed by the enquiry officer. In the first instance he should be given the opportunity for inspection and thereafter conduct the enquiry and then hear the delinquent at the time of conclusion of his enquiry. In

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this case the procedure was not adopted. Therefore the procedure in conducting the enquiry adopted is clearly in violation of the principles of natural justice".

Therefore, on that score alone the entire procedure including the impugned order of memo of charge sheet is liable to be set aside and quashed.

4.14 That it is stated that in the instant case the charge sheet dated 16.03.2004 is initiated only on the ground of financial irregularities and thereby it is alleged that the applicant committed misconduct, but nowhere misappropriation of Govt. money is alleged in the charge sheet. But only procedural irregularities were pointed out in the article of charges. Therefore, on the basis of aforesaid charges the inquiry initiated against the applicant under Rule 14 of CCS (CCA) Rules, 1965 is not sustainable in the eye of law and on the ground of delay as because the applicant is not in a position to prepare his defence at this belated stage after a lapse of 8 to 9 years and on that score alone the memorandum of charge sheet dated 16.03.2004 is liable to be set aside and quashed.

4.15 That it is stated that it is true that the applicant has participated in the disciplinary proceeding and taking the pain in ever occasion to attend the inquiry Proceeding at Guwahati from Agartala, but in view of the nature of the charge sheet the applicant is finding it absolute difficult in defending his case adequately at this belated stage i.e. after lapse of 8 to 9 years. In this connection it may be stated that since the Article of charges brought against the applicant only on the ground of procedural irregularities incurring expenditure, therefore the same are liable to be set aside and quashed only on the ground of delay.

4.16 That it is stated that due to initiation of a disciplinary proceeding under Rule 14 of the CCS (CCA) Rules 1965 the applicant in a very much

Reinhard Chago Varte

prejudiced in defending in case of the applicant after a long gap of 8 to 9 years and on that score alone the impugned memorandum of charge sheet dated 16.03.2004 is liable to be set aside and quashed.

4.17 That your applicant begs to say that although he has participated in the proceeding being a disciplined employee but he is finding it difficult at this stage to recollect the circumstances under which the materials were purchased and payments were made to the suppliers, and in how many items audit objections were dropped and in how many items ex-post facto sanctions were granted or proposed. Therefore if the proceeding is allowed to continue at this belated stage, it will cause irreparable loss and injury to the applicant and his service prospect. Therefore the Hon'ble Court be pleased to set aside and quashed the impugned memorandum of charge sheet dated 16.03.2004 and thereby exonerate the applicant from the charges brought against him.

4.18 That it is stated that the applicant belongs to S.T community while functioning as Head of office on ad-hoc basis at VRC for handicapped at Guwahati, he was promoted without providing any required training in the matter of purchase or placing supply orders for the interest of the office. Therefore if any irregularities were found in that event the same is liable to be dropped.

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

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

5.1 For that, the disciplinary proceeding has been initiated against the applicant under Rule 14 of the CCS (CCA) Rules, 1965 for irregularities incurring expenditure in the matter of purchase beyond the delegated financial powers, but there is no allegation of misappropriation of Govt. money and also there is no allegation that the bills or vouchers are fake or materials purchased are not available in the office. Therefore the

Hemkanta Chong Vani

allegation brought in the memo of charge sheet dated 16.03.2004 does not fall within the purview of misconduct for the purpose of disciplinary proceeding and on that score alone the impugned memo of charge sheet dated 16.03.2004 is liable to be set aside and quashed.

5.2 For that, the disciplinary proceeding initiated against the applicant through memorandum of charge sheet dated 16.03.2004 under Rule 14 of the CCS (CCA) Rules 1965 only on the basis of audit objection of irregularity in the matter of purchase and payment, after a lapse of 8 to 9 years, as such the charge sheet has caused great prejudiced to the applicant to prepare his written statement in depending the case since the matter relate back to 1995-99, therefore on the ground of delay the memorandum of charge sheet dated 16.03.2004 is liable to be set aside and quashed.

5.3 For that, in all the year since 1995-99 internal audit, statutory audit as well as audit by the office of the AG, Assam were conducted in each year, but did not point out any major irregularities, as such irregularities now pointed out by the internal audit party during the year 2000 are curable in nature and since there is no allegation regarding misappropriation of Govt. money and when there is no allegation that the vouchers and bills are fake, therefore the memo of charge sheet dated 16.03.2004 is liable to set aside and quashed.

5.4 For that, the applicant being a disciplined and loyal Govt. employee participated in the proceeding but found it difficult to defend his case at this belated stage after a lapse of 8 to 9 years from the date of occurrence of the alleged irregularities.

5.5 For that, the authority has arbitrarily denied opportunity of inspection of the original documents in spite of repeated request, while submitting the

Lienkhorheng Vanta

reply denying the charges brought against the applicant through memo dated 16.03.2004, which caused prejudiced to the applicant.

5.6 For that representation of the applicant against the misbehaviour of the Presenting officer with the applicant and with his defence assistant has been rejected arbitrarily by the competent authority without making any enquiry and on that ground alone the impugned letter rejecting the prayer for change of presenting officer is liable to be set aside and quashed.

6. Details of remedies exhausted.

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

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

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

Shrikhand Thang Vasti

3.1 That the Hon'ble Tribunal would be pleased to set aside and quash the impugned memo of charge sheet dated 16.03.2004 (Annexure- 1) and grant any relief or relieves as your lordship's deemed fit and proper.

3.2 Costs of the application.

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

9. Interim order prayed for.

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

9.1 That the Hon'ble Tribunal be pleased to set aside the impugned memo of charge sheet dated 16.03.2004 and to stay the operation of the disciplinary proceeding till disposal of the original application.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I.P.O. No.	:	266 326157
ii) Date of Issue	:	30.08.2006.
iii) Issued from	:	GPO, Guwahati
iv) Payable at	:	GPO, Guwahati

12. List of enclosures.

As given in the index.

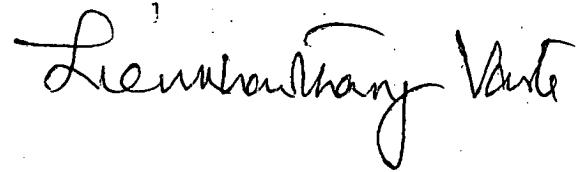
*Joint Petition
Deadlined*

Lokhandwala Virendra

VERIFICATION

I Shri Lienkhawthang Varte, S/o Shri H.V. Varte, aged about 49 years, working as Assistant Director, VRC for Handicapped, Abhoynagar, Agartala- 799001, West Tripura, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 29th day of August 2006.



A handwritten signature in black ink, appearing to read "Lienkhawthang Varte". The signature is fluid and cursive, with the name "Lienkhawthang" on the first line and "Varte" on the second line.

By Speed Post

No.DGET-I-11018/1/99-EE-II
Government of India/Bharat Sarkar
Ministry of Labour/Shram Mantralaya
Directorate General of Employment & Training

New Delhi, Dated the

16 March, 2004

MEMORANDUM

The undersigned proposes to hold an Inquiry against Shri L.K. Varte, Rehabilitation Officer under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehavior in respect of which the Inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehavior 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).

2. Shri L.K. Varte is directed to submit within 10 days of the receipt of the Memorandum a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an Inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.
4. Shri L.K. Varte is further informed that if he does not submit his written statement of defence on or before the date specified in para-2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule-14 of the 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 L.K. Varte, P.O. is invited to Rule-20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri L.K. Varte 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 CCS (Conduct) Rules, 1964.
6. The receipt of the Memorandum may be acknowledged.

To

Shri L.K. Varte,
Rehabilitation Officer,
Vocational Rehabilitation Centre for Handicapped, Guwahati.

(P.K. Ray)
Deputy Director General (Empl)

Attached
for
Two Cate

ANNEXURE-I

Statement of articles of charge framed against Shri L.K. Varte, Rehabilitation Officer

Article-I

That the said Shri L.K. Varte, Rehabilitation Officer, while functioning as Superintendent/H.O.O. of the Vocational Rehabilitation Centre for Handicapped, Guwahati, during the period of 31.1.95 to July, 99, committed grave misconduct and financial irregularities as per the following details:

(a) During the period from 31.1.95 to 15.3.99, fixtures and furniture amounting to Rs.1,69,851/- (Rupees one lakh sixty nine thousand eight hundred and fifty one only) were purchased without following the prescribed procedure and which was beyond his delegated powers also;

(b) During the period from March, 1999 to April, 1999 an amount of Rs.71,580/- (Rs.seventy one thousand five hundred and eighty) only was incurred on procurement of Tools and Equipment which was unauthorized and beyond the delegated powers of Head of Office.

(c) During the period from June, 1997 to July, 1999 an unauthorized expenditure of an amount of Rs.96,864/- (Rs.ninety six thousand eight hundred and sixty four only) was incurred on purchase of raw material beyond the delegated powers of Head of Office;

(d) Unauthorized disposal of the condemned Office Vehicle was done to the tune of Rs.18,000/- i.e. less than reserve price of Rs.23,000/- beyond the delegated powers of Head of Office and without obtaining prior permission/sanction of the Head of the Department. Further, during the period from December, 1993 to April, 1998 an unauthorized expenditure of an amount of Rs.55,546/- (Rs.Fifty five thousand five hundred forty six only) was incurred on purchasing the fuel and repairing for the condemned office vehicle;

(e) During the period from November 1997 to February 1999, an unauthorized expenditure of Rs.75,095/- (Rs.seventy five thousand and ninety five only) was incurred on repairing of the office vehicle of the Centre, which was beyond the powers delegated to the Head of the Office.

Article -II

That the said Shri L.K. Varte, Rehabilitation Officer, while functioning as Superintendent/Head of Office for the VRC for Handicapped, Guwahati, during the year 1994-95 to 1999-2000, committed grave misconduct and financial irregularities as per the following details:-

(a) During the period from August, 1995 to November, 1995 and from January, 1999 to February, 1999, an unauthorized expenditure of Rs.1,10,999/- (one lakh ten thousand nine hundred and ninety nine only) was incurred on procuring various Electronic Goods without following the thorough procedure

for procurement of the items viz. calling of the quotations etc. and approval of the Competent authority i.e. Headquarters;

- (b) During the period prior to 15.7.1999, any Telephone Trunk Call Register, was not maintained and payment on account of telephone charges from local PCOs/Shop Keepers were made to the tune of Rs.95,052/- (Rs. Ninety five thousand and sixty two only) without certifying calls to be official or personal;
- (c) During the year 1999, an unauthorized expenditure amounting to Rs. 6,195/- (Rs.six thousand one hundred and Ninety-five only) was incurred on purchase of seven Ceiling Fans from the local firms and not from DGS&D, without calling any quotations;
- (d) An unauthorized expenditure amounting to Rs. 35,670/- (Rs.Thirty five thousand six hundred and seventy only) was incurred on irregular execution of Minor work/floor repairing of Motor Garage and office-painting work. Such works are to be executed through the CPWD that was not involved;
- (e) An unauthorized expenditure of Rs.1,27,795 (Rs.one lakh twenty seven thousand seven hundred and ninety five only) was incurred towards purchase of Stationery items for the Centre without following thorough procedure;
- (f) During the year 1994-95 to 1999-2000, an unauthorized expenditure of Rs.32,218/- (Rs.Thirty two thousand two hundred and eighteen only) was incurred on passing the bills and making payment without having accounted for the material purchased at the Centre and without making any stock entry on the prefacce of the bills passed and payment made.

Article-III

That the said Shri L.K. Varte, Rehabilitation Officer, in the capacity of the Head of Office for the Vocational Rehabilitation Centre for Handicapped, Guwahati, During the period from December,1993 to April, 1998 committed grave misconduct and financial irregularities as per the following details:

- (a) During the year 1998 an unauthorized expenditure of Rs.3,17,236/- (Rs.three lakh seventeen thousand two hundred and thirty six only) and Rs.18,034/- (Rs. Eighteen thousand thirty four only) was incurred for/on purchase of a Jeep Mahindra and Mahindra without following the procedure and without furnishing the bill to the PAO (DGFT).
- (b) During the month of December, 1998, an Advance of Rs.30,000/- (Rs.Thirty thousand only) was drawn unauthorizedly towards purchase of Scooter without following the procedure

Article -IV

That the said Shri L.K. Varte, Rehabilitation Officer, in the capacity of the Head of Office for the Vocational Rehabilitation Centre for Handicapped, Guwahati, committed grave misconduct and financial irregularities as per the following details: -

- (a) During the period from April 1996 to March 1999 unauthorized LTC advances were drawn by him without any sanctions of the head of the Department for LTC for the Block Year 1994-97 and 1998-2001;
- (b) During the period from August, 1996 to February, 1999, various unauthorized Tour/TA advances amounting to Rs 24,900/- (Rs.twenty four thousand and nine hundred) only were drawn and journeys were performed by Shri Varte, without approval of the Tour programme by the Head of Department. The payment of TA advances and TA adjustment bills (for payment of Rs.3,820/- (Rs.three thousand eight hundred and twenty only) were also passed and drawn by him without obtaining the counter-signatures of the controlling authority.

Article-V

That the said Shri L.K. Varte, Rehabilitation Officer, in the capacity of the Superintendent/Head of Office for the Vocational Rehabilitation Centre for Handicapped, Guwahati, committed grave misconduct and financial irregularities as per the following details: -

- (a) During the year 1998-1999, an unauthorized honorarium of Rs.8,800/- (Rs.Eight thousand eight hundred) only was sanctioned and paid to the staff of the Centre including himself without the approval/sanction of the Head of the Department.
- (b) An unauthorized payment to the tune of Rs.3,80,390/- (Rs.three lakh eighty thousand three hundred and ninety only) was made in excess towards the Special Duty Allowance to the staff of the Centre and to himself.
- (c) During the period from January, 1997 to October, 1998 unauthorized GPF advances amounting to Rs 70,948/- (Rs.seventy thousand nine hundred and forty eight only) were sanctioned and drawn for himself without any sanction of the competent authority
- (d) An excess payment of Bus Fare to the tune of Rs.1,650/- (Rs.one thousand six hundred and fifty only) was made to the Staff of the Centre in connection with the LTC for Private Bus/Taxi fare, which as per the rules is not allowed.
- (e) During the period from January, 1995 to March 1999, OTA was sanctioned and paid at higher rates to the staff of the Centre, which resulted an excess payment to the tune of Rs 1,438/- (Rs.one thousand four hundred and thirty eight only) to the staff.

(f) During the period from July 1996 to January, 1997, an unauthorized payment to the tune of Rs.2,956/- (Rs,two thousand nine hundred and fifty six only) was made to an outside person engaged for doing clerical and typewriting work of the office without any approval/sanction of the Competent Authority.

(g) During the period from June 1998 to August, 1998, an unauthorized excess payment of Railway Fare to the tune of Rs.4,030/- (Rs.four thousand and thirty only) was made to the Staff of the Centre for the non-entitled class of railway journey.

Article-VI

That the said Shri L.K. Varte, Rehabilitation Officer, in the capacity of the Head of Office for the Vocational Rehabilitation Centre for Handicapped, Guwahati, committed grave misconduct and financial irregularities as per the following details: -

(a) Correct procedure for Entries in the Cash Book was not followed by him.. Most of the entries on debit side in the Cash Book had been shown as paid to Supdt. VRC whereas actually payments have been made to the payees concerned.

(b) Receipt Book in Form CAR-6 was not maintained. Since the receipts in form CAR-6 are required to show against amount received from individuals/parties to be credited to the Govt. account, simultaneously while recording entries of such receipts on the Cash Book, but no Receipt Books being the most important document, has been maintained.

By his above act the said Shri L.K. Varte, Rehabilitation Officer has committed grave misconduct in as much as he failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Government servant and thus violated the provisions of Rule 3- (1) (i), (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964.

Irregularity

ANNEXURE-II

Statement of imputation of misconduct or misbehavior in support of the articles of charge framed against Shri L.K. Varte, Rehabilitation Officer

Article of charge-I

Shri L.K. Varte, Rehabilitation Officer, while functioning as Superintendent in charge of Vocational Rehabilitation Centre for Handicapped, Guwahati, during the period of 31.1.95 to 15.3.99, had purchased fixtures and furniture amounting to Rs.1,69,851/- (Rupees one lakh sixty nine thousand eight hundred and fifty one only) beyond the delegated powers and without observing the codal provisions (Rule-102, 103 & 104) of GFR. For these purchases neither sealed quotations were invited, nor any purchase committee was ever formed so as to have competitive rates to assess the reasonability of rates/prevailing market rates at the time of procurement. Further, no approval/permission was obtained from the Directorate General of Employment & Training (Hqrs.). The bills were also not sent to the Pay & Accounts Office for pre-check/payment.

While functioning as Superintendent in charge of Vocational Rehabilitation Centre for Handicapped, Guwahati, Shri L.K. Varte, Rehabilitation Officer, during the period from March, 1999 to April, 1999, incurred an unauthorized and beyond the powers of the Head of Office expenditure on procuring the Tools and Equipments for an amount of Rs.71,580/- In procuring the said Tools & Equipments no proper procedure as envisaged under Rules-102 of GFR, was not followed. Even no approval of the Headquarters was obtained.

Shri L.K. Varte, Rehabilitation Officer, while functioning as Head of the Office for the Vocational Rehabilitation Centre for Handicapped, Guwahati, during the period from June, 1997 to July, 1999, incurred an unauthorized expenditure beyond the powers of the HOO for purchasing of raw material amount to Rs.96,864/- He made the purchase of the raw material without calling any proper quotations and the sanction from the competent authority that Head of the Department.

In the capacity of the Head of Office for the Vocational Rehabilitation Centre for Handicapped, Guwahati, Shri L.K. Varte, Rehabilitation Officer disposed of the condemned Office Vehicle to the tune of Rs.18,000/- i.e. less than reserve price of Rs.23,000/- which was not within his powers as Head of Office and the prior permission/sanction of the Head of the Department was to be obtained, but the same was not obtained. Further, during the period from December 1993 to April 1998, Shri L.K. Varte, Rehabilitation Officer in the capacity of the Head of Office, incurred an expenditure of Rs.55, 546/- on purchasing the fuel and repairing for the condemned office vehicle.

While functioning as Superintendent in charge for the Vocational Rehabilitation Centre for Handicapped, Guwahati, Shri L.K. Varte, Rehabilitation Officer, during the period from November, 1997 to February, 1999, incurred an expenditure of Rs.75,095/- (Rs. seventy five thousand and

*Abesha
Advocate*

ninety five only) on repairing of the office vehicle of the Centre, which was beyond the powers delegated to the Head of the Office.

Article of charge-II

While looking after the work of the VRC for Handicapped, Guwahati as Head of Office, Shri L.K. Varte, R.O. during the period from August, 1995 to November, 1995 and from January, 1999 to February, 1999 incurred an unauthorized expenditure of Rs.1.10,999/- on procuring various Electronic Goods. Thorough procedure for procurement of the items was not followed viz.calling of the quotations etc. and approval of the Competent authority i.e. Headquarters.

During the period prior to 15.7.1999, while Shri L.K., Varte, Rehabilitation Officer was holding the charge of the Head of the Office for the Vocational Rehabilitation Centre for Handicapped, Guwahati, no Telephone Trunk Call Register was maintained by the office, and payment on account of telephone charges from local PCOs/Shop Keepers were made to the tune of Rs.95, 052/- (Rs.ninety five thousand and sixty two only) by Shri L.K. Varte as Superintendent In charge without certifying calls to be official.. As no certificate of being the calls official calls were recorded by Shri L.K. Varte, payment made on this account was irregular.

During the year 1999, Shri L.K. Varte, Rehabilitation officer, in the capacity of Superintendent In charge of the Vocational Rehabilitation Centre for Handicapped, Guwahati, purchased seven Ceiling Fans amounting to Rs.6, 195/- (Rs.six thousand one hundred and Ninety-five only). This purchase was made from the local firms and not DGS&D, without calling any quotations.

In the capacity of the Superintendent In charge of the Vocational Rehabilitation Centre for Handicapped, Guwahati, Shri L.K. Varte, Rehabilitation Officer committed an irregular execution of Minor work/floor repairing of Motor Garage and office-painting work to the tune of Rs.35, 870/- (Rs.Thirty five thousand six hundred and seventy only). Such works are to be executed through the CPWD. But Shri Varte did not have sanctioned the estimates etc. from the CPWD. Further the expenditure was incurred on the above work without call of sealed quotation, competitive rates etc.

Shri L.K. Varte, Rehabilitation Officer, while functioning as Head of Office, Drawing & Disbursing Officer of the Vocational Rehabilitation Centre for Handicapped, Guwahati incurred an irregular expenditure to the tune of Rs.1, 27,795 (Rs.one lakh twenty seven thousand seven hundred and ninety five only) towards purchase of Stationery items for the Centre. The purchase of these items was made without call of quotations for competitive rates and not from the Kendriya Bhandar/Super Bazaar/Approved Co-operative Stores which had to be adhered to.

While holding the charge of the Superintendent, Vocational Rehabilitation Centre for Handicapped, Guwahati, Shri L.K. Varte, Rehabilitation Officer, during the year 1994-95 to 1999-2000, passed the bills and payment made to the tune of Rs.32,218/- (Rs.Thirty two thousand two hundred and eighteen only) without having accounted for the material purchased there against as no stock entry was available on the preface of the bills passed and payment made.

Article of charge-III

Directorate General of Employment & Training, New Delhi, vide its Sanction Order No.D-26011/1/94-EE-II dated 26.2.1998 accorded a sanction order for purchase of a Jeep Mahindra and Mahindra at a total cost of Rs.3,17,236/- (Rs.three lakh seventeen thousand two hundred and thirty six only). Payment on this account was to be made through PAO (DGE&T) by presenting a Bill. Without furnishing the bill to the PAO (DGE&T), Shri L.K. Varte, Rehabilitation Officer, in the capacity of the Head of Office for the Centre, made the payment to the firm in advance. Further, the balance payment of Rs.18,034 was also made by Shri L.K. Varte without any sanction from the Headquarters and billing through the PAO (DGE&T).

While Shri L.K. Varte, Rehabilitation Officer was holding the charge of the Superintendent, Vocational Rehabilitation Centre for Handicapped, Guwahati, Scooter Advance of Rs.30,000/- (Rs.Thirty thousand only) was sanctioned to him in the month of December 1998 by the D.G.E.&T., New Delhi. Shri Varte, drawn the said advance instead of presenting the same to PAO, DGET, since such long term advances bills are required to be submitted to PAO concerned for pre-check of bills and payment after proper sanctions/approvals. Thus Shri Varte has not followed the procedure.

Article of charge - IV

In the capacity of the Head of the Office for the Vocational Rehabilitation Centre for Handicapped, Guwahati, Shri L.K. Varte, Rehabilitation Officer, during the period from April, 1996 to March, 1999 drawn the LTC advances without any sanctions of the head of the Department for LTC for the Block Year 1994-97 and 1998-2001. During the Block Year he availed the LTC facility for three times. He also drew the payment of LTC adjustment bills. In this exercise of drawing advance and adjustment of the same, he drawn an unauthorized payment to self to the tune of Rs.13,790/- (Rs.Thirteen thousand seven hundred and ninety only).

During the period from August, 1996 to February, 1999, while functioning as Superintendent in charge of the Vocational Rehabilitation Centre for Handicapped, Guwahati, Shri L.K. Varte, Rehabilitation Officer drawn various Tour/TA advances amounting to Rs.24,900/- (Rs.twenty four thousand and nine

hundred, and journeys were performed by Shri Varte, without approval of the Tour programme by the Head of Department. The payment of TA advances and TA adjustment bills (for payment of Rs. 3,820/- (Rs.three thousand eight hundred and twenty only) were also passed and drawn by him without obtaining the counter-signatures of the controlling authority.

Article of charge-V

While working as the Superintendent In charge of the Vocational Rehabilitation Centre for Handicapped, Guwahati, Shri L.K. Varte, Rehabilitation officer, during the year 1998-1999, honorarium of Rs.8800/- (Rs.Eight thousand eight hundred only) was sanctioned and paid to the staff of the Centre including himself. The Head of the office is not empowered to sanction such honorarium and it needs approval/sanction of the Head of the Department, which was not obtained for this count.

While functioning as Superintendent In charge of the Vocational Rehabilitation Centre for Handicapped, Guwahati, Shri L.K. Varte, Rehabilitation Officer, made a payment in excess to the tune of Rs.3,80,390/- (Rs.three lakh eighty thousand three hundred and ninety only) towards the Special Duty Allowance to the staff of the Centre and himself. As per the Govt. of India instructions on granting the Special Duty Allowance to the Central Govt. employees, the employees who have all India transfer liability on their posting at any station in the North Eastern Region from outside states of India are entitled for granting Special Duty Allowance. This allowance is not payable to those employees, who are appointed in this region from their initial appointment in Govt. service and belong to these states. But Shri Varte granted the same to the employees appointed in the region from their initial appointment in Govt. service and belongs to these states including him.

While Shri L.K. Varte, Rehabilitation Officer was functioning as Head of Office, Drawing and Disbursing Officer for the Vocational Rehabilitation Centre for Handicapped, Guwahati, during the period of from January, 1997 to October, 1998 he himself sanctioned the GPF advances for self amounting to Rs.70,948/- (Rs.seventy thousand nine hundred and forty eight only) and drawn the same without any sanction of the competent authority when he was not empowered to sanction and draw his own GPF advance bills.

In the capacity of Head of Office, Drawing & Disbursing Officer for the Vocational Rehabilitation Centre for Handicapped, Guwahati, Shri L.K. Varte, Rehabilitation officer made an excess payment of Bus Fare of Rs.1,050/- (Rs.one thousand six hundred and fifty only) to the Staff of the Centre in connection with the LTC for Private Bus/Taxi fare, which as per the rules is not allowed.

During the period from January, 1995 to March, 1999, Shri L.K. Varte, Rehabilitation Officer while functioning as Superintendent In charge for the Vocational Rehabilitation Centre for Handicapped, Guwahati sanctioned and paid OTA at higher rates to the staff of the Centre which resulted an excess payment to the tune of Rs.1,438/- (Rs.one thousand four hundred and thirty eight only) to the staff.

hundred, and journeys were performed by Shri Varte, without approval of the Tour programme by the Head of Department. The payment of TA advances and TA adjustment bills (for payment of Rs. 3,820/- (Rs.three thousand eight hundred and twenty only) were also passed and drawn by him without obtaining the counter-signatures of the controlling authority.

Article of charge V

While working as the Superintendent In charge of the Vocational Rehabilitation Centre for Handicapped, Guwahati, Shri L.K. Varte, Rehabilitation officer, during the year 1998-1999, honorarium of Rs.8800/- (Rs.Eight thousand eight hundred only) was sanctioned and paid to the staff of the Centre including himself. The Head of the office is not empowered to sanction such honorarium and it needs approval/sanction of the Head of the Department, which was not obtained for this count.

While functioning as Superintendent In charge of the Vocational Rehabilitation Centre for Handicapped, Guwahati, Shri L.K.Varte, Rehabilitation Officer, made a payment in excess to the tune of Rs.3,80,390/- (Rs.three lakh eighty thousand three hundred and ninety only) towards the Special Duty Allowance to the staff of the Centre and himself. As per the Govt. of India instructions on granting the Special Duty Allowance to the Central Govt. employees, the employees who have all India transfer liability on their posting at any station in the North Eastern Region from outside states of India are entitled for granting Special Duty Allowance. This allowance is not payable to those employees, who are appointed in this region from their initial appointment in Govt. service and belong to these states. But Shri Varte granted the same to the employees appointed in the region from their initial appointment in Govt.service and belongs to these states including him.

While Shri L.K. Varte, Rehabilitation Officer was functioning as Head of Office, Drawing and Disbursing Officer for the Vocational Rehabilitation Centre for Handicapped, Guwahati, during the period of from January, 1997 to October, 1998 he himself sanctioned the GPF advances for self amounting to Rs.70,948/- (Rs.seventy thousand nine hundred and forty eight only) and drawn the same without any sanction of the competent authority when he was not empowered to sanction and draw his own GPF advance bills.

In the capacity of Head of Office, Drawing & Disbursing Officer for the Vocational Rehabilitation Centre for Handicapped, Guwahati, Shri L.K. Varte, Rehabilitation officer made an excess payment of Bus Fare of Rs.1,650/- (Rs.one thousand six hundred and fifty only) to the Staff of the Centre in connection with the LTC for Private Bus/Taxi fare, which as per the rules is not allowed.

During the period from January, 1995 to March, 1999, Shri L.K. Varte, Rehabilitation Officer while functioning as Superintendent In charge for the Vocational Rehabilitation Centre for Handicapped, Guwahati sanctioned and paid OTA at higher rates to the staff of the Centre which resulted an excess payment to the tune of Rs.1,438/- (Rs.one thousand four hundred and thirty eight only) to the staff.

ANNEXURE-III

List of documents by which the articles of charge framed against Shri L.K. Varte, Rehabilitation Officer are proposed to be sustained.

1. For Article-I

Audit Para No. 1/2000, 2/2000, 4/2000, 5/2000 and 7/2000 of the Report of the Audit Inspection made by the Internal Audit in 2000

2. For Article-II

Audit Para No. 3/2000, 9/2000, 13/2000, 14/2000, 20/2000 and 25/2000 of the Report of the Audit Inspection made by the Internal Audit in 2000

3. For Article-III

Audit Para No. 6/2000 and 18/2000 of the Report of the Audit Inspection made by the Internal Audit in 2000.

4. For Article-IV

Audit Para No. 8/2000 and 10/2000 of the Report of the Audit Inspection made by the Internal Audit in 2000.

5. For Article-V

Audit Para No. 11/2000, 17/2000, 19/2000, 21/2000, 22/2000, 23/2000 and 26/2000 of the Report of the Audit Inspection made by the Internal Audit in 2000.

6. For Article-VI

Audit Para No. 15/2000 and 16/2000 of the Report of the Audit Inspection made by the Internal Audit in 2000

7. Letter dated 22.6.2001 of Shri L.K. Varte, Rehabilitation Officer, Vocational Rehabilitation Centre for Handicapped, Guwahati confessing the committing of the Financial and Administrative Irregularities under charges

*After
Final
Adviser*

ANNEXURE-IV

List of witnesses by whom the articles of charge framed against
Shri L.K. Varle, Rehabilitation Officer are proposed to be sustained.

1. Shri K.K. Baishya, Workshop Foreman,
Vocational Rehabilitation Centre for Handicapped,
Guwahati

*Attested
Mr.
Advocate*

Annexure-2

From: L.K. Varte
Rehabilitation Officer
V.R.C (For handicapped)
Guwahati.

To. The Deputy Director General
(Employment)
Govt. of India,
Ministry of Labour
DGE & T
New Delhi.

(Through proper channel)

Sub:- Submission of reply in respect of memorandum
dated 16.03.2004.

Respected Sir,

I most humbly and respectfully beg to say that I have duly received ^{29.03.04} your memorandum dated 16.03.2004. I have carefully gone through the charges and understood the contents thereof.

Since there are 6 (six) charges leveled against me of alleged financial irregularities in terms of Audit report, therefore, for submission of a detail written statement in support of my defence, I need to go through the original records, documents, vouchers and other documents basing on which Audit submitted its report pointing out the objections of alleged financial irregularities, otherwise it will be difficult on my part to submit a reply defending my case without looking into the original records. Hence I request you kindly to pass necessary orders to the concerned authorities for production of relevant records for my perusal and also grant me at least 4 weeks time for submitting my written statement after perusal of the records. I deny all the charges leveled against me in the memorandum dated 16.03.2004 and it is pertinent to mention here that many of the Audit objections were ^{Made} up, as such the charges are contrary to the records.

*Alleged
Jub.
Advocate*

In the circumstances stated above I humbly request you to grant at least 4 weeks time to submit my written statement after perusal of records, since charges were pertaining to the year 1995 to 1999, hence it is difficult on my part to remember the factual position of the alleged financial irregularities without looking into the records, at this distant point of time to submit my written statement. Therefore it is quite reasonable to look into the records before I submit my written statement.

I hope and trust that your honour would be pleased to grant at least 4 weeks time to submit the written statement after perusal of the records. I also request you to pass necessary order to the concerned authorities to provide the aforesaid records to the undersigned as early as possible.

Yours faithfully

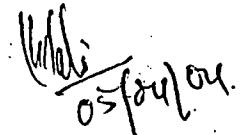


(L.K. VARTE)

Date: 05/04/04.

9c

Original representation Submitted
through the AD (R), VRC for Handicapped,
Rahatari, Guwahati on 05/04/04 (EN).


05/04/04.

भारतीय डाक



INL-SP EE852565937IN
PA : B.K.
To: P.K.RAY.
DELHI NEW DELHI.PIN:110001
From: L K VARTE.GHY
Wt:10grams Pre: 0.00
Amt: 50.00.15/05/2004.09:36:22
.SPEEDPOST.ORG

To

The Deputy Director General
(Employment)
Govt. of India,
Ministry of Labour
DGE & T
New Delhi.

(Through proper channel)

Sub:- Prayer for supply of relevant documents.

Ref:- Your Memorandum No. DGET-I-11018/1/99-EE-II dated 16.03.2004

Respected Sir,

With reference to my reply dated 05.04.2004 against the memorandum dated 16.03.2004, I have not yet received any communication from your end, for any reply, I have prayed for supply of relevant documents to enable me to go through the same to prepare my defense against the alleged charges, which are brought against me by your memorandum dated 16.03.2004

Therefore, I request you to pass necessary order for supply of the relevant documents.

Yours faithfully

Date:- 13.05.2004

TS

(L.K. Varte.)

Attested
for
Advocate

- 1) Advance copy sent by special post on 15/5/04 at GPO Gauhati.
- 2) Original representation submitted through AD (E), VRC for Handicapped on 17/5/04 (FIR)

BY SPEED POST

65

No.DGET-A-11018/1/99-EE-II (Part)
 Government of India/Bharat Sarkar
 Ministry of Labour/Shram Mantralaya
 Directorate General of Employment & Training

Dated, New Delhi the 21st May, 2004

To

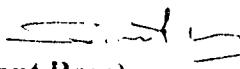
Shri R. Laxmana Samy,
 The Asstt. Director (Rehab)
 Vocational Rehabilitation Centre for Handicapped,
Guwahati.

Subject: Holding an enquiry in various charges against Shri L.K. Varte, Rehabilitation Officer – Interim reply- regarding.

Sir,

I am directed to refer to your letter No.VRCG-G-11017/2/2000/582 dated 5.4.2004 on the subject mentioned above and to say that since Shri L.K. Varte, Rehabilitation Officer has already availed the time of more than four week in submitting his representation to the Charge-sheet dated 16.3.2004, he may not be allowed more time. He may be directed to submit his representation on the Charge- sheet by the end of this month (31st May, 2004). Further with regard to supply of the original documents to Shri Varte, it is intimated that since the charge-sheet is mainly based on the Audit Paras and the copies of the relevant Audit Paras have been supplied to him with the Charge-sheet, original documents cannot be supplied to him at this juncture. However, the same will be shown to him during the course of inquiry, if any.

Yours faithfully,


 (Sant Ram)
 Under Secy. to the Govt. of India

Copy to:

✓ Sh.L.K.Varte, R.O., VRC, Guwahati.

Received on 03/6/04 from AD(R), VRC for
 Handicapped, Guwahati.

Attested
 Smt.
 Advocate

(Habit)
 03/6/04

From:

L.K. Varte
Rehabilitation Officer
V.R.C (For handicapped)
Guwahati.

To.

The Under Secretary to the Govt. of India
Ministry of Labour
Directorate General of Employment & Training.
New Delhi.

(Through Proper channel)

Sub: - Representation regarding charge sheet dated 16.03.2004 and holding of enquiry regarding.

Ref: - Your letter No. DGET-A-11018/1/99-EE-II (Part) dated 21.05.2004.

Respected Sir,

I most humbly and respectfully beg to say that I have duly received your letter dated 21.05.2004, only on 03.06.2004. I have carefully gone through your aforesaid letter and understand the contents thereof.

Further I beg to say that I never disputed the fact that the charges were initiated on the basis of Audit reports only, I have categorically submitted that so far I remember many of the Audit objections were already met up. In some of the cases proposals were sent for Ex-Post facto sanction, therefore it is necessary for perusal of the relevant records based on which, the charges were in fact initiated, otherwise, it will be difficult for me to submit adequate defense on my part at this belated stage. It is necessary to provide me, adequate and reasonable opportunity to go through the original records, documents, vouchers and other relevant documents, based on which Audit submitted its objection. Inspection of the original records and other relevant documents relating to the allegation is very essential for me. It is very difficult to submit my defence statement simply basing on Audit report.

Therefore, I further request you to kindly allow me an opportunity to look into the original records, vouchers and other relevant documents before the undersigned to submit a adequate reply to the charges leveled against me. However, I categorically deny the charges leveled against me through

Attested
for
Advocate

memorandum dated 16.03.2004. I also declare that I am ready to co-operate with enquiry proceeding at every stages of the proceeding.

In the circumstances stated above you are further requested to allow the undersigned to look into the all relevant records to furnish an adequate reply in my defence.

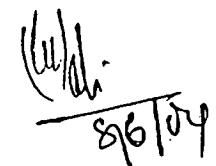
An early reply is highly desired.

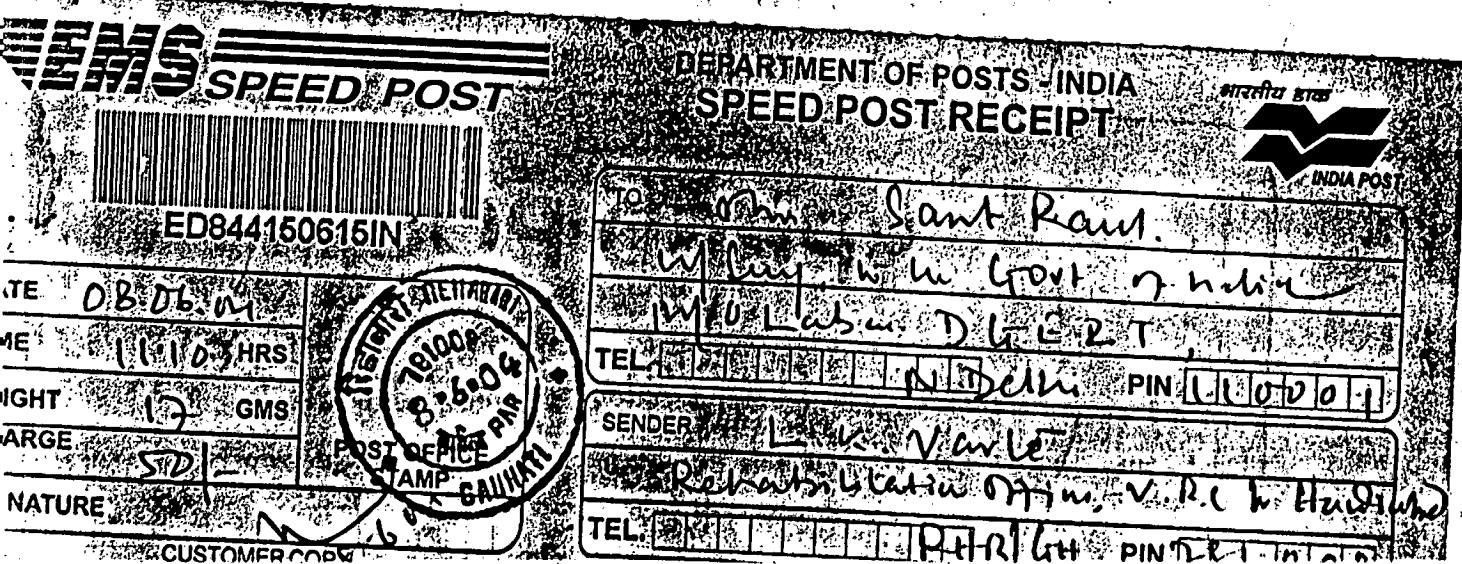
Yours faithfully


(L.K. VARTE)

Date: 08.06.2004

Note: Advance copy & original sent by speed post & submitted personally to AD (R) on 26/04 at 10:30 A.m.


8/6/04



Phone/Fax. 0361-2543776

Govt. of India,
 Ministry of Labour (DGE&T),
 Vocational Rehabilitation Centre for Handicapped,
 Rehabari, Guwahti-781008

No. VRCG-C.11012/1/2004/ 1123

Dated. 09.06.2004

Office Memorandum

Shri L.K. Varte, Rehabilitation of this centre is informed that DGET letter no. A.11018/1/99-EE. II (part) dt. 21.05.2004 is good and sufficient enough to meet the answer of his representation dated 8.6.04. Further, the details of audit paras which he asks have already been circulated to him vide this office letter No. VRC-G.1014/1/2000/227 dt. 27.05.2001.



(R. Lakshmana Samy)
 Asstt. Director (Rehab.)

To,
 Shri L.K. Varte,
 Rehabilitation Officer,
 VRC, guwaghti-781008

Copy to:-

Shri Sant Ram, Under Secretary to Government of India, (EE.II.) Ministry of Labour (DGE&T),
 Sharam Shakti Bhawan, Rafi Marg, New Delhi -110001 and also enclosing the representation of
 Shri L.K. Varte, RO. Of this centre dt.8.6.04.

*Attested
 Dr.
 Advocate*

(R. Lakshmana Samy)
 Asstt. Director (Rehab.)

Received
at 4.00 P.M. 6 days

By Speed Post

No. DGET-I-11018/1/99-EE-II(PI)
Government of India/Bharat Sarkar
Ministry of Labour/Shram Mantralaya
Directorate General of Employment & Training

6/7/04

New Delhi, Dated the 2nd July, 2004

To

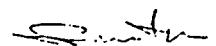
Shri R. Laxmana Samy,
Asstt. Director (Rehab),
VRC for Handicapped,
Guwahati

Subject: Holding an enquiry in various charges against Shri L.K. Varte, R.O.-regarding.

Sir,

I am directed to refer to your endorsement No. VRCG-C-11012/1/2004/1124 dated 9.6.2004 on the subject mentioned above and to say that as per the Government of India instructions under Disciplinary Proceedings, Shri L.K. Varte cannot be supplied original and/or copies of the documents involved in the case against him. However, he would get full opportunity to inspect the listed documents during the course of enquiry. He may be informed of the same and directed to submit his written statement. He may admit or deny categorically all the charges leveled against him, upto 10.7.2004 for further action. A copy of this letter may be given to him and it may be ensured that the reply should be submitted to this office by 10.7.2004 positively failing which it will be presumed that he has nothing to submit for further necessary action in the matter.

Yours faithfully,



(Sant Ram)
Under Secretary to the Govt. of India

Attested
by
Advocate

To.

The Under Secretary to the Govt. of India
 Ministry of Labour
 Directorate General of Employment & Training.
 New Delhi.

(Through Proper channel)

Sub: - Holding an enquiry in various charges against Shri L.K. Varte, R.O- regarding.

Ref: - Your letter No. DGET-I-11018/1/99-EE-II (Pt) dated 02.07.2004.

Respected Sir,

I most humbly and respectfully beg to say that I have duly received your letter dated 02.07.2004 only on 08.07.2004. I have carefully gone through your aforesaid letter and understood the contents thereof.

Further I beg to refer my representation dated 08.06.04 and say that I never disputed the fact that the charges were initiated on the basis of Audit reports only, therefore it is necessary for perusal of the relevant records based on which, the charges were in fact initiated, otherwise, it will be difficult for me to submit adequate defense on my part at this belated stage. It is necessary to provide me, adequate and reasonable opportunity to go through the original records, documents, vouchers and other relevant documents, based on which Audit submitted its objection. Inspection of the original records and other relevant documents relating to the allegation is very essential for me. It is very difficult to submit my defence statement simply basing on Audit report.

Therefore, I further request you to kindly allow me an opportunity to look into the original records, vouchers and other relevant documents before the undersigned to submit an adequate reply to the charges leveled against me. However, I categorically deny the charges leveled against me through memorandum dated 16.03.2004. I also declare that I am ready to co-operate with enquiry proceeding at every stages of the proceeding.

In the circumstances stated above you are further requested to allow the undersigned to look into the all relevant records to furnish an adequate reply in my defence.

Attended
S. K. Varte
Advocate

Date: 9/7/04

Yours faithfully


 (L.K. VARTÉ)

Rehabilitation Officer
 VRC for handicapped
 Rehabari, Guwahati.

No. NES/LKV-C-14014/2/2004/49

Govt. of India

Ministry of Labour, DGE&T

NES Cell, Bahnagar, Bye Lane No. 1

Near Krishna Mandir, Rehbari, Guwahati-781008

Phone: 0361-2132030 (O)

Guwahati, dated the 7th September 2004

To

Shri L. K. Varte,
Rehabilitation Officer,
VRC for Handicapped,
Guwahati-781008

Subject: Departmental inquiry into the charges framed against Shri L. K. Varte,
Rehabilitation Officer, VRC for Handicapped, Guwahati

Sir,

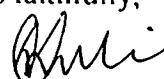
I have been appointed as Inquiring Authority to conduct inquiry in the case above cited, *vide* Order No. DGET-I-11018/1/99-EE-II (Pt) dated the 5th August, 2004 issued by Shri Sant Ram, Under Secretary to the Government of India, Directorate General of Employment and Training, Ministry of Labour, Govt. of India, New Delhi, a copy of which has been endorsed to you.

2. Notice is hereby given to you that the first hearing in the case will commence on 28.09.2004 at 10.00 am at the O/O the Assistant Director (Rehbl.), VRC for Handicapped, Guwahati. In these hearings, full opportunity will be given to you to examine the evidence in support of the charges and to adduce evidence in your defence.

3. You should present yourself in time to attend the aforesaid oral inquiry on the date specified above and on the date/dates as may hereafter be fixed and intimated to you. You are also required to intimate the name, address and details of Defence Assistant if any within 20th September 2004. In case you fail to appear on the appointed date and time, the proceedings will be taken *ex parte*.

4. Receipt of this notice may please be acknowledged.

Yours faithfully,



(K.L. Kuli)

Inquiring Authority

Copy to Shri R. Laxmanasamy, Assistant Director, VRC for Handicapped, Guwahati and Presenting Officer in this case. He is also requested to attend the regular hearing at the appointed date and time.

Inquiring Authority

Attested
for
Advocate

To

Sri K.L. Kuli (Inquiry Officer)
Deputy Director (Training),
NES Cell,
Ministry of Labour (DGE & T),
Guwahati- 8.

Sub: - Prayer for permission for inspection of relevant documents, records, listed documents relied on which the memorandum of charge sheet dated 16.03.04 was issued.

Sir,

I like to draw your kind attention on the subject cited above and further beg to state that inspite of my repeated request I have not been provided with any opportunity for inspection of the relevant documents/listed documents relied in the memorandum of charge sheet dated 16.03.04. And as a result I could not even advance my proper defence against the charges labeled against me. In the memorandum of charge sheet dated 16.03.04 a series of charges were brought against me regarding financial irregularities but till date I have not been allowed to inspect those documents, records, vouchers, since the allegations pertaining to January, 1995 to July, 1999 it is difficult on my part to put forward adequate defence on my part without looking into records. Inspection of records, documents, vouchers will take sufficient time, therefore I once again request you to allow me to go through the original records so that I can recollect the actual state of affairs. It is also relevant to mention here that many of the audit objections which were included in the charge sheet have already been dropped and against many of the items ex-post facto sanction also obtained and in some cases request for ex-post facto were placed before the appropriate authorities and in some cases request have been made from time to time for ex-post facto sanction, therefore without perusal of the records it is difficult on my part to defend my case.

In view of the facts and circumstances stated above I further request you to allow me a reasonable opportunity for inspection of the original records and other relevant documents.

An early action in this regard is highly desired.

*Adhikar
Jan. Adhikarate*
Yours faithfully

L.K. VARTE
16/3/04
(L.K. VARTE)
Rehabilitation Officer
VRC for handicapped
Rehabari, Guwahati.

Date: 16/3/04

Received at 12.15PM
on 16/3/04
by L.K. VARTE
on 16/3/04

From: Shri L.K.Varte,
Rehabilitation officer,
VRC for Handicapped, Rehabari,
Guwahati-781008.

To,

Shri K.L. Kuli, (Inquiry Officer),
Deputy Director (Training),
NES Cell, Ministry of Labour(DGE&T),
Guwahati-781008.

Subject: Prayer for supply of following documents for inspection
for preparing adequate defense of the undersigned against
memo. of charge sheet, dated 16.03.2004.

Sir,

I have the honor to request you that kindly allow me to inspect the following documents/vouchers pertaining to the Audit objections shown in the list of documents by which the Articles of charges against me and proposed to be sustained.

I pray for inspection of all the original vouchers/bills pertaining to Audit Para No. 1/2000, 2/2000, 4/2000, 5/2000, 7/2000, 3/2000, 9/2000, 13/2000, 14/2000, 20/2000, 25/2000, 6/2000, 18/2000, 8/2000, 10/2000, 11/2000, 17/2000, 19/2000, 21/2000, 22/2000, 23/2000, 26/2000, 15/2000 and 16/2000 of the Report of the Audit Inspection made by the Internal Audit in 2000.

I further request you to supply all relevant correspondences made by the undersigned with the DGE&T Hqrs. Office for ex-post facto sanctions where irregularities in purchasing were alleged by the Audit Reports.

I further request you to produce and supply the relevant documents/Office Orders where ex-post facto sanction has been accorded by the Hqrs. Office on the basis of our correspondences. I also points out that in the following items ex-post facto sanction has already been prayed for, from the Hqrs. Office and in certain cases Audit objections has already been dropped. The relevant portion of the Audit objections against the items purchased where ex-post facto sanction were asked for, and where certain Audit objection were already dropped, but mentioned in the Charge-Sheet are quoted below, praying inter-alias for supply of all relevant documents including the Office orders by which Audit objections were dropped.

1. Article I(a)	Purchase of Fixtures & Furnitures; period 1995 – 1999 for Rs. 1,69,851/-	Internal/Audit para 1 of 8/2000	Audit advised to investigate and to obtain ex-post facto approval/sanction to regularize the same.	Accordingly, while explaining the factual position, a request made for ex-post facto sanction vide my para-wise replies dated 22.6.2001.	
2. Article I (b)	Purchase of T&P/M&E materials for Rs. 71,580/- during 1999.	Internal/Audit para 2 of 8/2000	-do-	-do	
3. Article I(c)	Purchase of Raw materials for Rs. 96,864 for the year 1997-99.	I.A. para 4 of 8/2000	-do-	-do-	
4. Article I (d)	Disposal of condemned vehicle no. AMK – 5830	I.A. para 5 of 8/2000	Needs to be investigated and explained to audit.	While explaining the factual position request made to regularise the disposal of the old vehicle for which not following some norms	
5. Article I (e)	Irregular expenditure on repairing of vehicle for Rs. 75,095/-	I.A. para 7 of 8/2000	Audit advised needs to obtain ex-postfacto sanction/approval to regularize the same under intimation to audit	Accordingly, while explaining the factual position, a request made for ex-post facto sanction vide my para-wise replies dated 22.6.2001.	
6. Article II (a)	Irregular purchase of electronic goods	I.A. para 20 of 8/2000	Audit advised to investigate and to obtain ex-post facto approval/sanction to regularize the same.	-do-	
7. Article II (b)	Telephone bills for the period 1995-2000 (i.e. 6 yrs.) for Rs. 95,062/-	I.A. para 9 of 8/2000	Audit advised needs to obtain ex-postfacto sanction or recovery to intimidate them.	-do-	
8. Article II(c)	Purchase of 7nos. Ceiling fans @ Rs.885/- per set. Total amount Rs.6,195/-	I.A para 13 of 8/2000	Audit advised to obtain ex-post facto sanction to regularize the same	Accordingly, while explaining non-availability of DGSD rate contract for ceiling fans at that time, request for ex-post facto sanction made.	
9 Article II(d)	Minor work of Floor Repairing for Rs. 35,670/- during 1999	I.A para of 14 of 8/2000	-do-	Accordingly, while explaining the factual position of the old Assam type bldg. owned by the DECT, Assam and inability of CPWD to approved for repairing request made for post sanction/approval vide my letter dt.22/6/2001	
10. Article II(f)	Purchase of Stationary during 1995 to 2000 (6 yrs.) for Rs. 1,27,795/-	I.A. 25 of 8/2000	Audit advice stock verification and if shortfall to be recovered.	Yearly stock verification done and till date no material is found short.	

12. Article II (a)	Payment of Rs. 3,35,270/- for purchase of Mahindra & Mahindra Jeep	I.A. Para 6 of 8/2000	Audit advised to regularize the access amount of 18,034/- being the price increase and sanction at the time of approve is Rs. 3,17,236/-	Accordingly the factual position of the purchase had been explained in my Parawise reply to the DGE&T Hqrs. Through the Supdt. Vide letter dated 22/6/04.	
13. Article III(b)	Scotter Advance for self Rs. 30,000/-	I.A. Para 18 of 8/2000		Recovery made	Being dropped
14. Article IV (a)	LTC Advance	I.A. Para 8 of 8/2000			Dropped
15. Article IV(b)	TA/DA Advances	I.A. Para 10 of 8/2000			Dropped
16. Article V (a)	Honararium to Staff and self during 1998 to 1999 Rs. 8800/-	I.A. Para 11 of 8/2000	Audit advised ex-postfacto sanction or to recover from each of the staff	Accordingly while explaining the factual position request made for ex-postfacto sanction to regularize	
Article V (b)	Payment of SDA to staff till Feb 2000	I.A. Para 17 of 8/2000	(Note: As per the latest order recovery not required)		Being dropped
18. Article V (c)	GPF Advances of self being R.O.	I.A. Para 19 of 8/2000	Audit advised to obtain ex-postfacto approval to regularize.	Long back the advances had already been recovered. Also ex-postfacto sanction request made vide letter dated 22/6/2001	
19. Article V (d)	Excess bus fare to staff	I.A. Para 21 of 8/2000			Dropped
20. Article V (e)	Payment of OTA to staff	I.A. Para 22 of 8/2000			Dropped
21. Article V (f)	Daily wages for stenography/typing of Rs. 2,956/-	I.A. Para 23 of 8/2000	Audit advised to obtain ex-postfacto sanction from DGE&T Hqrs.	Accordingly while explaining the factual position request made for ex-postfacto sanction to regularize	
22. Article V (g)	Rail-fare to staff	I.A. Para 26 of 8/2000			Dropped
Article VI (a)	Entries in cash book	I.A. Para 15 of 8/2000			Dropped
24. Article VI (b)	Receipt book	I.A. Para 16 of 8/2000			Dropped

The above mentioned documents may kindly be allowed me to inspect before preliminary sitting of the Inquiry, so that I can prepare my defence. I do also, want to verify the above mentioned documents whether the irregularities leveled against me, pertained to my tenure as Superintendent in-charge.

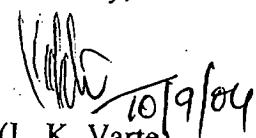
It is ought to be mentioned here that my letter, dated 22.06.2001 is not my confession letter, and it is not the case of the state, that the materials purchased by the undersigned were not received in good conditions, but the only allegations leveled against me, that the purchase has been made beyond the financial powers delegated to the undersigned, and/or without prior permissions.

I also pray that the following persons may kindly be summoned as defense witnesses in the proposed Inquiry proceeding; Mr.Baladev Sarma, Vocational Instructor (Radio & TV), VRC for Handicapped, Guwahati-8

I therefore, request you to kindly supply the above mentioned documents as early as possible to enable me to prepare my defence.

Yours faithfully,

Date: 10-09-2004


(L.K. Varte)

Received 4 (four)
streets
13/09/04

Attested
Dinesh
Advocate

Received on
11/8/04
V.K.R.

By Speed Post

No.DGET-I-11018/1/99-EE-II(Pt)
Government of India/Bharat Sarkar
Ministry of Labour & Employment
Directorate General of Employment & Training

New Delhi, Dated the 5th August, 2004

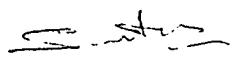
O R D E R

WHEREAS an inquiry under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 is being held against Shri L.K. Varte, Rehabilitation Officer, Vocational Rehabilitation Centre for Handicapped, Guwahati.

AND WHEREAS the President considers that a Presenting Officer should be appointed to present on behalf of the President the case in support of the articles of charge:

NOW, THEREFORE, the President, in exercise of the powers conferred by Sub-rule (5) (c) of the said Rule, hereby appoints Shri R. Laxmana Samy, Assistant Director, V.R.C. for Handicapped, Guwahati, as Presenting Officer.

(By order and in the name of the President)


(Sant Ram)

Under Secretary to the Govt. of India

Copy to:

1. Shri L.K. Varte, Rehabilitation Officer, Vocational Rehabilitation Centre for Handicapped, Guwahati.
2. Shri K.L. Kuli, Deputy Director Trg., NES Cell, Guwahati and Inquiring Officer in this case.
3. Shri R. Laxmana Samy, Assistant Director, V.R.C. for Handicapped, Guwahati and Presenting Officer, with a copy of Charge-Sheet. All the original documents, Audit Report etc. are already available in the Centre. The same may be arranged and be kept ready for the Inquiry.
4. Adm.II Section/VFTA Section, DGE&T for information.

*A Handicapped
Advocate*

By Speed Post

Revised on
11/8/04
L
No.DGET-I-11018/1/99-EE-II(P1)
Government of India/Bharat Sarkar
Ministry of Labour & Employment
Directorate General of Employment & Training

New Delhi, Dated the 5th August, 2004

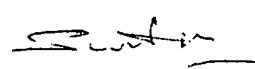
O R D E R

WHEREAS an inquiry under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, is being held against Shri L.K. Varte, Rehabilitation Officer, Vocational Rehabilitation Centre for Handicapped, Guwahati.

AND WHEREAS the President considers that an Inquiring Authority should be appointed to inquire into the charges framed against the said Shri L.K. Varte;

NOW, THEREFORE, the President, in exercise of the powers conferred by Sub-rule (2) of the said Rule, hereby appoints Shri K.L. Kuli, Deputy Director Trg., NES Cell, Guwahati, as Inquiring Authority to inquire into the charges framed against the said Shri L.K. Varte.

(By order and in the name of the President)



(Sant Ram)

Under Secretary to the Govt. of India

Copy to:

- ✓ 1. Shri L.K. Varte, Rehabilitation Officer, Vocational Rehabilitation Centre for Handicapped, Guwahati.
- 2. Shri K.L. Kuli, Deputy Director Trg., NES Cell, Guwahati with a copy of the Charge-Sheet and copy of order of appointment of Presenting Officer.
- 3. Shri R. Laxmana Samy, Assistant Director, Vocational Rehabilitation Centre for Handicapped, Guwahati.
- 4. Adm.II Section/VFTA Section, DGE&T for information.

To

Director General of Employment & Training
The Disciplinary Authority,
Ministry of Labour & Employment,
Govt. of India,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi- 110001.

(Through proper channel)

Sub:- Prayer for change of Presenting Officer on account of misbehaviour with the undersigned and my Defence Assistant.

Respected Sir,

I would like to draw your kind attention on the subject cited above and further beg to say that Shri R. Lakshmana Samy was appointed as presenting officer in the disciplinary proceeding initiated against me through memorandum No. DGET-11018/1/99-E II dated 16.03.04. It is relevant to mention here that Shri R. Lakshmana Samy presently serving as Assistant Director (Rehabilitation) VRC for handicapped, Guwahati, Guwahati. On the last occasion i.e. on 12.06.06 when the inquiry proceeding was going on Shri R. Lakshmana Samy misbehaved with the undersigned and also with my defence/assistant Shri T.K. Paul, AAO, CWC, Guwahati in course of hearing. It is observed very often Shri Lakshmana Samy gets agitated and becomes violent during the course of hearing and it appears to me that his attitude is very harsh and vindictive towards me. In each and every occasion whenever there is a sitting of the inquiry proceeding Shri Lakshmana Samy creates a very unhealthy situation and makes an attempt to impose orders, restriction and behaves in a very shockingly rude manner with me and also with my defence assistant. It is needless to mention here that with the

Attested
Sar.
Advocate

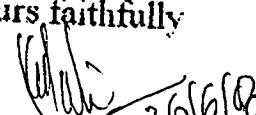
interference of Shri Kuli, the Hon'ble inquiry officer, we could somehow able to participate in the inquiry proceeding but on the last occasion Shri Lakshmana Samy lost his temper beyond all proportion without any sort of provocation and misbehaved with the undersigned and my defence assistant and in fact Shri Lakshmana Samy was obstructing the proceeding to continue smoothly and fairly. It is relevant to mention here that Shri R. Lakshmana Samy, Asstt. Director, who had sworn and filed the affidavit before the learned Central Administrative Tribunal in O.A No. 127/2004 (Shri LK Varte- Vs- U.O.I & Ors.) and also in O.A. No. 240/2004 (Shri LK Varte Vs- U.O.I & Ors.) on behalf of other respondents but it appears to me after declaration of my judgment in O.A. No. 127/2004 he has become more vindictive and aggressive in nature and very often lose his temper in the inquiry proceeding with the sole intention to defeat the very purpose of the inquiry proceeding with an attempt to close down the inquiry proceeding in an ex parte manner without providing reasonable opportunity to examine each and every listed document which is relied upon by the disciplinary authority in order to sustain the charges in other words the attempts of Shri L. Lakshmana Samy to held me guilty without any detail inquiry. It is understood from the reliable source that Shri Lakshmana Samy is apprehending in the event of my exoneration from the charges there is every possibility on my part to gain seniority over Shri Lakshmana Samy in the cadre of Asstt. Director since the undersigned belongs to ST category and therefore Shri Lakshmana Samy started to misbehave with me and with my defence assistant and obstructing the fair process of inquiry. It is also relevant to mention here that Shri R. Lakshmana Samy is always very rude in his behaviour towards me since his joining at VRC Guwahati. It is ought to be mention here that at Shri R. Lakshmana Samy with an ill motive stopped my Special Duty Allowance, which was subsequently issued to me only following the verdict of the learned CAT, Guwahati Bench. Therefore,

it appears that all along Shri R. Lakshmana Samy is maintaining a very bad relation with me.

In the circumstances stated above, the undersigned has no other alternative but to approach before your honour for change of presenting officer Shri R. Lakshmana Samy in the ongoing disciplinary proceeding on account of frequent misbehaviour and misdemeanor in the inquiry proceeding. It is further requested to keep the inquiry proceeding in abeyance till a decision is taken on my request for change of presenting officer.

Yours faithfully

Date: 26/06/2006.


(L.K. VARTE)
Charged official.
Assistant Director (Rehab.),
VRC for handicapped,
Abhya nagar, Agartala, Tripura.

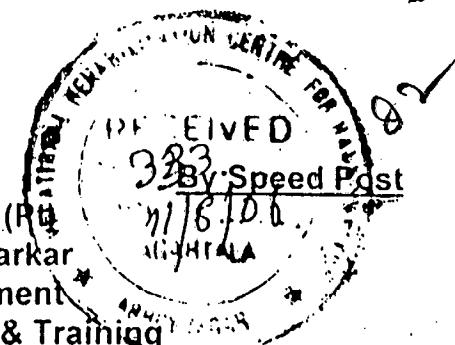
Copy to:-

1. Deputy Director General (Employment), Ministry of Labour & Employment, Govt. of India, Shram Shakti Bhawan, Rafi Marg, New Delhi- 110001.

2. Shri K.L. Kuli (Inquiry Officer), Deputy Director (Training), NES Cell, Ministry of Labour (DGE & T), Guwahati- 781008
for information and necessary action.

Attn: Mr. K.L. Kuli, Deputy Director (Training), NES Cell, Ministry of Labour (DGE & T), Guwahati- 781008
Dear Sir,
I am writing to you to draw your attention to the following matter. I have been working in the VRC for handicapped, Abhya nagar, Agartala, Tripura for the last 10 years. I have been maintaining a very good relationship with my superiors and colleagues. However, there is one person in the VRC who is creating a very unpleasant atmosphere and causing a lot of trouble. This person's behaviour and restriction and behaviour is very shocking. Every member of the VRC is in touch with my defence assisant. It is needless to mention that that person

- 52 -

RKC
10/8/2006
OS

No.DGE&T-I-11018/1/99-EE-II (Rt)
 Government of India/Bharat Sarkar
 Ministry of Labour & Employment
 Directorate General of Employment & Training

14/8/06
To

New Delhi, Dated the 28th July, 2006

The Asstt.Director (Rehab),
 Vocational Rehabilitation Centre for Handicapped,
 Abhoynagar, Agartala,
Tripura West

Subject: Departmental Inquiry against Shri L.K.Varte, the then R.O.,
 Vocational Rehabilitation Centre for Handicapped, Guwahati.
 Sir,

I am directed to refer to your letter No.F-VRC/AGT/Est./A-11025/LKV)/257 dated 27.6.2006 on the subject mentioned above and to say that the representation of Shri L.K. Varte, the then RO, Vocational Rehabilitation Centre for Handicapped, Guwahati for change of Presenting Officer in his case has been considered but his request has not been acceded to by the Department.

Yours faithfully,

Sant Ram

(Sant Ram)
 Under Secy. to the Govt. of India
 Telephone No. 23001465

Copy to:

1. The Asstt.Director (Rehab), Vocational Rehabilitation for Handicapped, Guwahati for information.
2. Shri K.L. Kuli (Inquiry Officer), Deputy Director (Training), N.E.S. Cell, M/O Labour & Emp. (DGE&T), Guwahati-781008 for information and with the request that the enquiry proceeding may be completed at the earliest possible.

(Sant Ram)
 Under Secy. to the Govt. of India

GOVERNMENT OF INDIA
MINISTRY OF LABOUR
O/C THE DY. CONTROLLER OF ACCOUNTS
INTERNAL AUDIT ORGANISATION
ROOM NO. 612
JIHAR SHAKTI BHAVAN
NEW DELHI-110 001

left

No. IA-LAB/VR-C-Guwalati/2000-01/1150
Date: 28/11/2k

To, Sh. R. Narasimhan,
Dy. Director of Exchanges,
E.E.TT Section (D.G.E.T.),
Ministry of Labour, New Delhi.

20/11/2000

Subject : Inspection Report on the account of V.R.C. Guwalati.

Sir,

I send herewith a copy of the Inspection Report on the accounts of your office conducted by the Internal Audit/DC party during 21.8.2000 to 31.8.2000 for necessary action. A copy of the Audit objection may please be sent to this office within a month from the date of receipt of Inspection Report.

Yours faithfully,

SD
ACCOUNTS OFFICER(IA).

Copy alongwith a copy of Inspection Report on the accounts of V.R.C. Guwalati forwarded for information and necessary action to Shri K.K. Bhatt, Superintendent, Vocational Rehabilitation Centre, Rehabsari, Guwalati

Assam

SD
ACCOUNTS OFFICER(IA)

Encl : as above.

Attested
for
Advocate

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI -5**

O.A. NO.227/2006

Shri Lienkhawthang Varte Applicant

VS

Union of India and others. Respondents

WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS
NO. 1 TO 5

The written statement on behalf of the above noted respondent are as follows:

1. That the copies of the O.A. No 227/2006 (hereafter referred to as the "Applicant") have been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of the entire respondents being similar, therefore, the common reply is humbly filed for and on behalf of all of them.

2. That the statements made in the application which are not specifically admitted by the respondents are hereby

denied. The statements which are not borne on records are denied and the applicant is put to strictest proof thereof.

3. Brief facts of the case:

That the applicant while functioning as Superintendent I/c of Vocational Rehabilitation Centre for Handicapped, Guwahati from 31-1-1995 to 19-7-1999 committed grave misconduct and financial irregularities by misusing the powers of Head of Office and Cheque Drawing and Disbursing Officer of the office of Vocational Rehabilitation Centre for Handicapped, Guwahati. An administrative inspection conducted in Aug 1999 found that the applicant had misused his powers for personal gain, committed several financial irregularities and the materials and equipments purchased to impart training for Handicapped were shifted to his residence for personal use. A copy of the report on administrative inspection dated 12-11-1999 is annexed as

Annexure R-1.

Subsequently an Audit inspection which was conducted in the following year i.e. 2000 discovered major financial irregularities and unauthorized expenditure of the applicant and asked for a detailed investigation and submitted its

report in the year 2001. That the applicant was asked to give his explanation against the audit report by supplying a copy of the detailed audit report and the applicant confessed his financial irregularities and unauthorized expenses vide his letter dated 22-06-2001. Since the financial irregularities were running into Rs 16,69,670, in an office where the financial powers vested for the Head of Office was below Rs. 1500/- per month, the Department needs to consult with related Departments in the Ministry such as Internal Audit Organization , Pay and Accounts Office and Law Division before framing charges and so the charge sheet was issued on 16-3-2004 to the applicant with a direction to give his defence statement in reply against the charge sheet within a period of 10 days. After receipt of the charge sheet the applicant was using dilatory tactics at every stage by way of sending representation one after another to DGE&T, New Delhi under the title “the Inspection of Documents” and the inspection of Documents does not arise at the stage of giving reply against the charge sheet as per CCS (CCA) rules.

4. That with regards to the statements made in paragraph 4.3 of the application the respondents beg to state that the

Audit objections were not only based on procedural violations but also alleged that the applicant was not following with any codal formalities as envisaged under 102 (I), 103 and 104 of GFR and further brought out major irregularities and not observing any conditional formalities such as calling for quotations from various registered firm, making comparative statements to asses the competitive rates, taking due approval from competent authority, placing of supply orders, verification of materials , making store entries, certification of store officer, maintenance of Goods Inward Register and payment from for the competent authority (Payments in the form of Demand Drafts to be issued by the PAO, New Delhi)and so on .It is evident from the listed documents by which the article of charges framed against the applicant under Annexure III along with audit report that the purchase were made from the unauthorized and private parties/ shops and were beyond the delegated powers of the applicant as Head of Office and needs to take due approval from Head Quarters at New Delhi, and payments have to be made by PAO, New Delhi and not by the applicant himself. The purchases were made only from specific and particular unauthorized shops, which gives a

doubt of genuine purchases. It is wrong to say that there was no allegation regarding misappropriation of Government money because the allegation of financial irregularities includes misappropriation of Government money and on reading the charge sheet , it appears that bills and cash memos from unauthorized private parties /shops have been made as vouchers by misusing the powers of Head of Office and Cheque Drawing Disbursing Officer of the office without any due approval from competent authority and as a single hand dealings for the personal gain of the applicant.

5. That with regards to the statements made in paragraph 4.4 of the application, the respondents beg to state that the applicant was in receipt of the charge sheet dated 16-3-2004 along with necessary enclosures and list of documents by which article of charges framed under annexure -III along with Audit report which runs into 59 pages and asked for defence statement to reply against charge sheet within a period of 10 days. That the applicant started using dilatory techniques and instead of giving reply against the charge sheet, the applicant started giving representations one after another to DGE&T, New Delhi under the title of "Inspection

of Documents" and the inspection of documents does not arise at the stage of giving reply against the charge sheet as per CCS(CCA) rules.

It is wrong to say that disciplinary proceedings was initiated after a lapse of 9-10 years. The audit was conducted in the year 2000 and submitted its detailed report on financial irregularities and unauthorized expenditure of the applicant in the year 2001. That the applicant was given a copy of the audit report and asked his explanation and in turn the applicant confessed his financial irregularities and unauthorized expenditure vide his letter dated 22-6-2001. A copy of the letter is annexed as Annexure -R II. Since the financial irregularities and unauthorized expenditure of the applicant was running into Rs.16,69,670/- where in an office the financial powers vested with Head of Office was below Rs. 1500/- per month, the department needs to consult with related Departments in the ministry such as Pay and Accounts Office, Internal Audit Organization and Law Division and thus the charge sheet was issued on 16-3-2004. The Disciplinary proceedings were initiated after the receipt of audit report in the year 2001 and due opportunity was

given to the applicant to give his explanation against the financial irregularities and unauthorized expenditure specified in the audit report.

6. That with regard to the statements made in the paragraph 4.5 of the application, the respondents beg to state that the applicant sought a period of 4 weeks time to give a representation against the charge sheet vide his letter dated 5-4-2004 and after a lapse of 4 weeks time the applicant does not give any statement of reply against the charge sheet. Hence the office of the DGE&T, New Delhi, vide letter dated 21- 05 -2004 advised the applicant to submit his representation on the charge sheet to continue with the proceedings and after receipt of the said letter also the applicant made an another representation dated 08-06-2004 raised some doubts on settlement of any audit paras covered in the charge sheet. That with regard to the Ex-post facto sanction or dropping of any audit paras under the proceedings; neither any proposal was sent by the applicant during his tenure as Superintendent. I/c nor any para was dropped.

7. That with regard to the statements made in the paragraph 4.6 and 4.7, it is stated that the same are true, but the conclusion part of the paragraph such as "competent authority is determined not to allow the applicant to inspect the relevant documents before submission of written statement" is denied. It is pertinent to point out that the inspection of documents does not arise at the stage of giving reply against the charge sheet as per CCS (CCA) Rules, the delinquent officer need not be shown the documents at the stage to enable him to prepare his defense statement in reply to charge sheet. In this connection, the extract from the advice of the Ministry of Law are reproduced below.;

"The scheme of Rule 14 of the CCS (CCA) Rules is somewhat different from the scheme contained in Rule 15 of 1957 Rules. The scheme contemplates that the statements of defence submitted under the sub -rule (5)(a) may be limited to admitting or denying the charges communicated to the officer. For such admission or denial inspection of documents is not necessary."

A copy of the extract in the Swamy's manual of Disciplinary proceedings is annexed as Annexure R-III.

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8. That with regard to the statements made in the paragraph 4.8 of the application, the same are matters of record.

9. That with regard to the statements made in the paragraph 4.9 of the application, the respondents beg to state that the first part of the paragraph is a matter of record but the 2nd part of the paragraph 4.9 of the application is denied. The audit inspection was conducted in the year 2000 and was submitted its report in the year 2001 and subsequently the applicant was asked to give his explanation against the financial irregularities and unauthorized expenditure committed by him and the applicant confessed his financial irregularities and unauthorized expenditure vide his letter dated 22-06-2001. - Since the financial irregularities and unauthorized expenditure of the applicant was running into Rs. 16,69,670/- where in an office the financial powers vested with Head of Office was below Rs. 1500/- per month, the department needs to consult with related departments in the ministry such as Pay and Accounts Office, Internal Audit Organization and Law Division and thus the charge sheet was issued on 16-3-2004. The

disciplinary proceedings was initiated after the receipt of audit report in the year 2001 and an opportunity was given to the applicant to give his explanation against the financial irregularities and unauthorized expenditure stated in the audit report. The charge sheet was issued on 16.03.2004 with a direction to the applicant to submit his defence statement in reply within a period of 10 days. However, by making several representations one after another to DGET, New Delhi, the applicant delayed the proceedings by 4 months as against the provisions under Rule 14, of CCS (CCA) 1965.

That the respondents deny the statement made in the paragraph such as " it appears that the authority are working with the pre-determined notion to complete disciplinary proceedings in the name sake without providing reasonable opportunities to the applicant by restraining him to inspect the relevant documents to prepare his defence statement when disciplinary proceeding under Rule- 14 CCS (CCA) – 1965." , because the question of inspection of documents does not arise at the stage of giving reply against the charge sheet. As per CCS(CCA)Rules, the delinquent officer need not be shown the documents at the stage to enable him to

prepare his defence statements in reply to charge sheet, (Annexure -III) and the question of inspection of documents does not arise at the stage of giving reply against the charge sheet

10. That the contents made in the paragraph 4.10 are denied.

It is relevant to mention here that the applicant was of the opinion that the relevant bills and vouchers pertaining to the audit objection which was held about 10 years back may not be available and possible to be produced for inspection if demanded. But on the contrary even in the first hearing on 28.09.04 all relevant bills and vouchers pertaining to the audit para-1 of the audit report was submitted to the Enquiry officer and with relevant documents such as Bills and vouchers, Respondent -5 proved the contention of the said audit report, hence the applicant seems to be unhappy with Respondent -5 as Presenting Officer.

11. That with regard to the statements made in the paragraph 4.11 of the application, it is stated that it is a matter of record.

12. That with regard to the statements made in the paragraph 4.12 of the application, the Respondents have no comments

to offer. That the Annexure -11 of the application is a routine forwarding letter of the Internal Audit Organization of the Ministry of Labour (DGE&T), New Delhi to Vocational Rehabilitation Centre for Handicapped, Guwahati.

13. That with regard to the statements made in the paragraph 4.13 of the application, the respondents beg to state that the applicant was in receipt of charge sheet dated 16.03.2004 with a direction to submit his defence statement in reply to the charge sheet within a period of 10 days. However, the applicant delayed the same under the title of "Inspection of documents" and by way of giving several representations one after another to DGET, New Delhi and in accordance with Law the inspection of documents does not arise at this stage.

As per the provisions under Rule -14 of CCS (CCA) Rules, the delinquent officer need not be shown the documents at the stage to enable him to prepare his defence statement in reply to charge sheet (Annexure R -III).

That with regard to the observations of Hon'ble Supreme Court made in the paragraph of the application it is stated that it does not hold any ground in the instant case because the applicant was provided all original bills, vouchers and

documents related in the audit paras which are in the official custody of Vocational Rehabilitation Centre for Handicapped Guwahati in the first hearing dated 28-09-2004 itself for inspection and the same was inspected and recorded in the Daily Order Sheet of the proceedings (page no. 5), Subsequently the copies of the original documents were provided to the applicant in the proceedings as under P-4 (55 Pages), P-7 (40 Pages), and P-8 (126 Pages) on 3rd hearing on 27 -12 -2004, 6th hearing on 13-04-2005 and 12th hearing on 10-04-2006 respectively. The applicant was also provided the listed documents by which the charge sheet was framed under Annexure -III along with audit report. The applicant was also allowed to inspect the original documents of the above copies, which are in the official custody of Vocational Rehabilitation Centre for Handicapped, Guwahati along with Enquiry Officer on 08-09-2006 and provided 176 pages of documents under P-9 . It is relevant to mention here that after receipt of such a voluminous documents of 451 pages both by enclosures of Charge Sheet and in the official custody of Vocational Rehabilitation Centre for Handicapped Guwahati, the

applicants claim under "inspection of documents" is clearly a defensive mechanism to delay the proceedings.

14. That with regard to the statements made in Para 4.14 of the application, the respondents beg to state that the financial irregularities of the applicant include misappropriation of Govt money because none of the codal formalities specified under GFR 102(i), 103,104 were observed while making purchases and unauthorized expenditure was incurred beyond the powers of Head of Office without taking due sanctions from Head quarters and so while submitting the detailed report , the audit party made a request to have detailed investigation in all financial irregularities and incurring unauthorized expenditure made by the applicant.

While going thorough the audit report, it appears that the unauthorized bills and cash memos from private parties/ shops have been made as vouchers by misusing the powers of Head of Office and Cheque Drawing Disbursing officer for Vocational Rehabilitation Centre for Handicapped, Guwahati as a single hand dealings for his personal gain.

15. That with regard to the statements made in the paragraph 4.15 of the application, the respondents beg to state that the

applicant was posted at Vocational Rehabilitation Centre for Handicaped, Agartala and his family members are staying at Guwahati and thus the applicant makes himself comfortable to visit Guwahati at the instant of delaying the proceedings under the title of "inspection of documents" despite receipt of huge voluminous documents.

16. That with regard to the statements made in paragraph 4.16, the respondents have no comments to offer.
17. That with regard to the statements made in the paragraph 4.17, the respondents beg to state that neither any proposal to drop any audit para with justification was made by the applicant during his tenure as Superintendent In-charge nor any request for Ex-post –facto sanction was received by the H.qtrs.
18. That with regard to the statements made in the paragraph 4.18 of the application, the respondents have no comments to offer.
19. That with regard to the statements made in the paragraph 5.1 to 5.6 of the application the respondents state that the ground shown by the applicant are not tenable in law as well

as fact of the instant case and therefore, the application is liable to be dismissed.

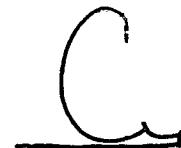
20. That with regard to the statements made in the paragraph 6 & 7 of the application the respondents have no comments to offer.

21. That with regard to the statements made in the paragraph 8.1 to 8.5 including 9(i) of the application, the respondents state that in view of the matter and facts of the case and the provision of Law as explained herein above the application is liable to be dismissed with cost,

VERIFICATION

I, Shri R. Lakshmana Samy, at present working as Asstt. Director (Rehab.) at Vocational Rehabilitation Centre for Handicapped, Ministry of Labour & Employment, DGE&T, Rehabari, Guwahati being duly authorized and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para 1, 2 are true to my knowledge and belief, those made in para 3 to 21 being matter of records are true to my information derived there from and the rest are my humble submission and statements made on legal advice before this Hon'ble Court. I have not concealed and suppressed any material fact.

And I sign this verification on this 18 th day of December 2006 at Guwahati.



DEPONENT

Shri R. Lakshmana Samy
Asstt. Director (Rehab.)
Vocational Rehabilitation Centre for Handicapped, Guwahati

SI. 7 (R)

BY SPEED POST

No. DGET-I-11018/1/99-EE-II

Government of India/Bharat Sarkar
Ministry of Labour/Shram Mantralaya
Directorate General of Employment & Training

.....

New Delhi, dated the 12th Nov., 99

OFFICE MEMORANDUM

Whereas Shri L.K. Varte, Rehabilitation Officer, V.R.C. for Handicapped, Guwahati was looking after the work of the Centre as Superintendent Incharge.

Whereas the Inspection Team from the Directorate made an administrative Inspection of V.R.C. Guwahati during the period of 6/8/99 to 12/8/99. During their visit the following irregularities/short comings were noticed by them:

- I. Shri L.K. Varte, R.O. was not available in the Office to co-operate with the Inspection Team for the period of Inspection on 10/8/99 and application for two days CL for 10/8/99 and 11/8/99 was received from him for his Medical Check-up. His leave was not granted. He was informed of the same over telephone by the Supdt. and was instructed to come to office and be available for any query/clarification by the Inspection Team since he was the Supdt. I/C. for a long time before the regular Supdt. was posted. But he did not turn up and thus did not co-operate in Inspection. This shows his negligence of duty.
- II. Office vehicle of the Centre was not seen in the office by the Inspecting Team. On enquiry it was noticed that the vehicle had been kept under the custody of D.C. Guwahati on the basis of a simple order stated to have been issued from D.C. office, Guwahati (which had been issued without marking to any officer). Secondly the Log Book for the Vehicle of the Centre was also not being maintained during his tenure properly. The entries were not in order. The entries have been seen and signed by Shri L.K. Varte but the same had not been checked up thoroughly, which shows a lack of devotion to duty by him.
- III. On a close check, it was found that the office equipments furniture supposed to be available in the office for Training purpose, amounting to Rs. 40,645/- (Rs. Forty thousand six hundred forty five) was not seen available in the Centre and was stated to be available in the house of Shri L.K. Varte Supdt. I/C. (These items of furniture equipments include D. Deck, Colour T.V., Stand Fan, Steel Table, Steel Chair, Educational Computer, Electronic Type writer, Voltage Stabilizer, Revolving Chair etc.). Thus by him this kind of act he has shown lack of Integrity towards the office decorum. He is described to culprits the above and other furnished to the Govt.

IV. No purchase committee was at all in existence in the Centre. It was found that the items/material/stationery etc. had been purchased without any quotation and without any supply Order to any party. All the payments in respect of the purchased items had been received by Shri L. Varte while mostly bills have also been handed over by him for payment to the Admn. Division. Many of the items shown in the item-III above, had not been even seen by the Store Incharge but the bills had been made to be paid and entries of incoming/purchased items had been made in the Register for the purpose. For any query/enquiry about the whereabouts of the items he was not available in the Centre during the course of Inspection.

V. It was found that Shri L.K. Varte, R.O. (Supdt. I/C) sanctioned an advance of Rs. 30,000/- for purchasing of scooter. On receipt of the said sanction the Bill for the drawal of the advance was not placed/sent to the P. & A.O. New Delhi, but the payment had been taken by Shri Varte by a Cheque issued by the Cashier. It shows a lack of devotion to duty and lack of integrity.

VI. It was also found that Shri Varte in the capacity of Supdt. I/C had sanctioned to himself an amount of Rs. 24,000/- (Rs. Twenty four thousand only) for availing of LTC for his family members (Seven in number) excluding him for the journey from Guwahati to Kanyakumari. The Advance for LTC drawn himself was taken by him on 1/3/99 while the LTC Advance Bill had not been sent to P&AO or the Hqrs. for permission. Later, the advance drawn had been adjusted within two days of completion of return journey and i.e. only on 30.5.99. While the LTC Advance was drawn by him on 1/3/99, after misusing the advance money of Rs. 24,000/- he had purchased the ticket only 14.5.99 for the outward journey on 19/3/99 while the reservation had been booked in a waiting list of 26 to 268. While making the adjustment of the LTC final bill no check had been made by him for the claim. This is a serious financial irregularity. As Head of office, he is not competent to sanction such advances to himself. Thus he had misused the Govt. Money and tried to cheat the Govt. and thus shown lack of devotion to duty and lack of Integrity.

VII. As a major irregularity also, an amount of Rs. 8100/- has been granted/sanctioned and paid to the staff towards honorarium in connection with the improvement of performance in the Centre in the month of March, 1999 while there is a ban on granting of Honorarium. Secondly, list of the staff who were granted included the name of Shri Varte as R.O. The sanction had not also been addressed to the P&AO and Hqrs. No prior/proper permission for this so called granted by him for himself also had not been taken and the bill not sent to P&AO by the payment was done by him directly. It is also not known for what special work was the honorarium paid. This is a gross misuse of powers for personal gain and is a serious financial irregularity.

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VIII. It was also found that Shri L.K. Varte the then Supdt. I/C, sanctioned a GPF Advance of Rs. 15,948/- for himself in the capacity of the Supdt. and drawn the said advance without prior approval/sanction of the Hqrs. while the GPF Advance/withdrawals are being made by the Hqrs. He has no such powers to sanction GPF advance to himself.

IX. During the period of 10/2/99 to 30/6/99, 171 calls had been made by Shri L.K. Varte, the then Supdt. I/C. Out of these calls, 57 calls had been made by him to Delhi (code-011) and out of these 57 calls no call seems to be made to the Hqrs. (Director-LMI) or D.O.X so that these can be classified as officials. The payment for the said calls had been made and received by him which amount to Rs. 25. This is gross misuse of office facilities for personal gains.

X) Shri Varte in the capacity of the then Supdt. I/C, had granted O.T.A. regularly to the staff (LOC/UDC/Driver etc. while there is a ban on granting the OTA to the Staff even for a same period for which the same staff have been granted the Honorarium as mentioned in Item-V above. This is a gross financial irregularity.

XI. It was also found that no work was being assigned to the staff particularly to the office Supdt. for several months. The reasons for not assigning duties to a key person in the staff may please be clarified.

Shri Varte, is hereby, directed to explain the reasons for all the above acts committed by him from items I to X within a period of ten days of issue of this Memo with justification and also explain as to why disciplinary act should not be initiated against him for the above acts of commission and omission.

Considering all the above paragraphs it is evident that Shri L.K. Varte, R.O. who was holding charge of Supdt. I/C and Head of Office at VRC, Guwahati has -

- a) misused his powers for personal gains.
- b) Committed several financial irregularities and
- c) Shifted equipment meant for training the disabled to his residence for his personal use.

This issued with the approval of HOD.

Encl: 1
(R. NARASIMHAM) 18/11/

DY. DIRECTOR OF EMPLOYMENT EXCHANGE

Shri L.K. Varte, R.O.
VRC, Guwahati.

For S. S. R. K. Bhat, Supdt, V.R.C, Guwahati.
Kindly please ensure proper communication & thanks.

Annexure R -II

Reply of Shri L.K.Varte The then Superintendent i/c

Para – Wise reply on inspection Report of Internal Audit Organization submitted through the Supdt. in response to his letter No – VRCG G 11014 /1/2000/227 dated 23.5.2001 for consideration.

Para 1: Irregular purchases of furniture and fixtures to the tune of Rs 16,98,851/-

Purchase made during the period from 31/1/1995 to 15/3/1999 (i.e. during five years period) Keeping in view the necessity of the item purchased has been made . The goods/ items were purchased quoting the best and the lowest price comparing the prevailing market rates at that time The goods /items were received in the store in good condition and utilized in the section concerned of the Centre. Mistakenly the prior approval had not been obtained from the Headquarters and the same may therefore be made regularize by granting ex-post facto sanction.

Para 2: Unauthorized expenditure incurred to the tune of Rs. 71580 on purchase of T & P/M&E materials.

The items are related R /TV section. Keeping in view the requisition the necessity of the machinery for uplifting the section's performance the quotation were collected by the V.I. concerned and Workshop Foreman . Purchase have been made accordingly and utilizing the same in the section .

Not obtaining prior approval from the Head quarters is regretted and requested for ex- post facto approval by the Head quarters .

Para 3: Irregular procurement of electronic goods worth Rs 1,10,999/-

Keeping in view the requirement and necessity of items quoted in this Para were procured from the authorized dealers of the items /tools concerned at a prevailing market rate at that time . The goods / items were received in store in good condition and are under utilization.

The purchases made quoted in the Para are taking together for the consecutive five financial years (i.e. from 1995-1999)

The purchase made and utilized in the Centre for this period which were mistakenly purchased beyond competency may kindly be given ex – post – factor sanction and regularization of the tools which are under utilization in the Centre.

Para 4 Irregularities in purchase of Raw Materials

Keeping in view the requirement and necessity in the sections concerned and subject to availability of funds in the particular head the raw materials were procured from a reputed firm at a prevailing rate of the area materials were receipt in full and in good conditions . The materials were issued and utilized in the section properly.

The irregularities in procuring the same happened inadvertently and may be regularized by gaining ex-post –factor sanction.

Para 5 Irregular auction of condemned vehicle no AMK 5830

The Center's office vehicle Standard -20 Van No AMK -5830 condition was very bad and seems unserviceable since 1993 . The Motor Vehicle Cell , Govt of Assam was contacted to examine the same . The Vehicle inspector at that time fixed the residual vale at Rs 23000/-

As the service vehicle is a necessity at the Centre , Proposal for purchase of new vehicle was made to the Head quarters since 1993 . However sanction for purchase of the same was done only by February 1998, during this gap period the Centre is compelled to get it repaired this old vehicle and incurred expenditure on it.

As the sanction for purchase of the new vehicle received, the Centre has initiated for disposal of the Vehicle and was permitted by the Head quarters . Since the vehicle is too old and very few people were turned up for inspection . At last the St. Josephs School were turned up and after through check they offered Rs 18,000/- and disposed off to them on 2.4.1998 and the same amount was immediately deposited to the treasury through the Centre's Bank i.e. Union Bank of India , Fancy Bazar Branch , Guwahati -01

The irregularities in disposal of the said vehicle by not following fully the norms may be regularized.

Para 6: Irregular payment of Rs 335270/- on purchase of Jeep. Excess expenditure incurred to the tune of 18034/-

Sanction for purchase of a new vehicle for the Centre was received by the end of financial year 1997-1998 . The rate quoted at the time of proposal was increased when the actual sanction received . The cheaper one was enquired to the dealer, but except the one ordered no cheaper one was available at that time, Thus 317236/- was paid to the dealer as an advance payment . The balance amount for Rs 18,034/- was paid as final payment.

Para 7: Irregular expenditure on repairs of vehicle of Rs 75095/-

The expenditure incurred quoted in this para were related to accessories / battery / front -view seat fittings and other miscellaneous expenditure . As it is presumed that since the vehicle has been sanctioned

and obtained with due permission other minor works can also be done accordingly . The mistakenly expenditure incurred may be regularized

Para 8 Irregular payment and excess withdrawal of LTC advances/ adjustment bills of Shri L.K. Varte, R.O. Ex -Supdt. i/c amounting Rs 13790/-

The excess amount has been recovered fully from the salary of the Government servant concerned. The said para may kindly be draughted.

Para 9 Irregular expenditure on telephone/trunk call charges to the tune of Rs 95062/-.

The office telephone is facilitated with local call. Trunk booking are generally could not get in time . Thus STD calls to a long or short distance calls were made in some occasion sAs the bills were submitted for reimbursement to the Accounts section no Call Register has been maintained properly . The call charges quoted in this para were consolidated for the 6 (Six) Financial year (i.e. from 1994 -95 to 1999 -2000) The calls made were official partly demi official . The mistake were noted carefully and will not be done again, therefore to regularize the irregularities ex-post facto sanction may kindly be accorded.

Para 10 Irregular payment of T.A. advances/ tour bills of Shri L.K.Varte, RO

As shri L.K.Varte is a Rehabilitation Officer , who is under the charge of Supdt. in all respect including payment of advance TA and TA adjustment bills while discharging the work of R.O. additional Shri L.K. Varte was in charge of Superintendent though that R.O. is on tour and Supdt. i/c had made the payment and adjusted the bills.

The irregularities due to misinterpreted may kindly be regularized by giving ex-post facto sanction.

Para 11 Irregular payment of Honorarium of Rs 8800/- paid to the officer / officials during 1998-99

As overtime allowance had not paid to the officer/ staffs for long . To recognize and to encourage towards better performance in their duties , the amount quoted in this para were paid to them . The mistake is not call for prior approval from the Head quarters is note and may kindly be regularized by giving ex-post facto sanction.

Para 13: Improper procurement of cooling fan

Keeping in view the requirement of ceiling fan in the counter , it has been enquired in the market including Usha Co. who were once had approved rate of DGS&D rate contract. However, at that time they did not have approved rate of DGS&D and their price were much higher then other makes. Thus, other makes at the rate Rs. 885/- per Ceiling fan were purchased at the prevailing market rates.

The purchased made may kindly be regularized by the Hqrs.

Para 14: Irregular execution of minor works –floor repairing of Motor Garage and office painting works of Rs35,670/-

The Centre's office is an old Assam type house owned by the Govt of Assam in the Deptt of Labour under DECT Assam As it is too old in some parts like attached room , floor etc. The DECT Assam when contacted for the purpose was not in a position to do all these repairing works due to financial constraint. Then when the CPWD concerned contacted for estimation and for approval they were not in a position to do the same as the land and the building belongs to the state Govt. thus repairing works as stated were undertaken by the centre.

The irregularity in this regard may be regularized.

Para 18 Irregular payment of scooter advances of Rs 30000/- to Shri L.K.Varte, RO / Supdt. i/c.

It has been presumed that since the advance in question had already been sanction along with other VRCs officer/staff and no fresh sanction is required for drawal of the advance for purchase . The bills were prepared and draw. The advance is recovering regularly for 30th. Installment from the pay bills will continue recovery regularly. The mistake may kind be regularized for dropping the para.

Para 19: Irregular withdrawal and payment of GPF advance bills of Sh. L. K Varte , R.O. & Supdt..i/c to the tune of Rs. 70948/-

Being R.O of the center and the Supdt , the competent authority to sanction and the GPF in a limited amount . As Sh. Varte is discharging the duties of R.O. and the Supdt. i/c sanction him the advances , so the same have been done accordingly. However , the amount of advances in question were already and fully recovered. Therefore , it is requested that the same may kind be regularized and drop the para.

Para 20 : Irregular expenditure to the tune of Rs. 127795/- on purchase of stationary items.

The consolidated expenditure quoted is for 5 years period i.e. from 1994-95 to 1999-2000.

As purchase of stationary items made in a bulky manner at a time is inconvenient for storing at the center. So , by calling a quotation to

reputed firms for supplying stationary items , the firms(s) were chosen to those whom the best can supply at the lowest rate in a prevailing rate for the year, and in case, they cannot do so the same were purchased directly from the market in a prevailing rate.

The suggestions were noted and by now it has been followed properly, the objection may therefore be kindly be regularized by granting ex -post -facto sanction

Para 21 Irregular expenditure on clerical and typewriting work for Rs. 2956/-

During the year 1996 -97 no stenographer , no regular typist who can be engaged for typing work were not available in the Centre . Therefore for urgent typing works daily wagers for few days on part time basis had been engaged . However after the appointment of stenographer no one is engaged for the same . The irregularity committed due to pressure of work in particular to the work of typing may kindly be regularized

The above explanations / replies submitted may kindly be perusal and consideration for dropping the paras.

S/D...(22/6/2001)

L.K. Varte

Rehabilitation Officer

ANNEXURE-R-II

Copy

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Para-wise replies on Inspection Report of Internal Audit Organisation
submitted through the Suptd. in response to his letter
No.VRCG.G-11014/1/2000/227 dated 23.5.2001 for consideration.

Para. 1 : Irregular purchase of furniture & fixtures to the tune of Rs. 1,69885/-

Purchase made during the period from 31/1/95 to 15/3/99 (i.e. during five years period)

Keeping in view the necessity of the items purchased has been made. The goods/items were purchased quoting the best and the lowest price, comparing the prevailing market rates at that time. The goods/items were received in the store in good condition and utilizing in the section concerned of the center. Mistakenly the prior approval had not been obtained from the headquarters and the same may therefore be made regularized by granting ex-post-facto sanction.

Para. 2 : Unauthorized expenditure incurred to the tune of Rs. 71530/- on purchase of T&P/M&E materials.

The items are related R/TV section. Keeping in view the requisition, the necessity of the machinery for uplifting the section's performance, the quotations were collected by the VI concerned and Workshop Foreman. Purchase have been made accordingly and utilizing the same in the section.

Not obtaining prior approval from the Hqrs. is regretted and requested for ex-post-facto approval by the Hqrs.

Para.3 : Irregular procurement of electronic goods worth Rs. 110999/-

Keeping in view the requirements and necessity of the items quoted in this para were procured from the authorized dealers of the items/tools concerned at a prevailing market-rate at that time. The goods/items were received in store in good conditions and are under utilization.

The purchases made quoted in the paras are taking together for the consecutive five financial years (i.e. from 1995-1999).

The purchase made and utilized in the center for this period which were mistakenly purchased beyond competency may kindly be given ex-post-facto sanction and regularized the purchase of the tools which are under utilization in the center.

contd. - 2 -

Para. 4 : Irregularities in purchase of Raw materials.

Keeping in view the requirement and necessity in the sections concerned and subject to availability of fund in the particular head, the raw materials were procured from a reputed Firms at a prevailing rates of the area. Materials were receipt in full and in good conditions. The materials were issued and utilized in the sections properly.

The irregularities in procuring the same happened inadvertently and may be regularized by granting ex-post-facto sanction.

Para. 5: Irregular auction of condemned vehicle No. AMK-5830.

The center's office vehicle Standard-20 van No. AMK-5830 condition was very bad and seems unservicable since 1993. The Motor vehicle Cell, govt. of Assam was contacted to examine the same. The Vehicle inspector at that time fixed the residual value at Rs.23000/-

As the service vehicle is a necessity at the center, proposal for purchase of new vehicle was made to the Hqrs. since 1993. However, sanction for purchase of the same was done only by February, 1998. During this gap period the center is compelled to get it repaired this old vehicle and incurred expenditure on it.

As the sanction for purchase of a new vehicle received, the center has initiated for disposal of the vehicle and was permitted by the Hqrs. Since the vehicle is too old and very few people were turned up for inspection. At last the St.Josephs School were turned up and after thorough check, they offered Rs.18000/- and disposed off to them on 2.4.98 and the same amount was immediately deposited to the Treasury through the Center's Banker i.e. UBI, Fancy bazaar, Ghy-1

The irregularities in disposal of the said vehicle by not following fully the norms may be regularized.

Para.6: Irregular payment of Rs.335270/- on purchase of Jeep. Excess expenditure incurred to the tune of Rs.18034/-

Sanction for purchase of a new vehicle for the center was received by the end of Financial Year of 1997-1998. The rate quoted at the time of proposal was increased when the actual sanction received. The cheaper one was enquired to the Dealer, but except the one ordered, no cheaper one is available at that time. Thus, Rs.317236/- was paid to the dealer as an advance payment. The balance amount for Rs. 18034/- was paid as final payment.

contd-- 3/-

Para. 7: Irregular expenditure on repairs of vehicle Rs. 75095/-

The expenditure incurred quoted in this para were related to accessories/battery/front-view seat fitting and other miscellaneous expenditures. As it is presumed that since the vehicle has been sanctioned and obtained with due permission other minor works can also be done accordingly. The mistakenly expenditure incurred may be regularized.

Para. 8 : Irregular payment and excess drawal of LTC advances/adjustment bills of Shri. L.K. Varte, RO, Ex- Supdt. In-charge amounting to Rs. 13790/-

The excess amount has been recovered fully from the salary of the Govt. servant concerned. The said para may kindly be draughted.

Para. 9 : Irregular expenditure on telephone/trunk call charges to the tune of Rs. 95062/-

The office telephone is facilitated with local call. Trunk booking are generally could not get in time. Thus, STD calls to a long or short distance calls were made in some occasions. As the bills were submitted for reimbursement to the Accounts section, no Call Register had been maintained properly. The call charges quoted in this para were consolidated for the 6(six) Financial years (i.e. from 1994 -95 to 1999-2000). The calls made were official and partly semi-official. The mistakes were noted carefully and will not be done again. Therefore, to regularize the irregularities ex-post facto sanction may kindly be accorded.

Para 10: Irregular payment of TA advances/tour bills of Shri L.K. Varte, R.O.

As Shri L.K. Varte is a Rehabilitation Officer, who is under the control of Supdt. in all respect including payment of Advance TA and TA adjustment bills. While discharging the work of R.O. additionally, Sh. Varte was given a charge of Superintendent. Though that R.O. is on tour and Supdt/I/C had made the payment and adjusted the bills.

The irregularities due to misinterpreted may kindly be regularized by ex-post facto sanction.

Para. 11: Irregular payment of Honorarium of Rs. 8800/- paid to the officers/officials during 1998-99.

As overtime allowances had not paid to the officers/staff for long. To recognize and to encourage towards better performance in their duties, the amount quoted in this para were paid to them. The mistake in not call for prior approval from the Hqrs. is noted and may kindly be regularized by giving ex-post facto sanction.

Contd ... 4/-

Para.13: Improper procurement of ceiling fans.

Keeping in view the requirement of ceiling fan in the center, it has been enquired in the market including Usha Co. who were once had the approved rate of DGS&D rate contract. However, at that time they did not have approved rate of DGS&D and their price were much higher than other makes. Thus, other makes at the rate Rs. 885/- per Ceiling fan were purchased at the prevailing market rates.

The purchased made may kindly be regularized by the Hqrs.

Para.14: Irregular execution of minor work-floor repairing of Motor garage and office painting work of Rs.35670/-

The centre's office is an old Assam Typo house owned by the Govt. of Assam in the Deptt. of Labour under D.E.C.T., Assam. As it is too old in some parts, like attached rooms, floor, etc. The DECT, Assam when contacted for the purpose were not in position to do all these repairing works due financial constraint. Then, when the CPWD concerned contacted for the approval they were not in a position to do the same for estimation and for belongs to the State govt. Thus, repairing works as stated were undertaken by the centre.

The irregularity in this regard may be regularized.

Para 15: Irregular payment of Scooter advance of Rs.30000/- to Sh. L.K. Varte, RO/ Supdt. i/c.

It had been presumed that since the advance in question have already been sanctioned along with other VRCs officers/staff and no fresh sanction is required for drawl of the advance for purchase. Thus, bills were prepared and drawn. The advance is recovering regularly. The mistake may kind be regularized for dropping the para.

Para.19: Irregular drawal and payment of GPF advance bills of Sh. L.K. Varte, RO & Supdt. i/c to the tune of Rs. 70948/-

Being R.O of the center and the Supdt., the competent authority to sanction and the GPF in a limited amount. As Sh. Varte is discharging the duties of R.O and the Supdt. i/c sanction him the advances, so the same have been done accordingly. However, the amount of advances, so the same have been done, fully recovered. Therefore, it is requested that the same in question were already and and drop the para.

Para 20: Irregular expenditure to the tune of Rs. 127795/- on purchase of stationary items.

The consolidated expenditure quoted is for 5 years period i.e. from 1994-95 to 1999-2000

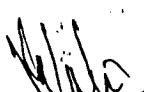
As purchase of stationary items, made in a bulky manner at a time is inconvenient for storing at the center. So, by calling a quotation to reputed firms for supplying stationary items, the firm(s) were chosen to those whom the best can supply at the lowest rate in a prevailing rate for the year, and in case, they cannot do so the same were purchased directly from the market in a prevailing rate.

The suggestions were noted and by now it has been followed properly, the objection may therefore be kindly be regularized by granting ex-post-facto sanction.

Para. 23: Irregular expenditure on clerical and typewriting work for Rs. 2956/-

During the year 1996-97, no stenographer, no regular typist who can be engaged for typing work were not available in the center. Therefore, for urgent typing works, daily wagers for few days on part time basis had been engaged. However after the appointment of Stenographer no one is engaged for the same. The irregularity committed due to pressure of work in particular to the work of typing may kindly be regularized.

The above explanation/replies submitted may kindly be made perusal and consideration for dropping the paras.

 22/6/2001
(L.K. Varte)
Rehabilitation Officer

Annexure - R - III

Stages at which inspection of documents to be allowed (page no. 254 of the Swamy's Manual on Disciplinary Proceeding for General Government Servant):-

In case where major penalty proceedings are advised on the investigation reports, the delinquent officer is asked to submit his written statement of defence within ten days from the receipt of the memorandum of articles of charges , Generally delinquent officer make a request for inspection of listed documents for preparing their written statement of defence. Accordingly the scheme of CCS (CCA) Rules, 1965. The delinquent officer need not be shown the documents at the stage to enable him to prepare his defence statement in reply to charge sheet. In this connection, the extract from the advice of the Ministry of Law are reproduced below;

“The scheme of Rule 14 of the CCS (CCA) Rules is somewhat different from the scheme contained in Rule 15 of 1957 Rules. The scheme contemplates that the statements of defence submitted under the sub –rule (5)(a) may be limited to admitting or denying the charges communicated to the officer. For such admission or denial inspection of documents is not necessary.”

The disciplinary authorities are, therefore, advised that if a delinquent officer does not submit his statement of defence within the prescribed time, they may go ahead with the appointment of Inquiring Authorities. While rejecting the request for inspection of documents it may be explained to the delinquent officer hat they would get full opportunity to inspect the listed documents during the course of enquiry.

23 JAN 2008

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI BENCH, GUWAHATI

Filed by the applicant
through: S. Nahar
Advocate
23/01/08
Sri Lienkhawthang Varte

In the matter of:-

O.A. 227 of 2006

Sri Lienkhawthang Varte

.....Applicant.

-Versus-

Union of India and Others.

..... Respondents.

-And-

In the matter of:-

Rejoinder submitted by the applicant
against the written statement filed by
the respondents.

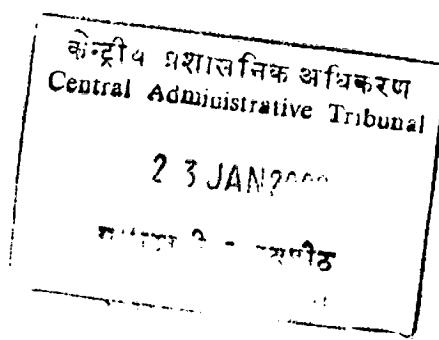
The applicant above named most respectfully begs to state as follows:-

1. That the contention raised by the respondents in para 3 of the written statement is categorically denied, more particularly the contention of the respondents to the effect that the applicant has committed grave misconduct and financial irregularities by misusing the powers of head of office, for personal gain is categorically denied and it is further pointed out that there is no charge in the memorandum of charge sheet brought against the applicant regarding shifting of materials and equipments in the residence of the applicant for his personal use. On a careful reading of the O.M dated 12.11.1999, it is evident that only certain irregularities have been pointed out, but there is no allegation of misappropriation of Govt. money as stated in para 3 of the written statement. The amount of Rs. 16,69,670/- which is stated to have been misused by the applicant, as a result of financial irregularities is contrary to the statement indicated in O.M dated 12.11.99.

2. That your applicant categorically denies the contention of para 4, 5 and 6 of the written statement and it is further stated that procedural violation in the matter of purchase does not amount to misappropriation of Govt. money and at best the same can be termed as irregularity but such action cannot be termed as misappropriation of Govt. money as alleged in the written statement. When the materials were received in the office in good condition and the same were certified by the concerned authority of the office, the said action of the applicant cannot be termed as misappropriation of Govt. money while functioning as DDO. Many of the audit objection has been dropped but the charges have been framed even on those allegations.

It is settled position of law that when article of charges served upon a Govt. employee, it is the duty of the D.A. to furnish photocopies of list of documents along with the article of charge. Further inspection of documents is a mandatory requirement before furnishing the reply of the memorandum of charge sheet. The statement or para wise reply of the applicant on inspection report of internal audit organization cannot be termed as admission of the guilt by the applicant, rather it is an explanation given by the applicant against the alleged irregular purchase of materials and equipments and other irregularities which were pointed out in the inspection report.

3. That the statements made in para 7, 9, 10, 13 of the written statements, the applicant categorically denies the statements, save and except which are borne out of records. It is a settle position of law that before submission of reply against a memorandum of charge sheet, inspection of documents is very much necessary, more so in the instant case, memorandum of charge sheet has been issued after a lapse of about 7 to 9 years, as such it was difficult on the part of the applicant to furnish reply without looking into the documents and on that score alone the entire disciplinary proceeding is liable to be set aside and quashed. It is further categorically denied that the applicant has confessed his financial irregularities through letter dated 22.06.01 rather the applicant by the said letter explained the circumstances under which the purchase was made. The amount of Rs. 16,69,670/-



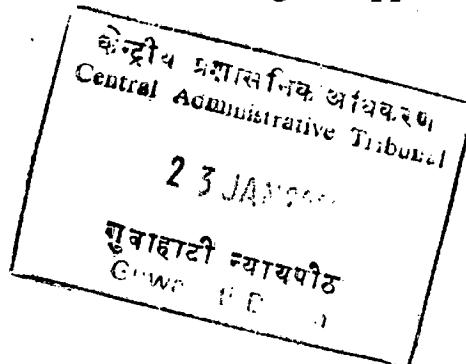
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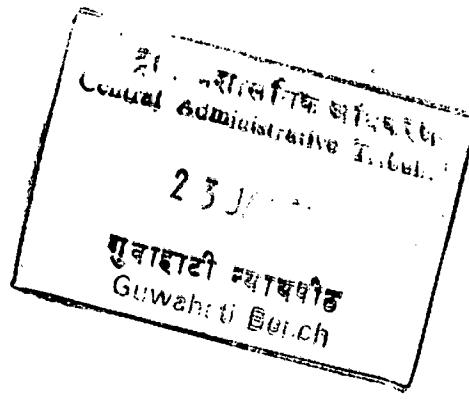
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Rishabh and Ors

cannot be said to be an unauthorised expenditure because the Govt. has provided the fund for office expenses and also for purchase of materials. Therefore expenditure for purchasing of such materials and other office expenses and payment made to the staffs on account of SDA and honorarium which stand to Rs. 16,69,670/- cannot be said to be unauthorized expenditure, at best non-observing of certain formalities may be termed as irregularities which does not fall within the purview of misconduct. The contention of para 10 is categorically denied and it is further stated that the respondent No. 5, who has sworn this affidavit on behalf of the other respondent is going to be junior of the applicant in the cadre of Asstt. Director due to judgment passed by the learned Tribunal in O.A. No. 127/2004 (Sri L.K. Varle -Vs- U.O.I & Ors.). Therefore, respondent No. 5 is over jealous in establishing the alleged charges brought against the present applicant otherwise there is every possibility on the part of the present applicant to become senior in the cadre of Asstt. Director, and in that event the seniority position of respondent No. 5 is going to be adversely effected.

With regard to the contention raised by the respondents in para 13, that the applicant has delayed the reply of charge sheet on the pretext of inspection of documents, is categorically denied and further begs to say that the respondents have initiated the proceeding after inordinate delay of 7 to 9 years, as such it is difficult on the part of the applicant to defend his case at the belated stage and therefore inspection of documents before furnishing his reply was highly essential. Therefore, on the ground of inordinate delay in initiating the proceeding, the disciplinary proceeding is liable to be set aside and quashed.

4. That with regard to the statements made in para 14, 15, 17, 19 and 21 are categorically denied and the applicant further begs to say that the allegation of misusing the power of DDO is denied and the contention raised in para 15 is a statement of respondent No. 5 alone, which is made against the applicant with a vindictive attitude. The applicant reiterates the statement made in Original Application and the original application deserves to be allowed with cost.





VERIFICATION

I Shri Lienkhawthang Varte, S/o Shri H.V. Varte, aged about 50 years, working as Assistant Director, VRC for Handicapped, Abhoynagar, Agartala- 799001, West Tripura, do hereby verify that the statements made in Paragraph 1 to 4 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 19th day of January 2008.

Lienkhawthang Varte

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गुवाहाटी न्यायालय
Bench
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

In the matter of:-

O.A.No. 227 of 2006

Sri L.K.Verma,

-Vs-

Union of India and Ors.

-And-

In the matter of:-

An additional rejoinder submitted by the applicant against the written statement submitted by the respondents.

The above named applicant most humbly and respectfully begs to state as under:-

1. That the applicant being highly aggrieved with the impugned memorandum of chargesheet dated 16.03.2004 (Annexure-1) approached this Hon'ble Tribunal through O.A.No. 227/2006, during the pendency of the O.A, the applicant preferred a representation on 04.02.2008 to the disciplinary authority i.e respondent no. 3 of the original application.
2. That it is stated that the disciplinary authority while issuing the impugned memorandum of chargesheet dated 16.03.2004 has included as many as 8 paragraphs of audit objections in the form of allegations out of the 24 paragraphs of audit objections in the article of charges, which were already dropped and settled. But surprisingly, this aspect has not been considered by the disciplinary authority, which issuing the impugned memorandum of chargesheet dated 16.03.2004, but those allegations have been included in the form of article of charge at the instance of some vested circle working in the office against the interest of the applicant. Therefore, the applicant vide its representation dated 04.02.2008 brought it to the notice of the disciplinary authority for immediate redressal of his

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Filed by the a
through A. Datta, advocate

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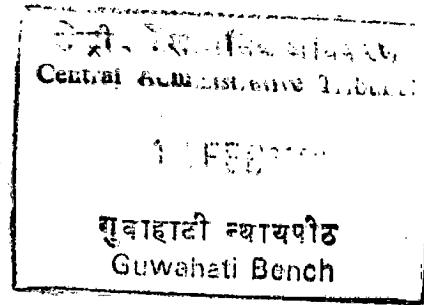
grievances and also for withdrawal of these allegations from the impugned memorandum of chargesheet dated 16.03.2004.

(A copy of the representation dated 04.02.2008 is enclosed as Annexure - A)

3. That it is stated that in the article of charges, it is also alleged that the unauthorized payment of SDA is made during the period from 01.10.1994 to 2/2000 to the employees, but infact the alleged unauthorized payment of SDA had started during the period of my predecessor and the same was simply continued during my tenure. However, it is relevant to mention here that similar nature of payment has been made to the civilian central government employees in all the central government establishment. However, following the decision of the Hon'ble Supreme Court, the Govt. of India, Ministry of Finance vide its O.M No. F. No. 11(5)/97-E. II(B) dated 29.05.2002 upto 05.10.2001 i.e covering the period of the applicant as well as his predecessor, but surprisingly the same is also included in the article of charges with an ulterior motive to make the charge voluminous. I have exercised the financial power beyond the delegated limit which was not pointed out by the subordinate official and at the relevant point of time applicant saddled with various duties and responsibilities. All purchases were made as per requisition given by the office staff. Considering the facts and circumstances the impugned memorandum of chargesheet is liable to be set aside and quashed.

3. That this additional rejoinder is made bonafide and for the ends of justice.

Final hearing of chargesheet



VERIFICATION

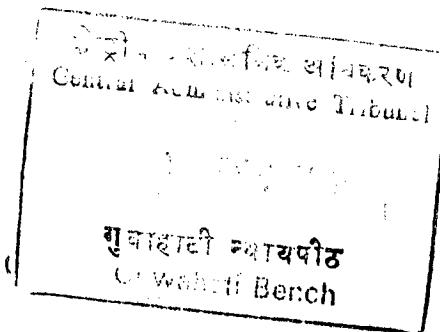
I, Shri Lienkhawthang Varle S/o Shri H.V.Varle, aged about 52 years, presently working as Assistant Director (Rehabilitation), V.R.C for handicapped Indra Nagar, ITI Road, Agartala-799006 do hereby verify that the statements made in Paragraph 1 to 3 are true to my knowledge and to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 10th day of Feb, 2008.

Lienkhawthang Varle

To,

The Director General,
Employment and Training,
Govt. of India,
Ministry of Labour and Employment,
Sharam Shakti Bhawan,
Rafi Marg,
New Delhi-1.



(Through Proper Channel)

Sub:- Disciplinary Proceeding.

Ref:- Memorandum of Charge Sheet bearing No. DGET-1-11018/1/99-EE-II dated 16.03.2004.

Respected Sir,

I would like to draw your kind attention on the subject cited above and further beg to say that a disciplinary proceeding under rule 14 of CCS (CCA) Rules, 1965 has been initiated against me through memorandum of charge sheet dated 16.03.2004 on the basis of audit report conducted in the month of August, 2000. In the said memorandum, article of charge has been brought against me on the basis of audit objection raised by the audit team in August, 2000 which mainly relates to the period from 31.01.1995 to July, 1999. As per audit objection altogether 24 nos. of paras of objection were raised against me, which is evident from Annexure-III of the memorandum of chargesheet dated 16.03.2004. The relevant paras of audit objection is contained in Annexure-III of the audit objection are quoted hereunder:-

1. For Article-I

Audit para no. 1/2000, 2/200, 4/2000, 5/2000 and 7/2000 of the Report of the Audit inspection made by the internal Audit in 2000.

2. For Article-II

Audit para No. 3/2000, 9/2000, 13/2000, 14/2000, 20/2000 and 25/2000 of the report of the Audit inspection made by the internal audit in 2000.

3. For Article-III

*Attested
Bhutta
Advocate*

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Audit para No. 6/2000 and 18/2000 of the Report of the Audit Inspection made by the internal Audit in 2000.

4. For Article-IV

Audit para No. 8/2000 and 10/2000 of the Report of the audit inspection made by the internal Audit in 2000.

5. For Article-V

Audit Para No. 11/2000, 17/2000, 19/2000, 21/2000, 22/2000, 23/2000 and 26/2000 of the report of the Audit inspection made by the internal Audit in 2000.

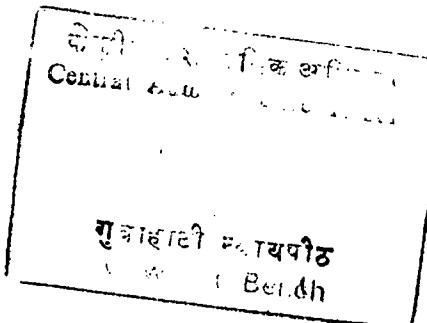
6. For Article-VI

Audit Para No. 15/2000 and 16/2000 of the report of the audit inspection made by the internal audit in 2000."

But surprisingly, out of 24 nos. of audit paras as many as 9 nos. of paras of the audit objection have already been settled and dropped. The audit objection which were dropped are quoted hereunder:-

1. Para-13/2000 (Audit II (C))-Improper procurement of ceiling fans-Rs.6,195/- only.
2. Para-15/2000(Audit VI(a))-Cash book shortcoming/discrepancies.
3. Para-16/2000(Audit VI(b))-Non -maintainance of receipt book-GAR 6
4. Para-17/2000(Audit V(b))-Excess payment of SDA.
5. Para-18/2000 (Audit III(b))-Payment of scooter advance for Rs. 30,000/- to Sri L.K.Varte,
6. Para-21/2000 (Audit V(d))-Express payment bus fares to the tune of Rs. 1,650/- to the staff of the centre in connection with LTC.
7. Para-22/2000 (Article V(e))-Excess payment of OTA to the tune of Rs. 1,438/- to the staff/officials.
8. Para-23/2000 (Article V(f))-Irregular expenditure on clerical and typing works Rs. 2,956/-
9. Para-24/2000 (Article V(g))_Excess payment of railway fare to Shri D.D.Kalita, LDC (basic scale 4030/-)"

Therefore it appears that some audit paras which were already settled and dropped but those audit objections are also included deliberately in the memorandum of chargesheet dated 16.03.2004 with an ulterior motive to make the case stronger against me in order to malign me. It is pertinent to mention here that in the article of charges specific allegations is made against me regarding irregular payment of LTC, OTA, TA but in fact the alleged over



payment have been settled long back by way of recovery from the employees concerned including me, which is evident from office order bearing no. VRCG-G.11014/1/2000/2121 dated 22.01.2001.

That I further beg to say that the allegation of unauthorized payment of SDA during the period from 01-10-1994 to 2/2000 to the employees in fact authorized by my predecessors, even prior to my taking over the additional charge of the centre. The recovery of the payment of SDA made rightly or wrongly was waived by the Govt. of India, Ministry of Finance, vide its office memorandum no. F. No. 11(5)/97-E.II (B) dated 29.05.2002 upto 05.10.2001. Moreover, my lawful entitlement of SDA has been confirmed by the department itself following a decision of the learned Tribunal in O.A.No. 250/2004, the judgment of the said O.A is also available with the department. Therefore those payment made to the employees cannot be a subject matter of the article of charges contained in the memorandum dated 16.03.2004. Moreover the Supdt. of VRC handicapped, Guwahati Shri K.K.Bhatt also certified on 31.08.2000 that there was no loss, fire, fraud, theft and embezzlement since April, 1995 to March, 2000. Dropping of paragraphs of audit objection would be evident from the letter no. A/LAB/VRC-Guwahati/02-03/392 dated 27.12.2002 and 1A-LAB/6-67/VRC-Guwahati/06-07/719 dated 26.02.2007. However, other letters/documents regarding dropping of paragraphs are also available with the department as well as with the audit section of the department.

In the circumstances stated above I humbly submit that the memorandum of charge sheet dated 16.03.2004 in its present form is not sustainable and also should not be acted upon. I further beg to say that, in the memorandum of chargesheet the undersigned had committed irregularities in making purchases beyond the delegated financial power. Since there are only allegation of irregularities, therefore in my humble submission the same may be regularized by ex-post facto sanction as per GIO (2) of Rule 13 of Delegation of financial powers rules as requested earlier. It is also relevant to

Central Administrative

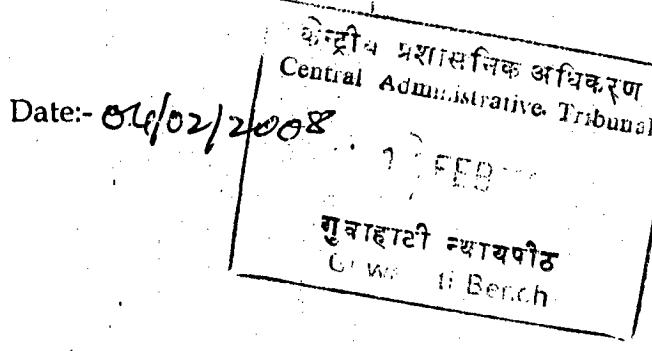
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C. M. B. Beach

mention here that so far I remember, a statutory audit ~~also~~ conducted audit during the year 1999-2000 during the incumbency of Sri K. K. Bhatt, Superintendent. But at the said point of time no ~~such~~ objection was raised by the audit team, as such department is barred by law of estoppel to raise such objections of irregularities as contained in the memorandum dated 16.03.2004 after a lapse of 8 to 9 years. Therefore it is difficult on my part to recall all the facts on the surface of mind to give adequate explanation at this belated stage, although I have participated and cooperated in the disciplinary proceedings.

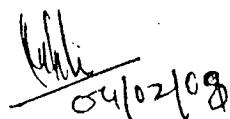
That Sir, at one point of time I had to run four (4) offices at a time one at Kolkata, one at Imphal and two at Guwahati. I was saddled with multifarious duties. Neither the subordinates nor any authority brought it to my notice that I was exercising the financial power beyond the delegated limit. All purchases were made as per requisition given by the office staff but not on my whims and fancies. Nobody can reach the peak of perfection when one is confronted with the task of herculean dimension. If common proceeding had been instituted as per Rule 18 read with Rule 14 of CCS (CCA), 1965, it would have been easier to navigate towards truth.

Considering the facts and circumstances stated above and also considering the factual position as explained above the memorandum of charge sheet dated 16.03.2004 may kindly be dropped and undersigned may kindly be exonerated from the alleged charges.



Asst. Director (Rehab)
VRC for handicapped,
Indra Nagar,
ITI Road,
Agartala-799006

Copy to Inquiry Officer, Shri K.L. Kuli, Dy. Dir (Eng.)
NES Cell, DGET, Rehabocci, Guwahati for information.


04/02/08

केन्द्रीय प्रशासनिक अधिकार पर
Central Administrative Tribunal

1 P JUN 2008

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
गुवाहाटी न्यायपीठ
GUWAHATI BENCH: GUWAHATI Bench

29

Filed by the applicant
u. Qdta, advocate
through on 13.06.08

In the matter of:-

O.A.No. 227 of 2006

Sri L.K.Verma

-Vs-

Union of India and Ors.

-And-

In the matter of:-

An additional rejoinder submitted
by the applicant against the written
statement submitted by the
respondents.

The above named applicant most humbly and respectfully begs to state as
under:-

1. That your applicant beg to say that during pendency of the original application, the respondents Govt. of India, Ministry of Labour & Employment more particularly Directorate General Employment & Training has given the approval for closing of the disciplinary proceeding of the applicant vide letter no. DCET-C-13013/4/2003-EE-II dtd. 26.05.2008.

(Signature)
In the facts and circumstances stated above, a copy of the letter dtd.
26.05.2008 is enclosed herewith and marked as Annexure-A.

13.6.08

2. That this application is made bonafide and for the ends of justice.

Leinhardt Ray Maiti

केन्द्रीय प्रशासनिक अदालत
Central Administrative Tribunal

18 JUN 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

VERIFICATION

I Shri Lienkhawthang Varte S/o Shri H.V. Varte, aged about 52 years, presently working as Assistant Director (Rehabilitation), V.R.C for handicapped, Indra Nagar, ITI Road, Agartala-799006 do hereby verify that the statements made in Paragraph 1 and 2 of the additional rejoinder is true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 8th day of June 2008.

Lienkhawthang Varte

To

New Delhi, dated 26th May, 2008 JUN 2008/9

The Under Secretary,
(Adm.II) Vigilance & Foreign Training Admn.(VFTA)
Section, DGE&T, New Delhi

Subject:

Inquiry proceedings against Sh.L.K.Varte (Ex-Reh.Officer)
-regarding.

Sir,

I am directed to convey the approval of the competent authority for closing the case on the basis of the Inquiry Report submitted by Sh.K.L.Kuli, Inquiry Officer/DDT which revealed no serious allegations against Sh.L.K.Varte.

This issues with the approval of the DG/JS vide their Dy.
No. 156 dated 15.05.2008.

Yours faithfully,

(R.K. Prasad)
Under Secy. to the Govt. of India
Telephone No. 23001465

Copy to:

✓ 1. The Assistant Director (Reh.), Vocational Rehabilitation Centre for Handicapped, Agartala.
2. The Assistant Director (Reh.) I/c, Vocational Rehabilitation Centre for Handicapped, Guwahati. Fax No. 0361-2309198
3. Sanction Folder, EE-II Section.

RK

(R.K. Prasad)
Under Secy. to the Govt. of India
Telephone No. 23001465

Attested
Ruta
Advocate