

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

10

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 233/2006

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~~(See Rule 16)~~
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

- 1. Original Application No. 233/06
- 2. Misc Petition No. /
- 3. Contempt Petition No. /
- 4. Review Application No. /

Applicant(S) Bireen Koli

Respondent(S) U.O.T 90/01

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

Advocate for the Respondent(S) S. C. & C. G. Basu

Note of the Registry	Date	Order of the Tribunal
26/6/2006	11.9.06	Learned counsel for the respondents wanted to file reply for M.P. Let it be done. Post the matter on 26.10.06
26/6/2006 ...8.0.8.06	1m	Vice-Chairman
Steps w/ taken	26.10.2006 NS 7.9.06	Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman. Post on 20.11.2006 alongwith M.P.
26/10/06	92/2006	Vice-Chairman
Condonation of delay in no 92/06 filed for 11.12.06	20.11.2006 /mb	Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman. Post on 11.12.2006 alongwith M.P.
1m	11.12.06 /mb	Vice-Chairman
	1m	Post the matter on 12.12.06.

12.12.06.

Counsel for the applicant wanted time to file rejoinder. Let it be done. Post the matter on 12.1.07.

28.12.06

W/s filed by the Respondents with annexus. page No. 1 to 18.

lm

Vice-Chairman

12.1.07.

Counsel for the applicant wanted to file rejoinder. Let it be done. Post the matter before the next Division Bench.

Rai

lm

Vice-Chairman

No rejoinder has been filed.

23
11.1.07.

5.2.2007

Post on 15.02.2007 before the Division Bench.

B2m/bb/

Vice-Chairman

2
2.2.07.

5.2.2007

Post on 28.02.2007. In the meantime, Applicant shall file rejoinder.

Vice-Chairman

No rejoinder has been filed.

23
21.3.07./bb/

28.2.07.

Counsel for the respondents has submitted that written statement has already been filed. Counsel for the applicant wanted to file rejoinder. Post the matter on 22.3.07.

ce
Member

Vice-Chairman

lm

22.3.07.

Counsel for the applicant prays for time to file rejoinder. Let it be done. Post the matter on 10.4.07.

A
Member

Vice-Chairman

lm

9.5.07. post the matter on 4.6.07

No rejoinder filed

Vice-Chairman

1m

26.6.07.

27.6.2007

Further time of three weeks is granted to file reply statement.

Post on 19.7.2007.

① Wb filed on 22.12.06.

② Rejoinder not filed

Vice-Chairman

18.7.07.

/bb/

19.7.2007

Counsel for the applicant will file rejoinder, if any.

Post on 3.8.07 for order.

Rejoinder not filed.

21.8.07.

Vice-Chairman

pg

3.8.07. On the prayer of the counsel for the applicant two weeks time granted for filing rejoinder.

Post on 20.8.07 for order.

Vice-Chairman

pg

Rejoinder not filed.

20.8.2007

Post the matter on 6.9.2007 for filing of rejoinder.

24.9.07.

Vice-Chairman

/bb/

25.9.07. At the request of Mr. S. Nath, learned counsel for the applicant, case is adjourned to 7.11.07 for hearing.



Vice-Chairman

Rejoinder not filed. lm

22
6.11.07.

07.11.2007

This is a Division Bench matter. List the matter on 10.12.2007.

Rejoinder not filed.

/bb/

22
7.12.07.

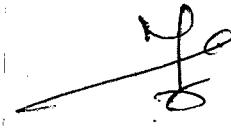
10.12.07

Heard Mr. M. Chanda, learned counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing counsel for the Union of India ~~in part~~.

Call this matter on 12.12.07.



(G. Ray)
Member(A)



(M. R. Mohanty)
Vice-Chairman

pg

12.12.2007

On the request made by Mr. G. Baishya, learned Sr. Standing counsel for the Union of India, the case is adjourned to be taken up on 13.12.2007 along with M.P.92/2006.



(Gautam Ray)
Member (A)



(M.R. Mohanty)
Vice-Chairman

/bb/

13.12.2007 Heard Mr M. Chanda, learned Counsel for the Applicant and Mr G. Baishya, learned Sr. Standing Counsel for the Union of India in part.

Call this matter on 14.12.2007.



(G. Ray)
Member (A)



(M. R. Mohanty)
Vice-Chairman

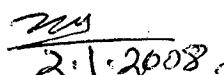
nkm

14.12.07 In course of hearing Mr G.Baishya, learned Sr. Central Government standing counsel for the Respondents took time to obtain instruction from the authorities/Respondents. Today he informs that he is not in a position to obtain instruction in the matter and seeks an adjournment.

In the aforesaid premises, this case is treated to be not part heard and released from the part heard list.

Call this matter for hearing on 03.01.2008.

① Wts billel.
② Rejoinder not billel.


2.1.2008.


(G. Ray)
Member(A)

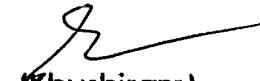

(M. R. Mohanty)
Vice-Chairman

pg

03.01.2008 On the request of Mr.G.Baishya, learned Sr. Standing counsel for the Union of India, this case is adjourned to be taken up on 21.01.2008.


Rejoinder not billel.

18.1.08.


(Khushiram)
Member (A)


(M.R.Mohanty)
Vice-Chairman

/bb/

O.A.233 of 06

21.01.2008 Call this matter on 20.02.2008
alongwith M.P.No.92 of 06 for hearing.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

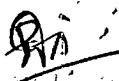
15.2.08

Rejoinder filed
by the Applicant.
copy served.

lm

20.02.2008

Call this matter on 27.03.2008



The case is ready
for hearing.

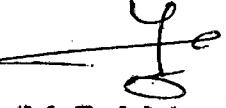
lm

27.3.08

27.03.2008

Call this matter on 31.03.2008.


(Khushiram)
Member (A)

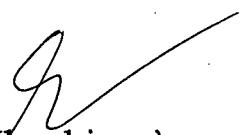

(M. R. Mohanty),
Vice-Chairman

30
27.3.08

nkln

31.03.2008

On the prayer of the counsel for the
parties call this matter on 10.04.2008 for
hearing.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.

30
9.4.08

pg

The case is ready
for hearing.

10.04.2008

Call this matter on 28.05.2008.

30
27.5.08


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

lm

28.05.2008 Mrs. U. Dutta, learned counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents are present.

The case is ready for hearing.

200
16.6.08

Call this matter on 18.06.2008.


(Khushiram)
Member(A)

lm

The case is ready for hearing.

200
1.08.08

18.06.2008

Call this matter on 04.08.2008.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

nkm

04.08.2008

Mrs. U. Dutta, learned Counsel appearing for the Applicant, is present. Mr. G. Baishya, learned Sr. Standing Counsel for the Union of India, is also present.

The case is ready for hearing.

200
11.08.2008

Call this matter on 12.08.2008 for hearing.


(M.R. Mohanty)
Vice-Chairman

nkm

12.08.2008

Mrs. U. Dutta, learned counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents are present.

The case is ready for hearing.

200
18.9.08

Call this matter on 19.09.2008.


(M.R. Mohanty)
Vice-Chairman

lm

19.09.2008 Mrs. U. Dutta, learned Counsel appearing for the Applicant, and Mr. G. Baishya, learned Sr. Standing Counsel for the Union of India, are present.

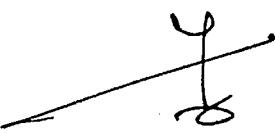
Call this matter on 21.11.2008 for hearing.

The case is ready for hearing.

20.11.08.

nkm


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

21.11.2008 Mr. M. Chanda, learned counsel appearing for the Applicant is present. Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents seeks an adjournment of the hearing of this case. Mr. Mr. M. Chanda, learned counsel appearing for the Applicant has no objection for the prayer of adjournment.

In the said premises, call this matter on 6th January, 2009 for hearing

lm


(S.N. Shukla)
Member(A)


(M.R. Mohanty)
Vice-Chairman

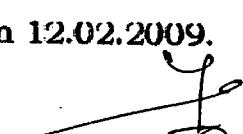
06.01.2009

Mrs. U. Dutta, learned counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing counsel for the Respondents are present.

Call this matter on 12.02.2009.

The case is ready for hearing.

11.2.09.


(M.R. Mohanty)
Vice-Chairman

O.A. 233/2006

12.02.2009

Call this matter on 01.04.2009 for hearing.

The case is ready
for hearing.



(M.R.Mohanty)
Vice-Chairman

33
21.3.09

/bb/

01.04.2009

Call this matter on 25.05.2009 for
hearing.

Received
Utpalparna Bharadwaj
3/6/09

for
G. Basishya
Sr. C.G.S.C.

/bb/

25.05.2009

For the reasons recorded
separately, the O.A. is closed.

12.6.09

order dt. 25.5.09 in
OA 233/08 send to the
DPS for issuing the same
to the Respondents and also
to the Appellant.

D/No 3441 to 3445

dtg 23/6/09



/bb/

(N.D.Dayal)
Member (A)


(M.R.Mohanty)
Vice-Chairman

23/6/09

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

O.A No. 233 of 2006

DATE OF DECISION: 25.05.2009

Sri Biren Kalita

.....**Applicant/s.**

Mr.M.Chanda

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

- Versus -

U.O.I. & Ors

.....**Respondent/s**

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

.....**Advocate for the
Respondents**

CORAM

**THE HON'BLE MR.M.R.MOHANTY, VICE CHAIRMAN
THE HON'BLE MR.N.D.DAYAL, ADMINISTRATIVE MEMBER**

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

Judgment delivered by

Administrative Member

✓

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 233 of 2006

Date of Order: This, the 25th Day of May, 2009

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE SHRI N.D.DAYAL, ADMINISTRATIVE MEMBER

Shri Biren Kalita
S/o Late Abhoy Chandra Kalita
Village: Tilana, P.O: Bhadra
Dist: Nalbari.

... Applicant.

By Advocates: Mr.M.Chanda, Mr.S.Nath, Mr.G.N.Chakraborty &
Mrs.U.Dutta.

-Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Communications
Department of Posts
New Delhi – 110 001.
2. The Chief Post Master General
Assam Circle
Meghdoot Bhawan
Guwahati-781 001.
3. The Superintendent of Post Offices
Nalbari Barpeta Division
Nalbari-781 335.
4. The Postmaster (HSG-I)
Head Office, Nalbari-781335.

..... Respondents.

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

ORDER (ORAL)
25.05.2009

N.D.DAYAL, [MEMBER (A)]

The Applicant was working as part time Forush in Nalbari Head Post Office. Under Annexure-2 dated 19.11.2004 he was served with a notice to the following effect:-

"OFFICE OF THE POST MASTER (HSG-I) NALBARI

Memo No.B2/Staff/misc/04 Dt. 19-11-04

To
 Sri Biren Kalita
 Vill Tilana
 PO Bhadra
 Via Chowk Bazar
 Dist Nalbari, Assam

Sub: Unauthorised absence from duties wef 09-11-04

You are regularly irregular in attending your office duties even after repeated warnings and instructions from the undersigned. You are in the habit of remaining absent from duties without authority in every month. This time also you remain absence from duties without authority, information from 9-11-04 onwards.

It is also alleged that you fraudulently took payment of Rs.4000/- from one SB accounts which is a serious offence.

You are therefore directed to submit your explanation as to why you will not be removed from service with immediate effect.

Your explanation should reach the undersigned within 10 days from the date of receipt failing of which you will be treated as removed from service on expiry of the period of 10 (ten) days stated above.

Sd/- Illegible
 Seal"

2. On 27.11.2004, the Postmaster of Nalbari Head Post Office, apparently, caused an enquiry/gave a personal hearing; when one depositor Sri Anima Talukdar gave a statement and the Applicant also gave a statement. It appears from the materials placed on record that on

18.11.2004 the Applicant returned Rs.4000/- to said Anima Talukdar, a depositor of the said Post Office. Applicant fraudulently took payment of Rs.4000/- from the SBI account of said Anima Talukdar. Thereafter he submitted a written prayer in Annexure-3 dated 01.12.2004 before the Postmaster of Nalbari Head Post Office; wherein he admitted his guilt relevant portion of which is extracted below:-

"That Sir, according to the letter, the alleged that I fraudulently took payment of Rs.4000/- from one SB account. Actually, it is not so, as said and the word "fraudulent" is not acceptable in this regard.

That Sir, due to my wife's ill health and until cured visited the doctors. So, as to was I the midst of financial hardship. To proof it I produced the said SB Account corporally before the eyes of your Court (office) and the witnessed. So far, I know that Sir, to the belief and best of my knowledge I did not go through fraudulent."

3. By an order under Annexure-4 dated 07.12.2004, the Applicant was disengaged/removed from service. He preferred an appeal under Annexure-5 dated 22.12.2004 and the Appellate order dated 24.02.2005 was communicated to the Applicant under Annexure-6 dated 27.01.2005.

4. Challenging his removal and seeking reinstatement the Applicant filed the present case; in which a written statement was filed on behalf of the Respondents. The Applicant has also filed a rejoinder in this case.

5. While the Applicant expected a full dressed enquiry under CCS (CCA) Rules; the Respondents apparently gave him a minimum requirement of natural justice.

6. We have heard Mr.M.Chanda, learned counsel for the Applicant and Mr.G.Baishya, learned Sr. Standing counsel for the Respondents. When this matter was taken up for hearing; on earlier occasion, in the course of arguments there was a proposal, which emanated on behalf of the Respondents to remove the stigmatic portion of the order dated 07.12.2004 passed by them and to treat the said order as termination simpliciter, since it was emphasized that the Applicant, being a part time worker, had no right to permanence in the job. In fact, by way of filing M.P. No.92/2006 the Respondents have prayed to treat the impugned order of removal to be an order of termination simpliciter.

7. In the aforesaid premises, we are inclined to close this matter, by recording the statement made on behalf of the Respondents, without allowing the Applicant to be reinstated to part time job. No costs.



(N.D.DAYAL)
MEMBER (A)



(MANORANJAN MOHANTY)
VICE-CHAIRMAN

/bb/



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 233 /2006

Shri Biren Kalita.

-Versus-
Union of India & Ors.

LISTS OF DATES

22.07.1985- Applicant was initially appointed as part time Forus at the Nalbari H.O. (Para- 4.2/page- 2 of O.A) ✓
Annexure- 1/page- 15

2003- Applicant attained maximum status as part time Forus.

08.10.2004- It is alleged in the show cause notice that applicant fraudulently withdrawn Rs. 4,000/- from SB A/C No. 877355 and remained absent on 08.10.04. ✓

19.11.2004- Post Master, Nalbari issued show cause notice to the applicant alleging that applicant is regularly irregular in attending office duties and further alleged that the applicant fraudulently took payment of Rs. 4,000/- from one SB accounts which is a serious offence. (Para- 4.4/page- 3, 4 of O.A) ✓
Annexure- 2/page- 16

27.11.2004- Depositor of SB Account at the dictation of the Postmaster submitted her written statement. (Para- 4.8, page- 7) ✓

27.11.2004- Applicant at the dictation of the Postmaster and under threat of service submitted that he withdrawn of Rs. 4,000/-, (Para- 4.8, page- 7 of O.A) ✓
(Annexure- 5/page- 20) ✓

01.12.2004- Applicant submitted his reply to the show cause notice dated 19.11.04 denying the allegation. (Para- 4.5/page- 4 of O.A) ✓
Annexure- 3/page- 17 ✓

Filed by me applicant
S. Nabi
13/11/07.

File in Court on	10/11/06
Court Officer.	

25
Final 60:
G.N.G.
13/12/09.

07.12.2004- Impugned order of penalty of removal from service issued upon the applicant. (Para- 4.6/page- 4, 5, 6 of O.A)
Annexure- 4/page- 18

22.12.2004- Applicant preferred appeal against the impugned order of removal from service. (Para- 4.8/page- 7, 8 of O.A)
Annexure- 5/page- 20

24.01.2005- Impugned appellate order confirming order of penalty of removal from service issued upon the applicant. (Para- 4.9/page- 8, 9, 10 of O.A)
(Annexure- 6 Series, page- 22))

27.01.2005- Impugned appellate order communicated to the applicant. (Annexure- 6 Series, page- 21)

Applicant preferred O.A. No. 233/06 praying for setting aside of impugned penalty order dated 07.12.04 and impugned appellate order dated 24.01.05. He also preferred M.P. No. 92/06 in OA No. 233/06 praying for condonation of delay of 221 days.

11.12.2006- Written statement received by the applicant.

06.06.1988- In para 4. page- 2 of W.S. it is stated there is no scope of P/T worker in Postal Division and the DG (Posts) letter dated 06.06.88 referred therein. (Copy not enclosed)

CCS Rules, 1965 or GDS (Conduct and Employment) Rules, 2001-

Respondents contended in Para- 5, page 2 of W/S that applicant does not fall within the purview of the Rules as such for removal of the applicant from service it is not necessary to cite rules.

06.03.2003, 09.07.2004, 01.09.2004 and w.e.f. 09.11.04 to 06.12.04-

In para 6, page- 4 of W/S respondents contended that applicant remained unauthorised absent.

30.06.2004, 06.07.04, 13.09.04, 27.09.04, 01.11.04-

In para 6, page- 4 of W/S respondents contended that applicant's early departure from office without permission.

(Annexure- 2 of W.S)

28
संविधान सभा
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 233 /2006

Shri Biren Kalita
-Vs-
Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

22.07.1985- Applicant was initially appointed as part time Forus vide order dated 22.07.85 at the Nalbari H.O, thereafter he has attained maximum status in the year 2003 and continued as such till he was removed from service. (Annexure- 1)

19.11.2004- Post Master, Nalbari vide his impugned letter dated 19.11.04 issued show cause notice to the applicant alleging therein that applicant is regularly irregular in attending office duties. It was also alleged that the applicant fraudulently took payment of Rs. 4,000/- from one SB accounts which is a serious offence. (Annexure- 2)

01.12.2004- Applicant submitted his reply to the show cause notice denying the allegation raised in show cause notice dated 01.12.04. (Annexure- 3)

07.12.2004- Postmaster (HSG-I) Nalbari issued impugned order of penalty of removal from service to the applicant without holding regular inquiry as per Rules and in violation of principle of natural justice. (Annexure- 4)

22.12.2004- Applicant preferred appeal against the order of removal from service to the Superintendent of Post Office, Nalbari- Barpeta Division stating therein that he was not irregular in his duties and the depositor of SB A/c No. 877355 has not made any complain to the Postmaster as such he prayed to look into the matter sympathetically. (Annexure- 5)

24.01.2005- Superintendent of Post offices, Nalbari Barpeta Division issued the impugned appellate order rejecting the appeal of the applicant and

Shri Biren Kalita.

thereby confirmed the order of penalty of removal from service passed by the Postmaster, Nalbari. (Annexure- 6)

Hence this Original Application.

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned penalty order bearing No. Memo No. B2/Staff/Misc/04 dated 07.12.2004 (Annexure- 4) as well as impugned appellate order bearing No. A2-9 (Part-III) dated 24.01.2005 (Annexure- 6).
2. That the Hon'ble Tribunal be pleased to direct the respondents to reinstate the applicant in service with all service benefits including arrear monetary benefits.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for

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

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

Birendra Kalita.

28

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. 233 /2006

Shri Biren Kalita. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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8.	6	Copy of appellate order dated 24.01.05 along with letter dated 27.01.05.	21-25

Filed By:

S. Nath.

Date: - 06.09.2007.

Advocate

Birendra Kalita.

1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 233 /2006

BETWEEN:

Shri Biren Kalita

S/o- Late Abhoy Chandra Kalita,
Vill- Tilana,
P.O- Bhadra,
Dist- Nalbari.

Applicant.

-AND-

1. The Union of India,

Represented by the Secretary to the Govt. of India,
Ministry of Communications,
Department of Posts,
New Delhi- 110001.

2. The Chief Post Master General,

Assam Circle,
Meghdoot Bhawan,
Guwahati- 781001.

3. The Superintendent of Post Offices,
Nalbari- Barpeta Division,
Nalbari- 781335.

4. The Postmaster (HSG-I)

Head Office, Nalbari- 781335.

..... Respondents.

Filed by the applicant
through S. T. Kalita
Advocate
06/09/2006

Biren Kalita.

DETAILS OF THE APPLICATION

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

This application is made against the impugned order bearing Memo No. B2/Staff/Misc/04 dated 07.12.2004, whereby the applicant is removed from service as well as against the impugned appellate order bearing No. A2-9 (Part-III) dated 24.01.2005 and also praying for a direction upon the respondents to reinstate the applicant in service from the date he is removed with all service benefits including monetary benefits.

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 begs to state that he has preferred separate application praying for condonation of delay.

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 applicant was initially appointed as part time Forus vide order-bearing No. A 2/2-37/est dated 22.07.85 at the Nalbari H.O. Thereafter he has attained maximum status in the year 2003 and continued as such till he was removed from service.

Copy of the appointment order dated 22.07.85 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 1.

4.3 That your applicant begs to state that after appointment as part time Forus on 22.07.1985 he has been continuously serving as part time Forus with the

Biream kawita.

utmost satisfaction of the higher authority. Be it stated that in spite of serving for more than 19 years as part time Forus service of the applicant has not been regularised.

4.4 That your applicant while serving as part time Forus in the Head Office, Nalbari, the Post Master, Nalbari vide his impugned letter bearing Memo No. B2/Staff/misc/04 dated 19.11.04 issued show cause notice to the applicant. In the said memorandum dated 19.11.04, the Post Master, Nalbari, alleged that the applicant is regularly irregular in attending office duties even after repeated warnings and instructions. It is also alleged that the applicant is in the habit of remaining absent from duties without authority in every month and this time also applicant is remain absent from duties without authority, information from 9.11.04 onwards. In the memorandum dated 19.11.04 it is also alleged that the applicant fraudulently took payment of Rs. 4,000/- from one SB accounts which is a serious offence. It was also directed to the applicant to submit his explanation within 10 days from the date of receipt, failing of which the applicant will be treated as removed from service on expiry of the stipulated period. Be it stated that the applicant was never issued any memo, charge sheet or warning regarding his absence from duties at any point of time, therefore the allegation that the applicant is in the habit of remaining absent from duties without authority is false and contrary to the records. It is further stated that the applicant never acted fraudulently to take payment of Rs. 4,000/- from one SB accounts as alleged in the impugned memo dated 19.11.04. Most surprisingly, the memo dated 19.11.2004 was issued to the applicant without disclosing the rule under which the show cause memo was issued and also without mentioning the violation of any provision of the conduct rule during performing his duties as Forush in the Nalbari Head Office. Moreover, the charges are not specific and without any specific complain from the end of Account holder it was alleged that the applicant fraudulently took payment of Rs. 4,000/- from

Birendra Khatita

one SB accounts without mentioning the number of the Account from which the applicant fraudulently took payment of Rs. 4,000/- as such impugned memo dated 19.11.04 is liable to be set aside and quashed,

Copy of the impugned memo dated 19.11.04 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 2.

4.5 That your applicant after receipt of the impugned memo dated 19.11.04 submitted his reply addressed to the Post Master (HSG-I) Nalbari denying all the allegations labeled against him. In his reply dated 19.11.04 applicant categorically stated that he is not regularly irregular in attending his office duties even after repeated warning and instructions. He also stated that due to his wife's ill health and as a result he is in the midst of financial hardship and he produced the said SB Account corporally before the Post Master (HSC- I) and he witnessed the SB Account and he denied the charges and stated that to the belief and best of his knowledge he did not act fraudulently. In his reply dated 19.11.04 applicant also prayed to look into the matter sympathetically.

Copy of the reply dated 01.12.04 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 3.

4.6 That the Post Master (HSC-I) issued the impugned penalty order bearing No. Memo No. B2/Staff/Misc/04 dated 07.12.2004, whereby the applicant has been removed from service. In the said order dated 07.12.04, it has been held that the applicant remained unauthorized absence from duties on many occasions without permission and authority. He was frequently warned for it verbally and his monthly allowances were also held up for this irregularity. Most surprisingly the respondents never issued any memo, charge sheet or warning to the applicant at any point of time earlier as required under the relevant rule prior to issuance of the impugned show cause notice dated 19.11.04 and all of a sudden held that applicant

Bikram Gohila

remained unauthorized absent from duties on many occasions without permission and that too without support of any documentary evidence of such allegation and reached to the conclusion that the charges labeled against the applicant is proved beyond doubt. The postmaster (HSC-I) Nalbari in his impugned penalty order came to the conclusion as follows:

"ORDER

Under these circumstances I Sri T.C. Kalita, Postmaster (HSC-I) Nalbari come to the conclusion that the charges framed against Sri Biren Kalita proved beyond doubt and Biren Kalita being a Part time worker has played serious foul play who may commit more serious offence in this regard at the PO. Therefore to end the justice Sri Biren Kalita forush is hereby removed from service with immediate effect."

Most surprisingly the Postmaster (HSC-I) Nalbari without conducting regular inquiry came to the conclusion that the charges framed against the applicant proved beyond doubt and passed the major penalty order of removal from service as such the action of the Postmaster (HSC-I) Nalbari is arbitrary, illegal, unfair, malafide and contrary to the settled position of law and on that score alone the impugned order of penalty dated 07.12.2004 is liable to be set aside and quashed.

Be it stated that in the penalty order dated 07.12.2004 it was held that "Shri Biren Kalita a part time worker violated the departmental rules and orders and acted as such which is unbecoming of a part time workers". Most surprisingly in the impugned penalty order it was nowhere stated by the Post Master (HSC-I) Nalbari that which provision of the departmental rules and orders have been violated but the penalty is imposed arbitrarily without following the principle of natural justice and without providing reasonable opportunity to ascertain the correctness of the charges, as such the arbitrary penalty imposed upon the applicant cannot be sustainable in

Biren Kalita.

the eye of law and on that score alone the impugned penalty order dated 07.12.2004 is liable to be set aside and quashed.

In the penalty order dated 07.12.2004 it is also held that the applicant committed fraud in SB account No. 877355 standing in the name of Smti Anima Talukdar on 08.10.04 and after inquiry by the Post Master, Nalbari it is found that the applicant forged the signature of depositor Sri Mati Anima Talukdar. It is held that the applicant wrote the name of the depositor and became himself the messenger of the withdrawal of Rs. 4,000/- on 08.10.04 against the aforesaid account. Be it stated that the depositor of the SB Account No. 877355 Smti Anima Talukdar never complained about the fraud committed in her account by the applicant but most surprisingly the respondent No. 4 without receiving any complain from the depositor concerned i.e. from Smti Anima Talukdar he reached to the conclusion that the applicant committed fraud in withdrawing money from the said account. In this connection it is stated that the applicant was performing the duty of a Forush and he is not the authority to allow withdrawal of amount of Rs. 4,000/- from the SB Account in question, it is the duty of the Postmaster, Nalbari HO to verify the signature of depositor with her specimen signature before releasing the amount sought for withdrawal but in this case the Postmaster, Nalbari HO failed to perform his duty as required under the rule and he blamed the applicant for the lapse he committed. Most surprisingly the impugned penalty order dated 07.12.04 has been passed by the Postmaster, Nalbari, without discussion of evidence and also without any formal inquiry, as required under the law and without considering the reply dated 01.12.04 submitted by the applicant and without application of mind mechanically passed the impugned penalty order dated 07.12.04 and on that score alone the impugned penalty order dated 07.12.04 is liable to be set aside and quashed.

Copy of the impugned penalty order dated 07.12.04 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 4.

Biream Kalita.

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4.7 That it is stated that no disciplinary proceeding or regular inquiry was conducted against the applicant after issuance of the impugned memorandum dated 19.11.04 but after submitting of the reply dated 01.12.04 no charge sheet was issued against the applicant as required under law to provide reasonable opportunity to the applicant to defend his case, and without considering the reply dated 01.12.04 respondents arbitrarily issued the impugned penalty order dated 07.12.04. Be it stated that no evidence was discussed and also no witnesses were examined as required under the law and without verification of evidences, imposed the penalty of removal from service in violation of provision laid down in the rules and also in violation of principles of natural justice and on that score alone the impugned penalty order dated 07.12.04 is liable to be set aside and quashed.

4.8 That your applicant after receipt of the impugned penalty order dated 07.12.2004 submitted his appeal on 22.12.2004 before the Superintendent of Post Office, Nalbari-Barpeta Division, Nalbari. In his appeal dated 22.12.04 applicant categorically stated that he was not irregular in his duties and also stated that regarding withdrawal of Rs. 4,000/- from SB A/c No. 8777355 is also not true as because the depositor not complained to the authority concerned. He further stated that unofficially the Postmaster, Nalbari came to learn that from a depositor that the applicant took loan a sum of Rs. 4,000/- and at the time of return the amount to the depositor, Sri M. Dutta, Supervisor, SBCO heard the discussion and told to Postmaster. It is also stated by the applicant regarding the statement of the depositor Smti Anima Talukdar dated 27.11.04 that the Postmaster called the depositor and he dictated the statement and he told the applicant that if he wish to work in his office the applicant should write the statement as per his dictation. Therefore, being a Forum, according to the instruction of the Postmaster the applicant wrote the statement on 27.11.2004 and it is not a willful statement in sound mind. The applicant therefore requested to look

Biream Gohita.

into the matter sympathetically because of his three children and wife to support his family members to survive. In this connection it is relevant to mention here that the applicant is a ~~Forus~~ in the respondent department and after serving for a long 19 years in the department with devotion and sincerity he has been removed from service that too without holding regular enquiry as provided under the law. It is further stated that the applicant was not served with any charge sheet stating therein the details of the charges and without providing any opportunity to defend his case he was removed from service. Moreover, no documents were verified to establish that applicant was unauthorisedly absent from duties on many occasions without permission as alleged by the authority more so he was not served with any memo, warning or show cause at any point of time as required under the rule. Regarding the allegation of committing fraud applicant has submitted in his reply that the regarding withdrawal of Rs. 4,000/- from SB A/c No. 8777355 no complain was lodged with the Postmaster and the Postmaster, Nalbari H.O in absence of any complain ~~from any witness and without examination of documents or examination of witnesses he came to the conclusion that the applicant committed fraud. It is categorically submitted that no documents were examined, no witnesses were examined no rule or provision Rules were discussed in the impugned penalty order dated 07.12.2004 as such, the impugned penalty order dated 07.12.04 is liable to be set aside and quashed.~~

Copy of the appeal dated 22.12.04 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-5.

4.9 That it is stated that the appellate authority vide his order bearing No. A2-9 (Part-III) dated 24.01.2005 communicated vide letter bearing No. B2/Staff/misc/04 dated 27.01.05, rejected the appeal dated 22.12.04 submitted by the applicant and thereby confirmed the punishment of removal from duties awarded by the Postmaster, Nalbari vide his order

dated 07.12.04. The appellate authority while rejected the appeal filed by the applicant did not consider the fact that no charge sheet was issued against the applicant under the Rule and it was also not stated in the impugned penalty order dated 07.12.04 that under what provision of rule the penalty of removal of service was awarded against the applicant. The appellate authority also came to the conclusion that the departmental rules and order and acted as such which is unbecoming of a part time worker that too without specifying the relevant provision of rule that was violated by the applicant. Be it stated that appellate authority lost the sight of the fact that there were no listed documents based on which charges were framed and no documents were examined by the disciplinary authority to come to the conclusion that the applicant was irregular in his performance and he was unauthorized absent and without examining the documents the disciplinary authority came to the conclusion that the applicant was unauthorisedly absent in his duties. It was also lost sight of the appellate authority that no warning, memo or show cause were ever issued to the applicant by the Postmaster Nalbari H.O at any point of time regarding unauthorized absent from duties and with the malafide intention to oust the applicant from service held that the applicant was unauthorisedly absent from duties and fraudulently withdrawn Rs. 4,000/- without providing any opportunity to defend his case with the support of the documents.

It is stated that it is the duty of the appellate authority to scrutinize whether the rules and procedures have been followed by the disciplinary authority before imposing the penalty order upon the charged official but in the instant case the appellate authority failed to take into account that no such rules and procedures as laid down in CCS (CCA) Rule or any other rule governing the field have been followed and no documents or witnesses have been verified before imposing penalty of removal from service upon the applicant as such the impugned appellate order dated 24.01.2005 is liable to be set aside and quashed.

Birendra Kalita

Copy of letter dated 27.01.05 along with the appellate order dated 24.01.05 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 6 (Series).

4.10 That your applicant begs to state that he was appointed as part time Forush in the year 1985 and he had performed his duty for long 19 years without any complain or allegation against him and he was never issued any charge sheet, memo or warning at any point of time but the Postmaster, Nalbari Head Office suddenly found him regularly irregular in his duties and he committed fraud. In fact applicant did not committed any fraud rather he took loan of Rs. 4,000/- from Smti Anima Talukdar and the same amount was returned to the depositor without any complain from the depositor of the SB A/c No. 8777355 Smti Anima Talukdar therefore, the allegation that the applicant committed fraud is not true as such the impugned penalty order dated 07.12.04 as well as the impugned appellate order dated 24.01.05 are liable to be set aside and quashed. In this connection applicant begs to state that he has three children and wife dependent upon him and removal from service at this stage will ruin him as well as his family.

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

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

5.1 For that, no charge sheet was issued upon the applicant framing the charge labeled against the applicant, no inquiry was conducted as required under the Rule 14 of CCS (CCA) Rule 1965 or under any other relevant rule providing reasonable opportunity before imposing penalty of removal from service as such the impugned penalty order dated 07.12.04 as well as the impugned appellate order dated 24.01.05 are liable to be set aside and quashed.

Birendra Galita.

5.2 For that no documents or listed witnesses or any other evidence were examined as required under the rule before imposing penalty of removal from service upon the applicant as such the impugned penalty order dated 07.12.04 as well as the impugned appellate order dated 24.01.05 are liable to be set aside and quashed.

5.3 For that, applicant was never issued any memo, charge sheet or warning at any point of time before reaching to the conclusion that he was regularly irregular in attending his duties and such action of the Postmaster Nalbari Head Office is ill motivated and with the intention to oust the applicant from the service.

5.4 For that, no complain was made against the applicant by any depositor at any point of time but the applicant was held guilty of withdrawal from the depositor of the SB A/c No. 8777355 Smti Anima Talukdar without verifying the fact that the applicant took loan of Rs. 4,000/- from the SB A/C holder Smti Anima Talukdar and the said amount was also refund back to Smti Anima Talukdar.

5.5 For that, applicant served in the department of Posts for long 19 years without any complain or allegation of fraud at any point of time but suddenly he was charged for unauthorized absent in duty and committed fraud that too without any complain from any of the SB A/C holder and the Postmaster, Nalbari Head Office on the basis of hearsay evidence came to the conclusion that the applicant committed fraud and imposed major penalty of removal from service that too without holding regular enquiry as required under law and on that score alone the impugned penalty order dated 07.12.04 is liable to be set aside and quashed.

5.6 For that, applicant is submitted the appeal before the appellate authority praying to look into the matter sympathetically as because he has three children and wife and to save the family but the appellate authority

without going through the appeal filed by the applicant and without taking into account the fact that no regular enquiry was conducted before imposition of the major penalty of removal from service and on that score alone the impugned order of penalty dated 24.01.2005 is liable to be set aside and quashed.

6. Details of remedies exhausted.

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

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

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

8. Relief (s) sought for:

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

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned penalty order bearing No. Memo No. B2/Staff/Misc/04 dated 07.12.2004 (Annexure- 4) as well as impugned appellate order bearing No. A2-9 (Part-III) dated 24.01.2005 (Annexure- 6).

Biream Kalita

3.2 That the Hon'ble Tribunal be pleased to direct the respondents to reinstate the applicant in service with all service benefits including arrear monetary benefits.

3.3 Costs of the application.

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

9. Interim order prayed for:

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

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

10.

11. Particulars of the I.P.O

i) I.P.O No.	:	26 G 326156 .
ii) Date of issue	:	30 . 8 . 06 .
iii) Issued from	:	G . P . O . Guwahati .
iv) Payable at	:	G . P . O . Guwahati .

12. List of enclosures:

As given in the index.

Birendra Kalita

VERIFICATION

I, Shri Biren Kalita, S/o- Late Abhoy Chandra Kalita, aged about 44 years, resident of Vill- Tilana, P.O- Bhadra, Dist- Nalbari, 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 6th day of Sept 2006.

Biren Kalita

Annexure-1

प्राप्ति 61
A.C.G.-61

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भारतीय डाक-तार विभाग
INDIAN POSTS AND TELEGRAPHS DEPARTMENT

(देविय प 267, डाक-तार विभाग का खण्ड 1, द्वितीय संस्करण)
(See Rule 267, Posts and Telegraphs Financial Handbook, Volume I,
Second Edition)

चार्ज की वद्दी पर चार्ज स्पोर्ट और नकदी और टिकटों की रसीद
Charge Report and Receipt for cash and stamps on transfer of charge

प्रमाणित किया जाता है कि *Ats 1/1/85* का

Certified that the charge of the office of

Torae

चार्ज (नाम) ने
was made over by (name)

(नाम) का स्थान
to (name) at (place)

तारीख को पूर्वाह्न में
अपराह्न

on the (date), 17-8-85, fore
after noon in accordance with

सं. A 2 (2-3 त्रैवट)
No.

Dated

22-7-85

के अनुसार दे दिया।
from S.P. Nalawar.

भारतीय प्रधिकारी
Relieved Officer

Shri Biramdeo
भारतीय प्रधिकारी
Relieving Officer

[क्रमांक
I.P.T.O.]

Accepted
Santosh
Harsode

OFFICE OF THE POST MASTER (HS6-1) NALBAR
memo no 132/ Staff/memo/04 dt 19-11-04

ANNEXURE-2 34

To
S/o Birendra Nauta
S/o Late Akhoy Nauta
vill. Dilkana
po Bhadra
via. Chawra Bager
Dist. Mal Lani Assam

absence from duties w.e.f

Sub:- Unauthorised
09-11-04

you are regularly irregular in attending your office duties even after repeated warnings and instructions from the undersigned. You are in the habit of remaining absent from office without authority in every month. This time also you remain absent from office and also you remain absent from office onwards. It is also alleged that you ~~are~~ ~~fraudulently~~ took payment of Rs 4000/- from one SP accounts which is a serious offence. You are therefore directed to submit your explanation as to why you were not be removed from service with immediate effect. Your explanation should reach the undersigned within 10 days from the date of receipt failing of which you will be treated as removed from service on expiry of the period of 10 (Ten) days stated above.

20/11/04
Anil Kumar Nauta
Post Master

After
Signature

John
John
John
John
John

Annexure- 3

(Typed true copy)

To,

The Postmaster (HSG-I)
Nalbari- 781335.

Memo No. B-2 Staff/misc/04 dated 19-11-04.

Dated the NLB 01-12-04.

Sub: - Prayer for consideration of the said subject dt NLB. 19-11-04 Memo
No. B2/Staff/misc/04.

Sir,

With due respect I would like to draw your kind attention the said subject regarding my duties. That Sir, I was not regularly irregular in attending my office duties even after repeated warnings and instruction in your office.

That Sir, according to the letter, the alleged that I fraudulently took payment of Rs. 4000/- from one SB account. Actually, it is not so, as said and the word "fraudulent" is not acceptable in this regards.

That Sir, due to my wife's ill health and until cured visited the doctors. So, as to was I the midst of financial hardship. To proof it I produced the said SB Account corporally before the eyes of your Court (office) and the witnessed. So far, I know that Sir, to the belief and best of my knowledge I did not go through fraudulent.

That Sir, please look into the matter heartially, otherwise, I shall not be able to see the beautiful Universe with my three (3) Childs and my beloved wife.

This is my benign reply and cordially pray to you.

Yours faithfully

Sd/-

Shri Biren Kalita
S/o- Late Abhay Kalita
Vill- Tilana
P.O- Bhadra
Via- Chowr Bazar
Dist- Nalbari, Assam.

*Attested
S/o
Advocate*

Annexure-4

DEPARTMENT OF POST :INDIA
Office of the Postmaster(HSG-1), Nalbari
Nalbari HO-781335

Memo No.:B2/Staff/Misc/04

Dated at Nalbari 07-12-2004

Sri Biren Kalita, Forush, Nalbari HO while working as such remained unauthorized absence from duties on many occasions without permission and authority. He was frequently warned for it verbally and his monthly allowances were also held up for this irregularity. But he never pays heed to the instructions of the undersigned. Sri Biren Kalita after committing a fraud in SB account no 877355 standing in the name of Smt Anima Talukdar of Vill+PO:- Kalag Dist:- Nalbari on 08-10-04 remained absent from duties without information. Accordingly the case was inquired by the undersigned and found that Sri Biren Kalita forged the signature of the depositor Sri Anima Talukdar. He himself wrote the name of depositor and became himself the messenger of the withdrawal of Rs. 4000/- on 08-10-04 against the aforesaid account. It is also to mention here that the specimen signature on record was in English but Sri Biren Kalita wrote it in Assamese. Thus by forging the signature of depositor Biren Kalita forush himself took the withdrawal of the said amount from the said account on 08-10-04 violating the existing rules in force.

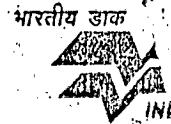
In this regard the written statement of the depositor Sri Anima Talukdar dated 27-11-04 will say, Sri Biren Kalita fours also admitted in his written statement dated 27-11-04 that he forged the signature of the depositor and made himself messenger and took the payment of the sum of Rs.4000/- cited above which he returned to the depositor on 18-11-04.

Thus Sri Biren Kalita a part time worker violated the departmental rules and orders and acted as such which is unbecoming of a part time worker.

Accordingly a se cause notice was issued to Sri Biren Kalita vide this office letter of even no dated 19-11-04 to submit explanation as to why he will not be removed from his service within 10 days from the date of receipt of the letter.

Sri Biren Kalita fours submitted his explanation vide his letter dated 01-12-04 which is as under

*After
Ans.
Ans.*



With due respect I would like to draw your kind attention the said subject regarding my duties. That sir I was not regularly irregular in attending my office duties even after repeated warnings and instruction in your office. That Sir according to the letter the alleged that I fraudulently took payment of Rs.4000/- from one SB account. Actually it is not so, as said and that word fraudulent is not acceptable in this regards.

That Sir due to my wifes ill health and until now I visited the Tilana P.O. I explained the matter of account only before the eyes of your court(office) and they witnessed so far I know that Sir to the belief and best of my knowledge I did not go through fraudulent.

That Sir please look in to the matter heartily otherwise I shall not be able to see the beautiful universe with my three(3) childs and my beloved wife.

This is my benign letter and cordially pray to you."

Sri Biren Kalita
S/O-Late Abhay Kalita
Tilana P.O.; Bhadra
Nalbari(Assam)

OBSERVATION

I have gone through his explanation cited above and come to the conclusion that the reasons adduced by Sri Biren Kalita for such is nothing but provaricated one. His written explanation cited above as well as his written statement dated 27-11-04 clearly says that he fraudulently took payment of Rs.4000/- from the said account on 08-10-04, and thereby he remained absent from duties without information from that very day.

ORDER

Under these circumstances I Sri T.C.Kalita Postmaster (HSG-1) Nalbari come to the conclusion that the charges framed against Sri Biren Kalita proved beyond doubt and Biren Kalita being a Part time worker has played serious foul play who may commit more serious offence in this regard at the PO. Therefore to end the justice Sri Biren Kalita for such is hereby removed from service with immediate effect.

SD/-

Postmaster(HSG-1)
Nalbari-781335

Copy to ::

- 1) Sri Biren Kalita S/O- Late Abhay Kalita Vill:- Tilana Po:- Bhadra Via:- Chowk bazar Dist:- Nalbari for information.
- 2) The Superintendent Of Post Offices, Nalbari-Darjeeling Division, Nalbari-781335 for information.
- 3) The Account Branch Nalbari P.R.
- 4) O.C
- 5) Spare.

Postmaster(HSG-1)
Nalbari-781335

7/12/04

✓ Annexure-5

To,

The Superintendent of Post Office
Nalbari-Barpeta Division
Nalbari - 781335
(Through the P.M. Nalbari H.O.)

Dated at Tilana the 22th Dec-04

Sub : Appeal against P.M. Nalbari Memo No. - B2/Staff/Mise/04 Dtd. 07-12-2004.

Hon'ble Sir,

Most respectfully I lay before you the following lines for favour of your kind consideration and favourable order.

That Sir, as said by the Postmaster, Nalbari. I was not irregular in my duties. Regarding withdrawal of Rs. 4,000/- from SB A/c No. 877355 is not true, because the depositor not complained to the authority concerned. Unofficially he known that from a depositor. I took loan a sum of Rs. 4,000/- and at the time of return the amount to the depositor, Sri M. Dutta, Supervisor, SBCO heard the discussion and told to Postmaster.

That Sir, regarding he statement of the depositor Smti Anima Talukdar Dtd. 27-11-04, it is to inform you that the Postmaster called her and he dictated the statement and he told me that if you to wish to work in my office, you shold write the statement as my dictation. Therefore being a forus, according to the instruction of the Postmaster I write the statement on 27-11-04, it is not my willfull and sound mind.

That Sir, kindly look into the matter heartially because of my three children and wife and help me to alive with my familly as a human and obliged.

Your's faithfully-

(Sri Biren Kalita)
Forus, Nalbari H.O.
Vill. - Tilana.
P.O. - Bhadra.
Dist. - Nalbari (Assam).

Attest
Smti
Advocate

Annexure-6

29

Chsd/AD
To:
SRI Birendra Biswa
Forum
S/o Abhoy Deo
Vill. Titana
PO Bladra
via. Chown Bazar
Dist. Nalbari
Assam

Parashar (HSG-11)
Palitkot P.M. 336

No B27 Staff/miss/04 dated 27-1-05
Sub:- Delivery of Appellate order of SPOS
N2B vide NO A2-9 (part III) dt 24-1-05

The appellate order passed by SPOS Nalbari
vide letter cited above recd from SPOS
N2B is forwarded here with for your
info. and directed.

Enclosed - Appellate
order dt
21-1-05

E 27/1

Attest
Smt. Advocate

Annexure 6

DEPARTMENT OF POSTS : INDIA
Office of the Superintendent of Post Offices Nalbari Barpeta Division
Nalbari-781335

No : A2-9(Part-III)

Dated at Nalbari the 24th January 2005

APPELLATE ORDER

Sri Biren Kalita, the appellant, Ex Forush, Nalbari HO was charged on the basis of the following allegations :

"That Sri Biren Kalita, Forush Nalbari HO while working as such remained unauthorized absence from duties on many occasions without permission and authority. He was frequently warned for it verbally and his monthly allowances were also held up for his irregularity. But he never pays heed to the instructions of the undersigned. Sri Biren Kalita after committing a fraud in SB account No 877355 standing in the name of Smt Anima Talukdar of Vill : PO : Kalag. Dist : Nalbari on 8.10.04 remained absent from duties without information. Accordingly the case was inquired by the undersigned and found that Sri Biren Kalita forged the signature of the depositor Smt Anima Talukdar. He himself wrote the name of depositor and became himself the messenger of the withdrawal of Rs 4000/- on 8.10.04 against the aforesaid account. It is also to mention here that the specimen signature on record was in English but Sri Biren Kalita wrote it in Assamese. Thus by forging the signature of depositor Biren Kalita Forush himself took the withdrawal of the said amount from the said account on 8.10.04 violating the existing rules in force.

In this regard the written statement of the depositor Smt Anima Talukdar dated 27.11.04 will say. Sri Biren Kalita, Forush also admitted in his written statement dated 27.11.04 that he forged the signature of the depositor and made himself messenger and took the payment of the sum of Rs 4000/- cited above which he returned to the depositor on 18.11.04.

Thus Sri Biren Kalita a part time worker violated the departmental rules and orders and acted as such which is unbecoming of a part time worker.

Accordingly a so cause notice was issued to Sri Biren Kalita vide this office letter of even No dated 19.11.04 to submit explanation as to why he will not be Removed from his service within 10 days from the date of receipt of the letter."

Sri Biren Kalita submitted his explanation vide his letter dated 1.12.04 which is as under :

"With due respect I would like to draw your kind attention the said subject regarding my duties. That, Sir, I was not regularly irregular in attending my office duties even after repeated warnings and instruction in your office.

That Sir, accordingly to the letter the alleged that I fraudulently took payment of Rs 4000/- from one SB account. Actually it is not so, as said and that word fraudulent is not acceptable in this regards.

That Sir, due to my wife's ill health and until cured visited the doctors so as to was in the midst of financially hardship. To proof it I produced the said SB account corporally

*Afterwards
Jai
Harkar*

before the eyes of your court(office) and they witnessed so far I know that Sir to the belief and best of my knowledge I did not go through fraudulent.

That Sir, please look into the matter heartily otherwise I shall not be able to see the beautiful universe with my three(3) children and my beloved wife.

This is my benign letter and cordially pray to you."

The Postmaster Nalbari HO considered his representation and decided the case on merit vide No B2/Staff/Misc/04 dated 7.12.2004 issuing a order of removal of the appellant from service with immediate effect. Being aggrieved, the appellant preferred an appeal dated 22.12.04 to the undersigned.

There is no record to show on which date the appellant received the disciplinary order dated 7.12.2004. The appeal was dated 22.12.2004 and received on 23.12.2004. However, I have decided to consider the appeal to meet the end of justice. The appellant has raised the following points and facts in his appeal and prayed for setting aside the punishment order.

- i) That the appellant was not irregular in his duty as reported by the Postmaster.
- ii) He denied fraudulent withdrawal of Rs 4000/- from SB A/C No 877355 as the depositor not complained to the authority concerned. Unofficially the Postmaster knows that from a depositor. The appellant took loan a sum of Rs 4000/- and at the time of return the amount to the depositor, Sri M. Dutta, Supervisor, SBCO heard the discussion and told to Postmaster.
- iii) That regarding the statement of depositor Smt Anima Talukdar dated 27.11.04, it is stated that the Postmaster called the depositor and obtain her statement on dictation.
- iv) The Postmaster cautioned him that if he wish to continue his duty he should write the statement as dictated by him and accordingly he wrote the statement dated 27.11.04.

I have carefully considered the points in the appeal by the appellant taking into account the facts of the case, records of inquiry and disciplinary order and my views and observations are recorded below :

- i) That the appellant did not put forth any evidence or ground denying his irregular performance of duty or unauthorized absence. On the other hand, from the copies of error extracts of the SBCO branch, Nalbari HO forwarded by the Postmaster, Nalbari it appears that the appellant was actually irregular in performance of his duty. It remains that the appellant was ordered to assist in SBCO branch in packing & placing of vouchers in addition to his forush duty as the forush duty alone does not justify for retention of the post.
- ii) Miss Anima Talukdar, the depositor of Nalbari HO SB a/c No 877355 clearly stated vide her written statement dated 27.11.04 that she handed over a cheque for Rs 4668.00 issued by Peerless Company along with the pass book to the appellant through her brother Sri Atul Talukdar in order to deposit in her SB a/c No 877355. The said cheque was cleared on 8.10.2004 and an amount of Rs 4000/- was shown withdrawal from that a/c on the same day, i.e. on 8.10.2004.

When the brother of the depositor failed to meet the appellant after several attempts, the matter was brought to the notice of the Postmaster verbally and when the records were checked the fraudulent withdrawal came to notice. In the meantime the amount of withdrawal of Rs 4000/- was handed over to the depositor by the appellant on 18.11.04. Thereby the fraudulent withdrawal as well as temporary misappropriation of Rs 4000/- on the part of the appellant have been proved.

iii) The depositor Miss Anima Talukdar has clearly stated in her written statement dated 27.11.04 that she neither signed the withdrawal form nor withdrawn the money from her a/c on 8.10.04. It is also evident from the specimen signature appeared in SB-3 that it was in English but the signature appeared in SB-7 (withdrawal form) in Assamese. Thereby it has been proved that the said withdrawal was effected by the appellant by forging the signature of the depositor. Therefore, the statement was given by the depositor at her own and not on dictation of the Postmaster.

iv) The depositor as well as the appellant admitted vide their written statement that the amount of Rs 4000/- was received by her on 18.11.04. The appellant in his written defence dated 1.12.04 also did not deny the withdrawal. Therefore, the statement written by him on 27.11.04 cannot be said to be made forcefully as per dictation of the Postmaster, Nalbari.

From the above I have come to the conclusion that the appellant has committed a grave offence of forgery and displayed grave misconduct thereby. The appellant also displayed serious indiscipline by remaining absence frequently from duty without authority dislocating the office works.

In view of the discussion made above and considering the facts and evidences against the appellant, I do not find any merit/ground in the appeal to interfere with the Disc order dated 7.12.04 and dispose the appeal with order as under.

ORDER

I, Sri S. Das, Superintendent of Post Offices, Nalbari Barpeta Division, Nalbari do hereby reject the appeal dated 22.12.04 of Sri Biren Kalita, Part-time Forush Nalbari HO and confirm the punishment awarded by the Postmaster, Nalbari vide No B2/Staf/Misc/04 dated 7.12.04.

(S. Das)
Superintendent of Post Offices
Nalbari Barpeta Division
Nalbari-781335

Sri Biren Kalita
S/o Late Abhay Kalita
Vill : Lilana PO : Bhadra
Nalbari (Assam)

Copy to:-

- 1-2. The Postmaster, Nalbari HO. He will arrange delivery of the enclosed copy of appellate order to the appellant immediately and send the signed acknowledgement to this office for records.
3. OC

SS/-
Superintendent of Post Offices
Nalbari Barpeta Division
Nalbari-781335

forwards to
Biswanath

L
27/1

22 DEC 2006
गुवाहाटी न्यायालय
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. No.233 of 2006

Shri Biren Kalita.

..... Applicant.

-VS-

Union of India & Ors.

..... Respondents.

The written statement on behalf of the
Respondents abovenamed.

WRITTEN STATEMENT OF THE RESPONDENTS MOST RESPECTFULLY
SHEWETH:

1. That with regard to the statement made in paragraph 1 of the instant application the answering respondents beg to state that the applicant was removed from service after giving him reasonable opportunity of show cause. As such, the prayer for reinstatement is not tenable in law, as well as, on facts.
2. That with regard to the statement made in paragraph 2 and 3 of the application the respondents beg to state that those are within the specific knowledge of the applicant and the respondent can not admit or deny the same.

Contd....P/

Filed by
The respondents
Through *Guwahati Bench*
S.C. 11.12.06

3. That as regard the statement made in paragraph 4.1. and 4.2 of the application the answering respondents beg to state that those are matter of records and respondent those not admit anything which is not borne out of record.

4. That with regard to the statement made in paragraph 4.3. of the application the respondents beg to state that there is hardly any scope to regularise P/T worker as per provision of rules. Their priority in the matter of regularisation is below the ED staff as per preference. The turn of a P/T worker comes only when a post remain unfilled by ED staff. The scope of a P/T worker never come in a Postal Division where thousand of ED staff are working. The DG (Posts) letter No.17-141/88 EDC & Trg dated 6/6/1988 (copy enclosed) as proof to be pursued.

5. That with regard to the statement made in paragraph 4.4. of the application the respondents beg to state that the applicant is neither a departmental nor a GDS employee and he does not fall within the purview of CCS (CCA) Rules, 1965 or GDS (Conduct and Employment) Rules, 2001.

The case was proceeded as per procedure. It is not necessary to cite rules for removal as does not fall within the purview of the above mention rules.

The question of complain from depositor does not arise in detecting loss and fraud case. This case of misappropriation came to the notice when Postmaster

inquired reasons of absence of the applicant. It also revealed that the depositor Anima Talukdar through her brother Sri Atul Talukdar came to the post office several days to contact the applicant to know the position of the cheque. As the applicant was found absence, Sri Atul Talukdar contacted to Postmaster, Nalbari HO and came to know that the cheque had already been collected on 8/10/04 and an amount of Rs.4000/- has been withdrawn from the account on 8/10/04. Immediately Anima Talukdar, the holder of the said account came to the post office and contacted the Postmaster and stated that she never took any withdrawal from her pass book on 8/10/04 and she denied the specimen signature on the withdrawal form dated 8/10/04 vide her statement dated 27/11/04. She also stated that she did not send anybody as messenger to take withdrawal. On further inquiry it was confirmed that Sri Biren Kalita took the withdrawal by himself becoming the messenger and forging the signature of Anima Talukdar. Sri Biren Kalita also admitted the same vide his statement dated 27/11/04.

Thus the applicant misappropriated a sum of Rs.4000/- and remained absent from duties without information. The rule under which Sri Biren Kalita was charged need not to be mentioned as the part-time worker does not fall within the purview of CCS (CCA) Rules 1965 of GDS (Conduct and Employment) Rules, 2001 Natural justice was given to Sri Biren Kalita issuing show cause notice before removal from service.

A copy of the said statement dated 27/11/04 is annexed herewith and marked as ANNEXURE-1.

6. That with regard to the statement made in paragraph 4.5. of the application the answering respondents beg to state that Sri Biren Kalita never submitted any application adducing the reasons of his unauthorised absence or for leaving office without permission even though he was asked to submit explanation for these absences. His pay and allowances were held up on 6/3/03, 9/7/04, 1/9/04 and w.e.f. 9/11/04 to 6/12/04 for unauthorised absence. This will indicate whether Sri Biren Kalita was regular or irregular in attendance.

Regarding early departure from office without permission vide Error Extracts (for brevity E/E) No.1 dated 30/6/04, E/E No.2 dated 6/7/04, E/E No.3 dated 13/9/04, E/E No.4 dated 27/9/04 E/E No.5 dated 1/11/04 recorded by M. Dutta, Supervisor, SBCO Nalbari HO are sufficient to prove it.

The corresponding SB withdrawal form (SB-7) dated 8/10/04, SB-3 dated 14/6/04 and the written statement of Sri Biren Kalita, statement of Anima Talukdar dated 27/11/04 will clearly say about the misappropriation of Rs.4000/- from SB a/c No.877355.

Copies of the Error Extracts dated 30/6/04, 6/7/04, 13/9/04, 27/9/04 and 1/11/04 are and herewith and collectively marked as ANNEXURE-2.

7. That as regard the statement made in paragraph 4.6 of the application the respondents beg to state that Sri Biren Kalita is a part-time worker who does not fall

under the purview of CCS (CCA) Rules, 1965 and GDS Conduct and Employment Rules 2001. Regarding withdrawal of Rs.4000/- reply in above paras will say.

8. That as regard the statement made in paragraph 4.7 of the application the respondents beg to state that there is no provision of regular inquiry against part-time worker. Even though enough opportunity was given to defend the case. Depending upon the modus operandi of the fraud and gravity of the case and in response to the reply dated 1/12/04 the case was finalized and order was passed.

The applicant is a part-time Farash who dares to commit such a serious fraud case by taking fraudulent withdrawal from SB account may commit more fraud in the branches of the post office which may lead to several fraud cases at any time sustaining heavy loss to the department.

9. That with regards to the statements made in paragraph 4.8 of the application the respondents beg to state that the applicant did not put forth any evidence or ground denying his irregular performance of duty or unauthorised absence. It is clear from the Error Extract of the SBCO branch, Nalbari HO that the applicant was actually irregular in performance of his duty.

The A/C No. of Ms. Anima Talukdar is 877355 not 8777355 as stated in the O.A. The said Anima Talukdar in her written statement dated 27/11/04 stated that she handed over a cheque for Rs.4688/- issued by Peerless Company along with the pass book to the applicant

through her brother Sri Atul Talukdar in order to deposit in her SB a/c No. 877355. The said cheque was cleared on 8/10/04 and an amount of Rs. 4000/- was shown withdrawal from that a/c on the same day. When the brother of depositor failed to meet the applicant after several attempts, the matter was brought to the notice of the Postmaster verbally and when the records were checked, the fraudulent withdrawal came to notice. Therefore complain from depositor does not arise. From the record itself the fraudulent withdrawal of Rs. 4000/- have been proved.

The depositor Anima Talukdar has clearly stated in her statement dated 27/11/04 that she neither signed the withdrawal form nor withdrawn the money from her a/c on 8/10/04. It is also evident from the specimen signature appeared in SB-3 that it was in English not in Assamese as shown i.e. withdrawal was effected by the applicant forging the signature of depositor. The statement given by the depositor was of her own and the same was neither on dictation nor on direction of the Postmaster.

The copies of SB-3 and withdrawal form in annexed herewith and marked as ANNEXURE-3 and 4

10. That with regard to the statement made in paragraph 4.9 of the application the respondents beg to state that the applicant was never appointed as regular staff. He was engaged only for farash duty on part-time basis and no service records are maintainable for such

job. As his engagement on casual basis, is not governed by any conduct rules, or service rules etc no formal charge sheet against him for the fault committed by the applicant deemed necessary under any service rules. So he was removed from the service as per terms and condition of his engagement. There is no provision of regular inquiry against part-time worker. The applicant was asked to explain the reasons of his unauthorized absence from duty but the applicant did not put forth any evidence or ground denying his irregular performance of duty.

11. That with regard the statement made in paragraph 4.10 of the application the respondent beg to state that the written statement of the depositor Sri Anima Talukdar depositor of SB A/c No. 877355 will say for, itself whether Rs 4000/- was taken as a loan or otherwise. If it was a loan why the depositor denied the withdrawal dated 8.10.04 and why the applicant admitted that he took withdrawal of Rs 4000/- from the said account for his personal use. Their written statement i.e. Anima Talukdar /Sri Biren Kalita dated 27.11.04 will say about it.

12. That as regard the statement made in paragraph 4.11 of the application the respondent beg to offer no comment.

13. That as regard the statement made in paragraph 5.1 of the application the respondent beg to state that the case of the applicant does not fall within the purview of CCS(CCA) Rules 1965. Hence question of Rule-14 does not arise.

14. The statement made in paragraph-5.2 the application are false, untrue and incorrect, hence denied by the respondents. The respondents beg to state that all the documents were examined before issuing removal order to the applicant.

15. That with regard to the statement made in paragraph 5.3 of the application the respondents beg to state that those are untrue, and false, hence denied. The memos were issued under letter No. B2/Staff/Misc/03-04 dated 10.11.03, 1.9.04, 19.11.04 and considering all documents/evidences, the removal order was issued to the applicant.

16. That with regard to the statement made in paragraph 5.4 of the application the respondent beg to state that those are false, fabricated and concocted statement and hence the same are denied. No such SB a/c No. 8777355 was opened at Nalbari HO as mentioned in this para. The question of lodging any complaint by the depositor is not mandatory. In the instant case, the fraud was detected at the time of checking of the documents. The applicant Sri Biren Kalita also admitted that he took the withdrawal of Rs. 4000/- from SB a/c No 877355 standing in the name of Anima Talukdar. The written statement of Sri Biren Kalita dated 27.11.04 obtained in presence of Sri M. Dutta, I/C SBCO Nalbari HO will say in this regard.

17. That with regard to the statement made in paragraph 5.5 of the application, the respondents denied the same

being false, untrue and incorrect. As and when a case comes to the notice or detected, the official at fault may be charged if found guilty. The applicant was also found guilty of remaining absent from duties unauthorisedly for which he was cautioned even by holding up pay and allowances. The applicant Sri Kalita after committing the fraud remained absent from duties and as such it may not be said as a hearsay. It is reiterated that there was no complain from the depositor for withdrawal of Rs. 4000/-. There is no such provision in rules that fraud case should not be detected or investigated without complaint from the depositor. The case of the applicant was a fraudulent one.

18. The statement made in para 5.6 of the application are false, incorrect and untrue , hence denied by the respondents. The applicant was not a departmental or GDS employee. He was P/T farash. There are no conduct rules to govern casual labour for proceeding. Departmental proceedings are followed in respect of departmental or GDS employee. The grounds set forth in the application are not good and noticeable in the eye of law, hence the application is liable to be dismissed.
19. That with regard to the statement made in paragraph 6 & 7 of the instant application the respondent begs to state that those are within specific knowledge of the applicant and the respondent can not admit or deny the same.
20. That with regard to the statement made in paragraph 8 and 9 of the instant application the respondent-

ents beg to state that the applicant has himself admitted that he was not regularly irregular in his duty despite warning etc. He was removed from service giving natural justice like show cause on 19/11/04. Appellate authority also examined his case thoroughly and confirmed the order of punishing authority as there was no merit of the appeal filed by the applicant. Therefore the order of disciplinary authority as well as appellate authority was not impugned.

The respondents further beg to state that in view of the facts and circumstances mentioned above, the applicant is not entitled to any relief or interim relief as prayed for and the application is liable to be dismissed.

VERIFICATION

I, Sri. Bhadreswar Baroque, Sp-Lets. Subhawar Baroque being authorised to hereby verify and declare that the statement made in this reply of contempt petition in para 4, 7-8, 10-20..... are true in my knowledge, these made in para 5, 6 & 9..... being matter of records are true to my information and believe and I have not suppressed any material fact.

And I sign this verification on this 28th day of November, 2006.

Bhadreswar Baroque

DEPONENT
 डाक अधीक्षक नलवारी वरपेटा
 डाक मंडल नलवारी - 781335
 SUPDT. OF POST OFFICES
 NALBARI PARPETA DIVISION
 NALBARI-781335

OFFICE OF THE POSTMASTER (HSG-1) NALBARI
memo no 32/ staff/mescl/04 : dt 19-11-04

Post Master (HSG-1)
Nalbari-781335

Count CEN-15170952004, 11:48
Postal Service, 20/11/2004



INDIA POST
TO: 51611A
Counter No: 10P-0513-081
PS-AL 6449
NALBARI HOD
(SISIR)
BHADRA
Counter No: 10P-0513-081
PS-AL 6449
NALBARI HOD
(SISIR)
BHADRA
TO: 51611A
Counter No: 10P-0513-081
PS-AL 6449
NALBARI HOD
(SISIR)
BHADRA

To

re Birinirachan
re Late Akhoy reute
vill. Silana
po. Bhadra
via. Chowra Bazar
dist. Nalbari Assam

Sub:- unauthorised absence from duties w.e.f
09-11-04

you are regularly irregular in attending your office duties even after repeated warnings and instructions from the undersigned. You are in the habit of remaining absent from duties without authority in every month. This time also you remain absent from duties without authority, information from 9-11-04 onwards. It is also alleged that you fraudulently took payment of Rs 4000/- from one SPB accounts which is a serious offence.

you are therefore directed to submit your explanation as to why you will not be removed from service with immediate effect. Your explanation should include the undersigned within 10 days from the date of receipt failing of which you will be treated as removed from service on expiry of the period of 10 (Ten) days stated above.

Birinirachan
27/11/04

20/11/04
SISIR
Post
11:05:11 10:30:15 15:05

True copy
N.C. D'Souza
Advocate

True copy of circular in connection with Sri Biren Kalita who was remaining absent from his duty from time to time.

1. Date 30-6-04. To The Postmaster Nalbari Ho

It is for favor of your kind information that Sri Biren Kalita attached to SBW branch is remaining absent from his duty from 1100am. The work of SBW branch is hardly effected due to his absence.

retd
Supt PM / Nalbari Ho
30-6-04.

allowable
Post Master (HSG-1)
Nalbari - 781335

sd/- M. Saha
30-6-04
Supervisor SBW
Nalbari Ho 781335

2. 6-7-04

To The Postmaster Nalbari Ho

It is for favor of your kind information that Sri Biren Kalita attached to SBW branch is leaving the branch without any permission of the Sup / SBW since 930 AM. The SBW work is hardly effected without any assistance of class IV staff.

Sri. Satyen Das (water man) requested to help in place of Biren Kalita, but he also refused to work in the branch.

So, necessary action may be taken for smooth functioning of work.

retd
Supt PM / Nalbari Ho
6-7-04

allowable
Post Master (HSG-1)
Nalbari - 781335

sd/- M. Saha
6-7-04
Sup / SBW
Nalbari Ho
781335

True copy
N. C. D.
Advocate

sai

13-9-04

- 14 -

6X

to The Postmaster NRB Ho

Mr. Biran Kalita Post-telic worker attached to SBW branch is remaining absent without any permission since 1130 hrs effective from morning of SBW today.

This is for favor of your kind information and necessary action.

Dear
sdt PM (RB Ho)
13-9-04.

PostMaster (HSG-II)
Nalbari-781335

sdt. m. sark
Supt/SBW
NRB Ho

4. 27-9-04.

to The Postmaster Nalbari Ho

Mr. Biran Kalita Post-telic worker attached to SBW branch is remaining absent from his duty without any permission from 12 hrs.

This is for favoring your kind information.

Dear
sdt- PM / NRB Ho
27-9-04.

PostMaster (HSG-II)
Nalbari-781335

sdt. m. sark
Supt (SBW)
NRB Ho

sat

5.

07-11-04

To the Postmaster, Nalbari Ho

Mr. Biran Kalita attached to the SBW
branch remaining absent from his duty
from 11.30 Hrs without any permission of
the Supt/SBW Nalbari Ho

This is for favor of your kind
information and necessary action.

sent
for pay will be
re deducted for his
day.

sd/- P.M
N.B.Ho
1.11.04

sd/- in sat

Supt/SBW Co
N.B.Ho
1.11.04

पोस्ट ऑफिस सेविंग्स बैंक
POST OFFICE SAVINGS BANK
आवास बंदुकान के लिए आवश्यक प्रक्रिया
APPLICATION FOR OPENING AN ACCOUNT

पुस्तक का नाम Name of Pusti Office

બાદા ઉદ્ધવા -
અનુચ્છાનક No.

877353

* कृष्णा थेरे/दमारे
नारे/ये एक
* शेष्ट्रो ओपन
ब्लॉक्यूर व्हारेस

नाम वारे पता
Name(s) an. I
Name(s) (2)

SR ANIMA TAZUKDAR
VILL QPO - KALAG
DIST - NALBARI (ASSAM)

**परिवार का दर्शन में से, जन्म की दार्शन
** If minor, date of birth.....
आवास का नाम दर्शन
Applicant's relation.....
2. परिवार का (1) जन्म वर्ष दर्शन

W. W. Kolter, ACN: 867-198

(ii) *निष्ठा विद्या विद्यार्थीयां*

* २. यह विवरण विवरण विवरण

દ્વારા/યુદ્ધાદ્યા
JOINTLY/SEVERALLY

1/3 - or any number of days in any month. Accounts, single or joint, at any time, and the period covered in the statement, and also furnish demand from the First Chicago National Bank, particulars of all such accounts.

applicable to the account from time to time.

To be filled only for writing

Postage paid

True (et)
N. (DW)
Advocatus

6. मेरे/मेरी दरबारी राज देश बंगलादेश, 1873 (संख्या १) द्वारा दिया गया अधिकारी व्यक्ति (व्यक्ति) को वर्तमान समय तक जीवी हो रही है एवं उसकी मृत्यु के बावजूद उसके द्वारा दिया गया अधिकारी (व्यक्ति) द्वारा दिया गया अधिकारी (व्यक्ति) के लिए नामांकित करना है, जिसकी विवरण नीचे दिये गये हैं।

*नामदिनी (नाम दिनांकिती) एवं नाम/नामों की पद्धतिं द्वारा यह त्रैये विवरण।
*The name (s) of nominees (s) are also mentioned in the Panchang.

ધારી : હસ્તાક્ષર / Signature : Signature : <i>S. A. Ani - na - Salukdar</i>	સાંકેટ (દા) ના હસ્તાક્ષર ગણરાજ્યાન્દે (દા)
નામ : ડૉ. રસા	ડૉ. રસા / ડૉ. રસા નામના પિંડા
Name and address.....	ડૉ. રસા / ડૉ. રસા નામના પિંડા
• રંગ અરોગ્યાનુભૂતિ ના દ્વારા બોલાયેલું	અનુભૂતિ (દા) ના નિયમાનુભૂતિ (દા)
• સ્વસ્થ ના નિયમાનુભૂતિ	નિયમાનુભૂતિ (દા) ના નિયમાનુભૂતિ (દા)

७. नमूना वस्त्रादा दृष्टिकोण संकलनालय । शारदा छाता।
Accomplished No.

877353-¹

प्रमाण दस्तावेज़/Sectional Specimen
✓ Sri Anima Jalcikdar.

2. ✓ Sri Anima Talakdar
3. Sri Anima Talakdar

प्राधान पोस्टमास्टर के हस्ताक्षर । उप-पोस्टमास्टर के हस्ताक्षर । प्रधान पोस्टमास्टर के हस्ताक्षर ।
 Signature of Head Postmaster Signature of Sub-Postmaster Signature of Head Postmaster

BRILL

卷之三

卷之三

टारीका पत्र/Date stamp टारीका पत्र/Date stamp टारीका पत्र/Date stamp
प्राप्ति वर्त/Recd/Recd Stamp प्राप्ति वर्त/Recd/Recd Stamp

ପରାମର୍ଶ ପରାମର୍ଶ (୧୦) ୧୦୦୦

Annexure - 4



रुपया निकालने का फार्म / WITHDRAWAL FORM
एनो वो ० - ७ / S. B. - ७

इस फार्म के साथ पास युक्त अवश्य होनी चाहिए

PASS BOOK MUST ACCOMPANY THIS FORM

Name of Post Office

दफ्तर का नाम / Name of Post Office Amritsar sub-division

खाता सं० / Account No. 877355 तारीख / Date ५/१५/३४

कृपया युक्त संदेशवाहक, जिसके हस्ताक्षर नीचे दिए गए हैं / Pay self / Messenger whose signature is given below, the sum of Rs. 70/- *Rs. 70/- only (400/-)*

(मंजरी में / In words)

रुपये / Rs. 400/-

(अंकों में / In Figure)

रु. का भुगतान करें।

इस निकाल के बाद बचता / Balance after withdrawal Rs. 718 रु. (मंजरी में / in figure)

संदेशवाहक का नाम / Name of Messenger मिस्टर चौधरी

संदेशवाहक का हस्ताक्षर / Signature of Messenger Mr. Chaudhary

जमाकर्ता के हस्ताक्षर का अंगूठे का नियान / Signature of thumb impression of depositor

मिस्टर चौधरी

Post Master
Date 15/11/34
Post Master (MSG-1)

Advocate
N. C. Das

76/2
एनो वो ० - ७ / S. B. - ७

अदायगी आदेश / PAYMENT ORDER

दिनांक / Date 6.11.34

Pay Rs.

Rs. 70/-
(रुपये में / In words)

जाज / Interest

(खाता बद्ध करने के मामले में / In case of closure)



पोस्टमास्टर
Date-Stamp

Received Rs.

Rs. 70/-
प्रतीक्षा / Acquittance

दिनांक

Date

पोस्टमास्टर द्वारा दिया गया /
Signature of Postmaster

6

प्रतीक्षा / Acquittance
Rs. 70/-

नम्मामि
Signature
Bijen Kaita

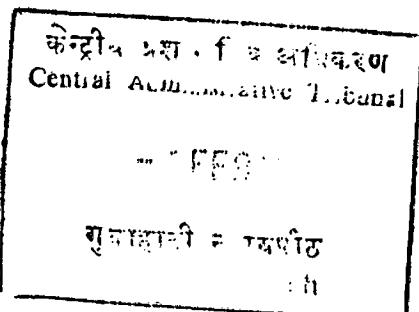
X

Rejoinder filed today. Copy served on
the other side.

1
M.208

X
X
File by the applicant
through M. Datta, advocate
on 01.02.08

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI



In the matter of:-

O.A.No 233/2006.

Sri Birendra Kalita.

... Applicant

-Versus-

Union of India and Others.

... Respondents.

-And-

In the matter of:-

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

The applicant most humbly and respectfully beg to state as under:-

1. That the applicant categorically denies the statements made in para 1, 5, 7, 8, 10, 13, 14, 15 and 18 of the written statement and begs to state that the applicant by virtue of his appointment in the respondent department, happens to be a government servant and is governed by the elementary service rules framed by the government and he cannot be excluded from the purview of all rules on a convenient plea that he is a part-time worker. It is more relevant since the applicant has rendered services for more than nine years and that too without any warning or show cause notice issued against him ever and as such the penalty to the extent of "removal from Service" without resorting to any rules or procedures established by law cannot be imposed upon the applicant on a flimsy plea that the applicant is a part time worker. Such an action on the part of the respondents and their contention that no rule is required for removal from service in the instant case is not sustainable and unheard of in service jurisprudence. The respondents simply issued the impugned show-cause letter of penalty in a pre planned manner without paying any consideration whatsoever on the reply submitted against the show cause letter by the applicant. It is relevant to mention here that in the impugned show cause letter dated 19.11.2004

Birendra Kalita.

itself the respondents mentioned about the penalty of "removal from service" even before the alleged offences were proved which clearly indicates their mind-set and attitude and they subsequently managed to collect fabricated evidences in the form of so called confessional statements from the applicant and one account holder just substantiate their pre planned action against the applicant. The statement dated 27.11.2004 of the applicant as referred to by the respondents in para 5 of the written statements are the events subsequent to the show cause notice and those are the after-thoughts of the respondents and concocted statements. It is pertinent to note that both the statements were obtained simultaneously on the same date which the respondents under their own dictation got signed by the account holder and the applicant respectively under coercion and undue influence utilizing the advantageous and dominant position of the respondents. It is relevant to mention that the said account holder Smti. Anima Talukdar neither submitted any complaint whatsoever against the applicant nor alleged anything even in her statement dated 27.11.2004 against the applicant. The applicant has also categorically denied to have committed the alleged fraudulent withdrawal from the S.B.Account vide his reply dated 01.12.2004. Further, it is stated in the impugned order of penalty dated 07.12.2004 that the signature of the account holder on record is in English but the signature in the withdrawal form was in assamese which is supposed to be verified by the passing authority before granting the withdrawal. It is not understood as to how the passing official granted the alleged withdrawal even inspite of such apparently inconsistent signatures and the lapse has eventually been shifted on the applicant just to cover up and hide the lapses of the concerned authority, a fact ignored by the appellate authority as well. It is for this reason that the respondents planned and conspired to remove the applicant from service and acted accordingly and removed him from service without conducting any inquiry or resorting to any procedure established by law and without providing any reasonable opportunity to the applicant whatsoever to defend his case. The respondents without examining any records/documents/evidences and without paying any consideration on his unblemished services for past nine years, reached to the conclusion that the alleged charges were proved and inflicted the punishment of removal from service on the applicant.

Biream Kalita.

केंद्रीय सरकारी संस्थानों के लिए
Central Administrative Services (C.A.S.)

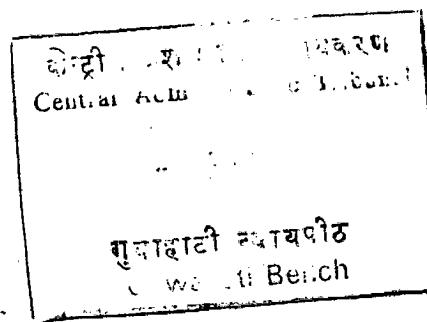
Such actions of the respondents are arbitrary, malafide, unfair, illegal and opposed to the principles of natural justice and violative of the procedures established by law which are liable to be set aside and quashed.

2. That in reply to the statement made in para 4 of the written statements, the applicant begs to submit that no rule in the service jurisprudence has barred the regularization of a part time employee, more so when his services have been extracted for more than nine years by the respondents.
3. That the applicant categorically denies the statements made in para 6, 9, 11, 16 and 17 of the written statements and begs to state that the applicant had never resorted to an unauthorized absence or leaving the office without any permission as alleged. The respondents failed to adduce any letter of explanation/warning/show cause notice issued against the applicant ever in respect of the alleged offences to substantiate the allegations. The error extracts referred to by the respondents in para 6 of the written statements are their after thoughts and concocted and are not known to the applicant. These have neither been informed to the applicant earlier nor have even been mentioned in the impugned show cause letter dated 19.11.2004.

Further, regarding the alleged withdrawal from the S.B. Account, the position has been stated in para 1 hereinabove, and the applicant refrains from reiterating the same.

4. That the applicant emphatically denies the statements made in para 20 of the written statements and further begs to submit that inspite of his denial of the alleged charges, the applicant has been arbitrarily removed from service without giving him any reasonable opportunity of being heard and without observing the procedures established by law. Both the disciplinary authority and the appellate authority acted malafide with a pre-planned mind to remove the applicant from service for the reasons explained in the preceding paras hereinabove. As such the applicant is entitled to the reliefs and interim relief prayed for and the application deserves to be allowed with costs.
5. That in the fact and circumstances stated above, the applicant most humbly submits that he is entitled to the reliefs prayed for, and the O.A deserves to be allowed with costs.

Birean Kalita



VERIFICATION

I, Sri Birem Kalita, S/O Late Abhoy Chandra Kalita, aged about 46 years, resident of village-Tilana, P.O-Bhadra, Dist-Nalbari, Assam, 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 31st day of January 2008.

Birem Kalita

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

File No. 88
The respondents
Manohar Baruah vs
Sr. C. S. C.
11.12.06

O.A. No. 233 of 2006

M.P. No. 92 of 2006

Shri Biren Kalita.

.... Applicant.

-VS-

Union of India & Ors.

.... Respondents.

The written objection on behalf of the
Respondents abovenamed.

WRITTEN OBJECTION OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

1. That with regard to the statement made in paragraph 1 of the objection petition the service of Sri Biren Kalita as P/T Farash does not fall within the purview of CCS(CCA) Rules, 1965 and GDS (Conduct and Employment) Rules, 2001. As such conduction of regular inquiry in respect of P/T Farash does not arise. Removal order dated 7/12/04 and Appellate Order dated 24/1/05

were passed after observing all formalities. Therefore setting aside and quashing of penalty and appellate order does not arise. Appeal preferred by the applicant (Sri Biren Kalita) on 22/23.12.04 was disposed of on 24/1/05 without delay. Appellate order dispatched under Nalbari RL No. 3289 dated 27/1/05 was received by the addressee (Sri Biren Kalita) on 29/1/05. Thus there was no delay in disposing the case of Sri Biren Kalita. Condonation of delay in submission of O.A. No. 233/06 should not be admitted as it has not been submitted within considerable period.

2. That with regard to the statement made in paragraph 2 of the objection petition there is no specific rules to govern the P/T employee who are not considered as civil servant. Formal departmental inquiry is to be conducted in respect of the official who falls under CCS(CCA) Rules,1965 or GDS (Conduct and Employment) Rules,2001.

However, in the instant case full opportunity was given to the applicant; but he failed to explain it satisfactorily .Relevant records were also examined to the end of justice. As such there is no merit of the case submitted by the applicant.

3. That with regard to the statement made in paragraph 3 of the objection petition the delay of 221 days in preferring OA 233/06 can not be considered for condonation for the reason as furnished by the applicant.

221 days
Contd.....P/

[3]

4. That with regard to the statement made in paragraph 4 of the objection petition, the Hon'ble Court should; d not condone the delay of about 221 days in filing the Original Application and OA may be dismissed. Any such action may invite further complicity in running the administration smoothly.

Under the circumstances it is prayed that Your Lordships would graciously be pleased to admit this objection petition and after hearing both the parties dismissed the condonation of delay and/or pass such other order or orders as Your Lordships may deem fit and proper.

And for this act of kindness your petitioners as in duty bound shall ever pray.

AFFIDAVIT

I, Sri Bhadrabbar Bora, Son of Late Sabbraw Bora, aged about ...59... years, resident of Sunay, Ajanta Path 18th By Lane, Bokola, in the district of ...Rawalpuri..., do hereby solemnly affirm and say as follows:-

1. I am the authorised officer in the instant case and as such I have been acquainted with all the facts and circumstances of the case.
2. That the statements made in this affidavit and in paragraphs 1....4..... are true to my knowledge and those made in paragraphs being matters of the records of the case are true to my knowledge and information derived therefrom, which I believe to true and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this ..28. th day of November, 2006 at Guwahati.

Identified by

Bhadrabbar Bora

Advocate, Clerk

DEPONENT
डाक अधीक्षक नलदारी वरपेटा
डाक घड्ल नलदारी - 781335
SUPOT. OF POST OFFICES
NALBARI BARPETA DIVISION
NALBARI-781335

Petition registered filed in the court
today — copy served on the
other side. as per court's direction
21.1.08

Filed in Court
on 21.1.08

Court Master

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI.

केन्द्रीय प्रशासनिक आयोग रणनीति
Central Administrative Tribunal
21 JAN 2008
गुवाहाटी न्दायपोठ
Guwahati Bench

O.A. No. 233 / 2006

MP No. 92 of 2006

Filed by
Court Master on 21-1-08

By
Sri CGSC
21.1.08

SRI BIREN KALITA.

.....APPLICANT

- VERSUS -

UNION OF INDIA & ORS.

.....RESPONDENTS

- AND -

IN THE MATTER OF: -

O.A. No. 233 of 2006.

UNION OF INDIA & ORS.

.....RESPONDENTS PETITIONERS

- VERSUS -

SRI BIREN KALITA.

.....APPLICANT OPPOSITE PARTY

- AND -

IN THE MATTER OF: -

An application ^{filed} by the Respondent
petitioner to remove the ~~stigmatized~~ portion of the termination ^{of} order
thereby converting the termination ~~simplicity~~ order to termination ^{simplicity} _{ab}

The humble petition of the petitioner
above named: -

Contd.../-

Received
on 21/01/08
Mukta

21/1/2008

गुवाहाटी बायपीठ
Bench

MOST RESPECTFULLY SHEWETH: -

1. That the applicant above named has filed the instant original application before the Hon'ble Tribunal by challenging his termination order.
2. That the Hon'ble Tribunal was pleased to hear the matter on length and the hearing continued and on several dates including 10-12-2007, 03-01-2008 etc. In the course of arguments the Counsel for the Respondents preyed before Your Lordship's to remove the ~~stigmatiC~~ part of the termination order dated 07-12-2004. Upon the ~~prayer~~ of the Learned Counsel for the respondents Your Lordship was pleased to allow the respondent to file a memorandum to that effect. Hence this application is being preferred by the respondents before this Hon'ble Court.
3. That as there are several judicial pronouncement by the High Court and Apex Court deciding the power of the High Court ^{and} the tribunal to remove the ~~stigmatiC~~ part of the termination order of the casual worker to convert the termination in the termination simpliciter. Hence for the end of the justice it has became necessary to exercise the power to convert the termination order into termination simpliciter.
4. That this petition has been made bonafide for the ends of justice.

Jaswan Choudhury
21-1-08

Contd.../-

21/1/08

গুৱাহাটী ন্যায়ালয়
Gauhati Bench

16

- 3 -

Under the circumstances it is prayed that Your Lordship would graciously be pleased to convert the order of termination into termination simplicity by giving necessary direction and/or any other order or orders may be passed as Your Lordship may deem fit or proper.

And for this act of kindness the petitioner as in duty bound shall ever pray.

Tarun Choudhury
24-01-08

Contd.../-

VERIFICATION

I, Tarun Chawla, Son of late Debi Ram Nath, aged about 59 years, by caste Hindu, by profession Service, Resident of Vill. po Raipur, P.O. partnala, Mouza - Nizamia, P.S. - Rafachowra, in the District of Barpeta, Assam, do hereby stated and verify the above statements made are true to my best of knowledge and belief and I have not suppressed any material fact.

And I sign this verification on this the 21st day of January, 2008 at Guwahati.

Tarun Chawla
21-1-08

SIGNATURE