

FORM NO. @
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 24/06

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) Ladma Ram Kolita

Respondent(S) U.O.I GOM

Advocate for the Applicants M. Chanda, G.N. Chakraborty
S. Nath

Advocate for the Respondent(S) U. Le. Ahmed CGSC
Rly St. Counsel

Notes of the Registry | Date | Order of the Tribunal

This application is in form No. 31.01.2006

Is filed/cancelled _____

deposited _____

No. 266/317926

Dated 12.1.06

1/c Dy. Registrar
27.1.06

Steps not Taken

RR

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

Heard Mr. M. Chanda, learned counsel for the applicant. Mr. M.U. Ahmed, learned Addl. C.G.S.C. was present on behalf of the respondents.

The claim of the applicant is that he has been subjected to an inquiry for mis-appropriation of government money and after the inquiry, charge sheet was issued on 28.08.200. The inquiry report was submitted on 12.04.2003. On 26.09.2005, the disciplinary authority imposed penalty of compulsory retirement from service to the applicant. The applicant has filed an appeal before the Appellate Authority on 14.11.2005. The grievance of the applicant is that he has not been intimated from which date compulsory retirement will be effective. The O.A. has been filed on the other

Contd....2

Contd.....

OP 24/06

2:

Contd/-

31.01.2006 ground that there is a double recovery so far as the applicant is concerned and submitted that for last three months, the applicant has not received any subsistence allowance to survive.

Mr. M.U. Ahmed, learned Addl. C.G.S.C. took notice, on behalf of the respondents and he would like to take instructions from the respondents. Let it be done.

Post on 16.03.2006.

Vice-Chairman

/mb/

16.03.2006

When the matter came up for hearing on behalf of counsel for the respondents submits that due to personal inconvenience, the respondents counsel could not come to the Court and sought for adjournment.

Post on 29.3.2006.

Vice-Chairman

mb

29.3.2006

Heard learned counsel for the parties. Order passed, kept in separate sheets.

The O.A. is disposed of at the admission stage itself in terms of the order. No costs.

Vice-Chairman

bb

7/2/06

Notice Recd

1/3/05

Notice duly served on resp. nos. 1 to 4.

1/3/06

15/3/06

Service complete & no Ws filed.

bm

28-3-06

No Ws have been filed

my

31/3/06
ADD. C.G.S.C.

31.3.06

C. copy has been collected by the app. Wt.

als.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

24 of 2006

O.A. No.

29.03.2006

DATE OF DECISION

Sri Padma Ram Kalita

Applicant/s

Mr. M.Chanda

Advocate for the
Applicant/s.

- Versus -

Union of India & Others

Respondent/s

Mr.M.U.Ahmed, Addl.C.G.S.C.

Advocate for the
Respondents

CORAM

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

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

Vice-Chairman (J)

30/3/06

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 24 of 2006.

Date of Order: This, the 29th Day of March 2006.

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

Sri Padma Ram Kalita
Son of Late Nivarsha Kalita
Supervisor, SBCO, Nagaon
(Under Suspension)
Dist: Nagaon, Assam.

... Applicant.

By Advocates Shri M.Chanda, S.Nath & G.N.Chakraborty

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Communication
Department of Post
New Delhi-1.
2. The Chief Post Master General
Assam Circle
Meghdoot Bhawan
Guwahati-1.
3. The Director General of Postal Service
Office of the Post Master General
Assam Region, Dibrugarh
Assam.
4. Superintendent of Post Offices
Nagaon Division
Nagaon.

.....Respondents.

By Mr.M.U.Ahmed, Addl.C.G.S.C.

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ORDER (ORAL)

SACHIDANANDAN, K.V. (V.C.) :

The applicant was charge sheeted for six Articles of charges alleging financial irregularities while he was serving as Supervisor, SBCO, Nagaon. Enquiry was conducted, the applicant participated in the enquiry proceeding and finally, on 26.9.2005 disciplinary authority imposed penalty of compulsory retirement to the applicant and ordered recovery of an amount of Rs.2,03,120/- so misappropriated. According to the applicant, an amount of Rs.213,000/- was already realized from the applicant. The applicant filed an appeal dated 14.11.2005 before the appellate authority which is not yet disposed of till date. Further he has made a representation on 5.1.2006 before the said authority, which is also not disposed of as yet. Aggrieved by the said inaction of the respondents the applicant has filed this application seeking the following reliefs:-

"8.1 That the Hon'ble Tribunal be pleased to direct the respondents to grant subsistence allowance to the applicant as in interim measure till disposal of the appeal dated 14.11.2005 against the impugned penalty order dated 26.9.2005, which is pending before the appellate authority.

8.2 That the Hon'ble Tribunal be pleased to set aside and quash the impugned charge sheet dated 28.08.2001




(Annexure-I) as well as order of penalty dated 26.9.2005 (Annexure-VI).

8.3 Cost of the application.

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

2. Heard Mr. M. Chanda, learned counsel for the applicant. Mr. M. U. Ahmed, learned Addl.C.G.S.C. represented the respondents. Though Addl.C.G.S.C. was granted time to get instruction on the matter, he has not received any instruction as on today. When the matter came up for consideration, Mr. Chanda submits that the grievance of the applicant is that he is getting neither any subsistence allowance nor any pensionary benefits as yet. He further submits that his appeal is not yet disposed of as yet.

3. Considering the entire aspects of the matter This Tribunal is of the view that when procedural appeal is pending before the appellate authority, remedies available to the applicant have not been exhausted fully and therefore, the appeal should be disposed of within a time frame. For the ends of justice, this Tribunal directs the respondent No.2 i.e. Chief Post Master General, the appellate authority to consider and dispose of the pending appeal submitted by the applicant and pass a speaking order communicating the same to the applicant within a time frame of two months from the date of receipt of this order. It is also made clear that the appellate authority is at liberty



to consider the interim prayer as per rule, if so required and the authorities are not withheld in processing the pensionary benefits of the applicant as per letter dated 20.2.2006, produced by the counsel for the applicant, issued by the Superintendent of Post Offices, Nagaon Division addressed to the Sr. Superintendent of Post Offices, Guwahati Division.

The Original Application is disposed with the above observations and directions. In the circumstances, there is no order as to costs.

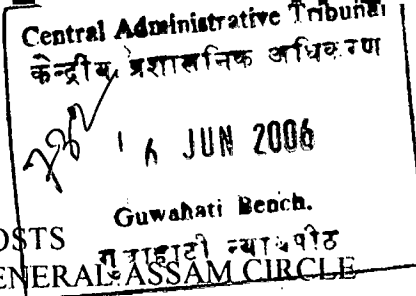


(K.V. SACHIDANANDAN)
VICE-CHAIRMAN

BB

O. A 24/2006
P.R. Kalita - V - H.O.I. Roy

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL
GUWAHATI - 781001.



9
2/11/06
80(5)

Memo No. Inv/Appeal-01/06

Dated Guwahati-1 the 13-06-2006.

APPELLATE ORDER

A disciplinary proceeding under Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 was drawn against Shri Padma Ram Kalita, ex-supervisor, SBCO, Nagaon HO [hereinafter called as Appellant (now compulsory retired)] vide Superintendent of Post offices, Nagaon Division, Nagaon [hereinafter called as SP Nagaon] Memo. No. F4-1(C)/99-00 dated 28-08-2001. The substance of the imputations of misconduct or misbehaviour in the shape of Articles of charges in respect of which the inquiry was proposed to be held, a statement of the imputations of misconduct or misbehaviour in support of each article of charge, a list of documents by which and a list of witnesses by whom, the charges were proposed to be sustained etc. enclosed along with the said memorandum, are enclosed herein as Annexure-A. The Appellant was given an opportunity to submit his written representation of defence, if any, and also to state whether he desires to be heard in person within 10 (ten) days of receipt of the said Memorandum.

2. Since the Appellant did not submit any written statement of defence, it was decided to appoint an Inquiring Authority for detailed procedural inquiry towards finding the facts. Accordingly, IA and PO were appointed. The preliminary inquiry was held on 22-01-2002 and after holding regular hearings on different dates, the inquiry concluded on 24-01-2003.

3. The Inquiring Authority submitted his inquiry report to the SP Nagaon along with records and proceedings of inquiry. the Superintendent of POs, Nagaon served a copy of the inquiry report on the Appellant to submit his defence representation and in turn the Appellant submitted his written representation of defence on 21-11-2003.

4. As Shri P R Kalita belonged to BCR (HSG-II) cadre whose appointing authority is the Director, Postal Services (HQ), Assam Circle, Guwahati - who can decide and pass orders on disciplinary proceedings for any of the major penalties in Rule 11 of CCS (CCA) Rules, 1965 against BCR (HSG-II) officials, hence the case was forwarded to the DPS (HQ)(appropriate Disciplinary Authority) for decision and passing orders.

5.0. Records revealed that a copy of the inquiry report was sent to Shri Padma Ram Kalita, the charged official vide Superintendent of POs, Nagaon letter No.F4-1(C)/99-00 dated 21-10-2003 for submission of his representation against the IO's report within 2 (two) weeks from the date of receipt. Shri Padma Ram Kalita prayed for another 10 (ten) days time for submission of his written representation. This was allowed to Shri Kalita, charged official. Shri Padma Ram Kalita, charged Official submitted his representation under his letter dated Nil vide Assam Sachivalaya RL No. 5643 dated 21-11-2003.

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Mn Dutt
19.6.06

5.1 The Disciplinary Authority [DPS (HQ)] after going through the inquiry report, defence representation of the Appellant and relevant records of the case, vide memo No. Staff/21-2/2004 dated. 26-09-2005 awarded punishment of compulsory retirement and recovery of the amount of unrecovered loss of Govt. money to the extent of Rs.2,03,120/- from his terminal benefits and further, the period of suspension to be treated as suspension only for all purposes.

6. Being aggrieved by the order dated 26-09-2005, the Appellant preferred the present appeal dated 14-11-2005 [copy enclosed in Annexure-B]. At the outset, it is clarified that no punishment was awarded by the authority on "29-6-05" as mentioned by the Appellant at reference and subject columns of the said appeal.

7. In the appeal, the Appellant submits mainly the following points as grounds of the appeal :-

- i) That the punishment order was culmination of proceeding initiated against him based on false and fabricated charges. He was placed under suspension on 12-07-99 and it took the authorities 6 years to complete the proceedings, for which he had to face hardships etc. for no fault on his part.
- ii) That he was placed under suspension based on the preliminary inquiry report on the allegation of defalcation of Rs.68,000/- at Nagaon HO. He also stated that he was forced to write statements on 09-08-99 and 10-08-99 under duress and threat, as per direction of the authority of the Department. That he was forced to fill up GPF forms and Rs.68,000/- and Rs.1,35,000/- were forcefully debited from his GPF accounts and credited to Govt. Account. Also on 23-08-99, a sum of Rs.10,000/- was exorted from him and credited to Govt. account. He also stated that the authorities had done such action without any jurisdiction of authority.
- iii) That a charge sheet framing 6 charges was issued against him and Inquiring Authority was appointed on 04-12-2001 to inquire into the charges leveled against him.
- iv) That he stated that the charges leveled/framed against him on certain allegations of similar nature and contents. He also stated that the total amount allegedly defalcated by him works out Rs.1,76,000/- only and an amount of Rs.2,13,000/- i.e. an amount in excess of the amount alleged to have been defalcated by him, has already been realized from him in an unfair way.

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- v) That he stated that inquiry was initiated and continued in a hostile environment and he was not given a fair hearing therein. Mere perusal of the Daily Order Sheets would reveal that he was denied opportunities to cross examine the witnesses. His prayer for examining by the handwriting expert was rejected/ignored and this denied him the opportunity to prove the manipulations. His defence assistant was hindered by the Inquiry Officer for not calling records.
- vi) That he stated that the inquiry was a mere eye-wash and the Inquiring Officer submitted the report after considerable period of time, holding the charges proved. He stated that inquiry report is not based on material available on records. Inquiry Officer's findings failed to high light any material and also not connected to the charges framed against him. The Inquiry Officer relied upon the written statements taken from him under duress and threat on 09-08-99 and 10-08-99. He stated that he had categorically, denied to have given voluntarily and stated during inquiry that the same were taken from him under duress and threat.
- vii) Inviting reference to his representation dated 21-11-03, he stated that the conclusions reached by the Inquiry Officer are all perverse and recorded the findings by the Inquiry Officer without basing on any objective material.
- viii) That he stated that findings have been recorded by the Inquiry Officer based on imagination without any supporting material. He also stated that there is no material to indicate that he had carried out the said manipulation of SB accounts and in absence of such material the Inquiry Officer relied on written statements dated 09-08-99 and 10-08-99, which the Appellant denied to have been voluntarily made.
- ix) That he stated that the findings of the Inquiry Officer are all perverse and are based on surmises and conjunctures. The conclusion of the Inquiry Officer, are all sudden conclusions without any basis.
- x) That he stated that the Disciplinary Authority without appreciating the contention of his representation dated 21-11-2003, concurred the findings of the Inquiry Officer in a most arbitrary and illegal manner and proceeded to issue the order under reference with the following deprivations/penalties.
- a) Penalty of compulsory retirement from service,
 - b) Recovery of further amount of Rs.2,03,120/-,
 - c) Treating the period of suspension as suspension for all purposes.

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He also stated that the amount recovered arbitrarily and illegally, suspension could not have been deal with without a notice and penalties as (b) and (c) have been imposed without jurisdiction and authority by the Disciplinary Authority.

- xi) That the reasoning of the Disciplinary Authority are all perverse and total non application of mind. The contentions as raised earlier were not with its proper perspective. He also stated that the matter was delayed and this caused great prejudice to him and the same has effect of vitiating the entire proceedings.

OBSERVATION

8. I have gone through the records of the proceedings, the punishment order, the appeal and other records relevant to the case. I am discussing the points serially below :-

- i) The disciplinary proceedings under Rule 14 of CCS (CCA) Rules, 1965 was initiated against the Appellant on the charges framed under Rule 14 of CCS (CCA) Rules, 1965 based on the relevant records cited in the charge sheet and was taken into the proceedings of the Rule 14 inquiry, duly authenticated, admitted and reasonably argued. Hence the allegation on false and fabricated charges, as now claimed by the Appellant on this point is nothing but after thought. After suspension of the official, to complete enquiry, verification of records/services, completion of disciplinary proceedings, finalization of the case as per laid down procedures etc. it was unavoidable to take time to reach the decision in such a disciplinary case regarding manipulation of records and defalcation of Govt. money. Hence, the contention of the Appellant is not acceptable.
- ii) On conducting on preliminary inquiry, on the manipulation/ inflating the amount in SB accounts, the Appellant was placed under suspension and relevant documents, passbooks etc. were seized to stop further manipulation/inflating the figures in SB accounts as well as to avoid destroy of relevant records. Further, he alleged that he was forced to write written statements dated 09-08-1999 and 10-08-1999 under duress and threat and as per dictation of the authority of the Department. He also alleged that he was forced to fill up GPF withdrawal forms.

During the regular hearing on 17-05-02, the Appellant raised the same allegation of writing the written statements under duress and threat and the burden of proof there on was conferred to the Appellant but he failed to prove such allegation.

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The Appellant was a petty senior official working as Supervisor in SBCO Nagaon HO and well aware of the departmental rules. So, his allegation on writing the written statements as per dictation of the authorities and to fill up the GPF withdrawal form by force and debiting/crediting the amount to Govt. accounts without his consent, are baseless and are not reasonable/acceptable. Moreover, he failed to substantiate his claim on application of force during the oral inquiry of the case. Though the Appellant was given the opportunity.

- iii) Based on the documents/records, a charge sheet was framed against the Appellant vide Memo No. F4-1(C)/99-00 dated 28-08-2001 and an Inquiry Authority was engaged on 04-12-2001 to inquire into the case as per procedure laid down in Rule 14 of CCS (CCA) Rules, 1965. There is no irregularity
- iv) The manipulation of records was done by the Appellant himself as the entries of withdrawal amount were available in the pass books which were in his custody and no other person except he has the chance to make entry in the pass books and entries were also available in SB long books, ledger cards, which were produced during inquiry. The Appellant also admitted the same in his written statements dated 09-08-1999 (PE-21) and 10-08-1999 (PE-61). An amount of Rs. 2,13,000/- was deposited by him in the Govt. account voluntarily. So, realization of the amount in an unfair way is a clever trick of the Appellant to divert the mind of the higher authority and attempted to get benefit. Thus the plea of the Appellant is not based on fact.
- v) The hearings on the case were held on different dates and the Appellant cooperated in conducting the inquiry in peaceful atmosphere as per prescribed procedure. He was given reasonable opportunity to argue, examine the records/witness etc. During the regular hearing, the Appellant was permitted to cross examine the state witnesses, he and his defence assistant availed the same. Hand writings on the records were accepted in the hearings, no plea was raised during that time. The defence assistant was allowed to cross examine the witnesses, but the inaction on the part of defence assistant and charged official for calling for records, is not the fault of the Inquiring Authority. So his contention is not tenable.
- vi) The inquiry under Rule 14 of CCS (CCA) Rules, 1965 is a quasi-judicial proceeding and day to day hearing were held on the basis of the relevant materials/records and due arguments were also made in course of hearings. The Inquiring Authority examined all the witnesses and documents connected with the case as listed by the Disciplinary Authority. It was proved during inquiry that the written statements given by the

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Appellant on 09-08-1999 and 10-08-1999 were not given under duress and threat but recorded by him voluntarily as discussed at para (i) above. The Appellant alleges that the I.O submitted his report after considerable period of time. It is fact that the completion of the hearings were delayed due to absence of either charged official or defence assistant on different dates fixed for the purpose. Further, his allegation that the inquiry was "a mere eye wash", is not acceptable and tenable. Moreover, if he had any doubt on holding the inquiry, he should have raised the matter before the Board of Inquiry while the inquiry was going on.

- vii) The Inquiring Authority performed his duty as per rules and procedures and conducted the inquiry as per rules and based on records and documents. The Appellant alleged that the charges were based on surmises and conjectures and the IO reached to conclusions without based on any objective material. During regular hearings, relevant documents were duly authenticated and taken into consideration for records duly argued. The Appellant has not clarified how he thought the charges were based on surmises and conjectures. Thus his allegation is totally baseless as he failed to put forward the same at the appropriate stage.

It is a fact that the Appellant had inflated the figures in the pass books and other records and he made withdrawals from the accounts involved in the case which was established by records and documents produced/exhibited in the case. The Appellant was the sole custodian of the pass books belonging to him and members of his family. He failed to explain or substantiate by whom the said manipulation was done and for what interest.

- viii) The findings and conclusions made by the inquiring authority are based on oral inquiry and documentary evidences and not on imagination, as alleged.

- ix) The Disciplinary Authority decided the case considering all the aspects on the IA's report and passed the order with the said penalties. As there was residual net loss of Rs.2,03,120/- only involved in the case after adjustment of the amount of Rs.2,13,000/- already credited by him, the Disciplinary Authority passed the order to recover the amount from the pensionary benefits of the official. It was also ordered to treat the period of suspension as on suspension for all purposes. All these were done by the Disciplinary Authority as per existing rules.

- x) The reasons adduced by the Disciplinary authority in the order dated 26-09-2005 are based on fact and documentary evidence. The delay in finalization of the disciplinary case was due to the reason discussed

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above and not to cause any prejudice to the Appellant. Moreover, completion of the enquiry was delayed due to absence of either charged official or defence assistance in scheduled dates of enquiry on several occasions.

Grounds

- (a) All due and reasonable opportunities were given to the Appellant during inquiry into the Rule 14 case. The inquiry was not biased, but impartial one based on records/documents and oral evidences.
- (b) It is a fact that the Appellant inflated the deposits and then made withdrawals from the accounts which were proved by records, documentary and oral evidences and accordingly the Disciplinary Authority passed the orders after considering all the aspects and applying his mind on the findings of the inquiry report.
- (c) The findings of the inquiry authority were based on material evidences and as such the charges brought against the Appellant were proved by the IA on the basis of the records/documents and witnesses and the Disciplinary Authority decided this case of the Appellant accordingly.
- (d) The IA's report is based on fact and there was no point of doubt and accordingly the Disciplinary Authority decided the case on the basis of the findings of the IA. So the allegation that the hearing of the case was held in a most mechanical manner with intention to somehow to fasten upon him does not arise at all, is not acceptable.
- (e) From the inquiry report, it is clear that the Appellant had done the misdeeds for his personal monetary benefit as the pass books involved in the case related to him and his family members and there was none who may derive any benefit by such inflation in figures done in the pass books. This is based on documentary evidence and fully established during the Rule 14 inquiry of the case before the Board of Inquiry as discussed above.
- (f) The written statements dated 09-08-1999 and 10-08-1999 were given voluntarily by the Appellant where he admitted his misdeeds. It was also proved in the inquiry that the written statement dated 09-08-1999 and 10-08-1999 were not given under duress and threat.
- (g) The order dated 26-09-2005 passed by the Disciplinary Authority was correct and justified based on fact and documentary proof which were not challenged during the oral inquiry of the case.
- (h) Though the charges were brought against the official for defalcation of Rs.1,76,000 only, but total loss involved in the said case was Rs.4,90,120/- only which was detected after completion of detailed investigation of the case by the appropriate Inquiring officer. So the order of the Disciplinary Authority to recover the residual loss of Rs.2,03,120/- was justified to cover the entire Govt. loss left unadjusted.

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- (i) While finalizing the disciplinary case awarding major penalty, the period of suspension was decided as per rules..
- (j) The punishment awarded to the Appellant was justified one and there is no question of setting aside and quashing.
- (k) The decision of the Disciplinary Authority is not contradictory, but is clear, based on records/documents of the case.
- (l) The Director Postal Services (HQ), Assam Circle, Guwahati though did not mention the date of effect of the order of penalty, but the date of issue of the order i.e., 26-09-2005 would be date of effect of the order of penalty as per provision of CCS (CCA) Rules, 1965.
- (m) There is no provision for providing opportunity to the Appellant regarding treatment of the period of suspension as a suspension for all purposes when suspension is followed by a major penalty including compulsory retirement.
- Though the Appellant was charge sheeted for defalcation of Rs.1,76,000/- only but the total loss involved in the case was Rs.4,90,120/- only as detected during investigation. So the Disciplinary Authority's findings are correct.
- (n) The withdrawals from the GPF account by the Appellant were voluntary ones granted on individual applications and not forceful as alleged.
- (o) The credit of Rs.10,000/- at Paltan Bazar SO was also made voluntarily by the Appellant.
- (p) As there were residual loss of Rs.2,03,120/- in the case after credit of Rs.2,13,000/- by the Appellant, a sum of Rs.2,03,120/- was ordered to be recovered from the pensionary benefit of the Appellant.
- (q) The Appellant voluntarily credited a sum of Rs.2,13,000/- only after obtaining withdrawals from his GPF account and there was no forceful action either from any authority or the staff of Nagaon HO. Though the amount was not shown in the charge sheet, but proper receipt was granted to the Appellant at the time of credit of the amounts made by him personally.
- (r) That total amount misappropriated by the Appellant was calculated as Rs.4,90,120/-, but a sum of Rs.1,76,000/- was incorporated in the charge sheet issued against the official. To recoup the entire loss sustained by the Govt. the residual amount of Rs.2,03,120/- was ordered to be recovered from the pensionary benefit of the Appellant.

Contd.

- (s) The order of recovery of Rs.2,03,120/- only from the charged official as ordered by the Disciplinary Authority, is correct and justified and no question of setting aside the order arises here.
- (t) The concerned pass books and other listed documents were sufficient to establish the charges brought against the Appellant as the pass books were with the official and no question of genuineness of the transactions in the pass books were raised by him.
- (u) To recoup the total loss involved in the case, the Disciplinary Authority ordered for recovery of residual loss in the case, out of the total loss of Rs.4,90,120/- only.
- (v) No question of initiating any disciplinary action against any other staff arises as the Appellant properly applied for GPF withdrawals voluntarily, took payment of the same and credited to the Govt. account against the loss sustained in the case at his own accord.

As the official was awarded punishment of compulsory retirement vide order dated 26-09-2005, and the order was delivered to him on 03-10-2005 under proper receipt, the question of payment of subsistence allowance to the official after that date does not arise as he was no longer under suspension.

9. From the beginning of the appeal dated 14-11-2005, the Appellant raised allegation on the functioning of the inquiry authority, denied the charges framed against him, refused the irregularity committed in manipulation of records forging/misusing the official position/responsibility entrusted to him as Supervisor, SBCO Nagaon HO. But he miserably failed to substantiate his allegation with reasoning, proof/evidence. In the instant case, the Appellant displayed lack of integrity and failed to maintain devotion to duty. The Appellant could not refute the charges in his written statement of defence nor could bring any new points to prove his innocence. I do not find any arbitrariness or unreasonableness in the decision of the Disciplinary Authority and punishing the Appellant for his lapses. I agree with the Disciplinary Authority and found no merit in the appeal. In view of oral and documentary evidences produced before the Board of Inquiry, my findings given in the foregoing respective paras – from where it is evident that the appellant failed to give any new argument against the findings of the Disciplinary Authority who has given due consideration while examining the facts and arguments of the case, had applied his mind before coming to the conclusion, which do not show any matter of unfairness.

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10. The allegation brought by the Appellant from (a) to (x) of 'grounds' column of his appeal, are all baseless. He has not elaborated his identified points with evidence/proof/reasoning and these allegations are not based on facts adduced in proceedings. The Appellant miserably failed to produce/bring any evidence/material to substantiate /proof his innocence. I do not find any substance in the Appellant's appeal to hold the Appellant innocent.

11. Keeping in view the points discussed in foregoing paras, I do not find any ground to interfere into the decision of the Disciplinary Authority and therefore dispose the appeal passing the order as follows :-

ORDER

I, Shri Abhijit Ghosh Dastidar, Chief Postmaster General, Assam Circle, Guwahati, in exercise of the powers conferred upon by the Rule 27 of CCS (CCA) Rules, 1965, do hereby reject the appeal, as it does not submit any rational arguments or facts, to justify modification of Punishment Orders dated 26-09-2005, as issued by the then Director Postal Services (HQ), Guwahati.

sd/-
(A Ghosh Dastidar)
Chief Postmaster General,
Assam Circle, Guwahati-781001.

Copy to :-

U/R 1. Shri Padma Ram Kalita, Ex-Supervisor, SBCO, Nagaon HO, now compulsory retired.

U/I 2. The Superintendent of Post Offices, Nagaon Division, Nagaon-782001 for information and necessary action. He will arrange to deliver the letter to the appellant under receipt and signed acknowledgement be sent to this office for record. [Enclo: One cover].


3. The Postmaster General, Dibrugarh Region, Dibrugarh-786001 for information and necessary action.

Regd. 4. The Registrar, CAT Guwahati-781005, for favour of information. This refers to CAT case QA No. 24/2006.

Regd. 5. Shri M U Ahmed, Addl. SGSC, CAT Guwahati-78100, for information and to apprise the Hon'ble Tribunal on the compliance.

6. The APMG (Vig) CO Guwahati.

7. O/C.


(A Ghosh Dastidar)
Chief Postmaster General,
Assam Circle, Guwahati-781001.

Department of Post :: India
Office of the Supdt. Of Post Offices, Nagaon Division, Nagaon.

To
The Sr Supdt. Of Post Offices.
Guwahati Division
Guwahati-782001.

No-C2/P R Kalita dated at Nagaon the 20-02-2006.

Sub-Pension papers – case of Sri Padmarain Kalita Ex Supervisor SBCO, Nagaon I to
Due to compulsory retirement on 26.09.2005.

A kind reference is invited to this office letter of even no dated 23-11-2005
Wherein the pension papers in respect of the above cited ex official was sent and
You were requested to return the pension papers after doing needful at your end.
But neither the pension papers have been received nor any thing has been heard
From your end in this regard so far.

You are, therefore requested kindly to intimate the latest development of
The case at an early date.

Supdt. of Post offices
Nagaon Division
Nagaon

Raghu Copy to
1. Sri Padma Ram Kalita, Ananda Nagar, Six Mile (Near Shiv mandir), House No
-59, Khanapara, Guwahati -22 for information. He will kindly intimate as to
whether he has submitted the pension papers so far at the earliest.

Supdt. Of Post Offices
Nagaon Division
Nagaon.

*Affected
Sat.
Advocate.*

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI...5

ORIGINAL APPLICATION NO. 177/94

MISC PETITION NO. (IN O.A.)

REVIEW APPLI. NO. (IN O.A.)

CONT. PETITION NO. (IN O.A.)

.....*Saril Das*.....APPLICANT(S)

Vrs.
.....*Mr. J.L. Sarkar*.....RESPONDENT(S)

.....*Mr. J.L. Sarkar*.....ADVOCATE T(S)
FOR APPL.

.....*Mr. M. Chandra*.....ADVOCATE(S)
FOR RESPDTS.

OFFICE NOTE

DATE

COURT'S ORDER

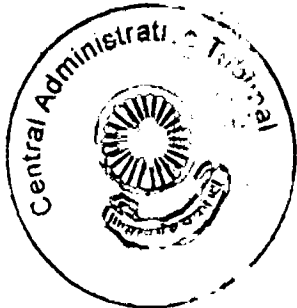
7.9.94

Mr J.L.Sarkar appears for the applicant.

Question raised is whether there is violation of sub-rule 2 of Rule 16 of CCS(CCA) Rules. Petition is admitted as the question needs to be considered. Issue notices to the respondents. Six weeks for written statement.

As far as the interim relief is concerned in the light of the decision of the Principal Bench in ATR 1986(2) CAT 643 the applicant is granted leave to file an appeal against the impugned order before the competent authority within three weeks. We also grant liberty to the applicant to apply to the appellate authority for interim stay of the impugned order during the pendency of the appeal. The appellate authority shall pass a reasoned order and communicate it to the applicant if he is inclined to reject the application. Interim stay is hereby granted of the impugned order to be operative for a further period of three weeks from the date of order if interim stay is refused by the appellate authority. In the event liberty to the applicant to apply for extension of the

contd...



2
O.A. 177/94

7.9.94 order of stay granted in this application today within a period of three weeks after the said order. It is made clear that pendency of this application will not be a bar for the appellate authority to entertain and proceed with the appeal and/or to consider the application for interim stay of the impugned order pending the appeal. In the event interim stay is granted the present order of interim stay will stand automatically vacated from the date on which the interim order granted by the appellate authority becomes operative.

Adjourned to 1.11.1994.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)



Date of Application : 23.1.06
Date on which copy is ready : 23.1.06
Date on which copy is delivered : 23.1.06
Certified to be true copy

N. S. S.
23.1.06
Section Officer (J.dl)
C. A. T. Guwahati Bench
Guwahati

H.
23/1/06

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

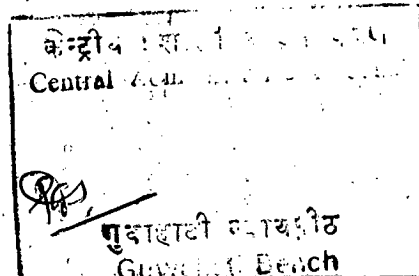
Original Application No. 24/06

1. a) Name of the Applicant:- P.R. Kohli
b) Respondants:- Union of India & Ors.
c) No. of Applicant(S):-
2. Is the application is the proper form:- Yes/No.
3. Whether name & description and address of the all the papers been furnished in cause title :- Yes/No.
4. Has the application been duly signed and verified :- Yes/No.
5. Have the copies duly signed :- Yes/No.
6. Have sufficient number of copies of the application been filed :- Yes/No.
7. Whether all the annexure ~~parties~~ are impleaded :- Yes/No.
8. Whether ~~English~~ translation of documents in the Language:- Yes/No.
9. Has the application is in time :- Yes/No.
10. ~~Has~~ the Vakalatnama/Memo of appearance /Authorisation is filed:- Yes/No.
11. Is the application by IPO/BD/for Rs.50/- 266/317926
12. Has the application is maintainable : Yes/No.
13. Has the Impugned order original duly attested been filed:- Yes/No.
14. Has the legible copies of the annexurea duly attested filed:- Yes/No.
15. Has the Index of the documents been filed all available :- Yes/No.
16. Has the required number of enveloped bearing full address of the respondants been filed:- Yes/No.
17. Has the declaration as required by item 17 of the form:- Yes/No.
18. Whether the relief sought for arises out of the Single: Yes/No.
19. Whether interim relief is prayed for :- Yes/No.
20. Is case of Condonation of delay is filed is it Supported :- Yes/No.
21. ~~Whether~~ this Case can be heard by Single Bench/Division Bench:
22. Any other pointd :-
23. Result of the Scrutiny with initial of the Scrutiny Clerk:
The application is in order

SECTION OFFICER(J)

DEPUTY REGISTRAR

27.1.06



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 24 /2006

Shri Padma Ram Kalita.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 28.08.2001- The Superintendent of Post offices, Nagaon issued a charge sheet containing 6 articles of charges alleging financial/monetary irregularities to an amount of Rs. 1,76,000/- in certain SB accounts to the applicant while he was serving as Supervisor, SBFO, Nagaon. (Annexure-I)
- 22.01.2002- Applicant participated into the inquiry proceeding and the preliminary inquiry was held.
- 24.03.2003- Inquiry was held on different dates and it was concluded on 24.03.2003.
- 14.03.2003- Applicant submitted a written brief pointing out the irregularities/infirmities occurred during the course of inquiry. (Annexure-II)
- ✓ 12.04.2003- Inquiry officer submitted his inquiry report to the authority and the same was forwarded to the applicant by the authority in the month of September '03. (Annexure-III)
- 21.11.2003- Applicant submitted his representation after receipt of the inquiry report pointing out the infirmities and irregularities committed by the inquiry officer. (Annexure-IV)
- ✓ 26.09.2005- Disciplinary authority imposed penalty of compulsory retirement from service to the applicant and further ordered that an amount of Rs. 2,03,120/- be recovered from the terminal benefits of the applicant as unrecovered loss of Govt. money. (Annexure-VI)
- 14.7.1999, 10.8.99, 23.08.99- An amount of Rs. 68,000/- and Rs. 1,35,000/- has been withdrawn from the GPF account of the applicant after forcibly obtaining his signature in two separate withdrawal forms

Padma Ram Kalita

and got it credited to the Govt. account at the Nagaon Head Post Offices, Nagaon. Again another amount of Rs. 10,000/- was also withdrawn from the applicant by the then SSP, Guwahati and which was also credited to the Govt. account. (Annexure-V)

14.11.2005- Applicant submitted his appeal before the appellate authority, mentioned all the irregularities and infirmities held in inquiry proceeding. (Annexure-VII)

05.01.2006- Applicant submitted a representation for amendment of the said appeal for correction of certain typographical error in his appeal. (Annexure- VIII)

Hence this Original Application.

PRAYERS

1. That the Hon'ble Tribunal be pleased to direct the respondents to grant subsistence allowance to the applicant as an interim measure till disposal of the appeal dated 14.11.2005, against the impugned penalty order dated 26.09.2005 which is pending before the appellate authority.
2. That the Hon'ble Tribunal be pleased to set aside and quash the impugned charge sheet dated 28.08.2001 (Annexure- I) as well as order of penalty-dated 26.09.2005 (Annexure- VI).
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 to grant subsistence allowance during the pendency of the appeal dated 14.11.2005 before the appellate authority against the impugned penalty order dated 26.09.2005.
2. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not a bar to grant the relief prayed for.

Padma Ran Kalita

24

**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 24 /2006

Shri Padma Ram Kalita : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Date:- 25/1/06

Filed By:

Subrata Naha

Advocate

Padma Ram Kalita

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 24/2006

BETWEEN:

Shri Padma Ram Kalita,
S/o- Late Nivarsha Kalita,
Supervisor, SBCO, Nagaon,
(Under suspension),
Dist- Nagaon, Assam.

-----Applicant.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Communication,
Department of Posts,
New Delhi- 110001.
2. The Chief Post Master General,
Assam Circle,
Meghdoot Bhawan,
Guwahati- 1.
3. The Director General of Postal Service,
Office of the Post Master General,
Assam Region, Dibrugarh,
Assam.
4. Superintendent of Post Offices,
Nagaon Division,
Nagaon- 782001.

..... Respondents.

1
Filed by me applicant-25
through: Subrata Nath
Advocate
25/01/06

Padma Ram Kalita

DETAILS OF THE APPLICATION

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

This application is made praying for suspension of the defective order of penalty passed by the Disciplinary Authority till my appeal dated 14.11.2005 is disposed of by the Appellate Authority.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. Facts of the case:

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That your applicant while serving as Supervisor, Saving Bank Control Organisation (for short SBCO), Nagaon, HO (now under suspension w.e.f. 14.07.99), the Superintendent of Post Offices, Nagaon vide Memo No. F. 4-1 (C/99-00) dated 28.08.2001 issued a charge sheet containing 6 Article of charges alleging financial/monetary irregularities to the extent of Rs. 1,76,000/- in connection with certain SB Accounts. Thereafter, the Disciplinary Authority decided to proceed with the inquiry under Rule 14 of CCS (CCA) Rules 1965 and accordingly inquiry officer and presenting officer were appointed by the disciplinary authority to enquire into the matter. The applicant participated into the inquiry proceeding, the preliminary inquiry was held on 22.01.2002 and charged official

Paelma Raw Kalita.

categorically denied the charges labeled against him in the inquiry. The inquiry was held on different dates on 14.02.02, 03.04.02, 17.05.02, 18.09.02, 21.11.02, 22.11.02, 13.12.02, 20.12.02, 08.01.03 and the inquiry was concluded on 24.03.2003.

Copy of the memorandum of charges dated 28.08.01 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- I.

- 4.3 That your applicant during the course of hearing submitted a written statement/written brief pointing out the irregularities/infirmities occurred during the course of inquiry, the applicant also stated in detail how the reasonable opportunity is denied to him in the process of conducting inquiry proceeding.

A Copy of the written brief dated 14.03.2003 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-II.

- 4.4 That the Inquiry Officer finally submitted his inquiry report on 12.04.2003 to the authority and the same was forwarded by the authority to the applicant, subsequently in the month of September' 2003. In the said inquiry report the inquiry officer held that all the charges labeled against the applicant has been established. The applicant after receipt of the inquiry report submitted a detailed representation on 21.11.2003 pointing out irregularities and infirmities committed by the inquiry officer as well as by the Presenting Officer in course of conducting the Inquiry and also prayed for his exoneration from the charges.

Copy of the inquiry report dated 12.04.2003 and representation of the applicant against the inquiry report submitted on 21.11.2003 are enclosed as Annexure- III and IV respectively.

- 4.5 That it is stated that the Disciplinary Authority by the impugned order issued under memo no. Staff/21-2/2004 dated 26.09.2005 imposed penalty of compulsory retirement from service and further ordered that the amount

Padma Ram Kalita

of an unrecovered loss of Govt. money to the extent of Rs. 2,03,120/- (two lakhs three thousand one hundred twenty only) be recovered from the terminal benefits of the applicant as per rules. It is further ordered that the period of suspension would be treated as suspension only for all purposes.

It is surprising to note at this stage that the disciplinary authority did not indicate any particular date from which date of compulsory retirement will be effected, besides the disciplinary authority passed an order of recovery to the extent of Rs. 2,03,120/- from the terminal benefit of the applicant, which is beyond the purview of the disciplinary authority since the amount alleged to have been misappropriated by the applicant only to the extent of Rs. 1,76,000 (one lakh seventy six thousand only) as per memorandum of Article of charge sheet dated 28.08.2001, as such direction of the disciplinary authority is highly arbitrary, unfair and contrary to the records. In this connection it may be stated that on 14.07.1999 an amount of Rs. 68,000/- as well as Rs. 1,35,000/- on 10.08.1999 have been withdrawn from the applicant's GPF account after forcibly obtaining his signature on two separate withdrawal forms and got the aforesaid amount credited in the Govt. account at Nagaon Head Post Offices, Nagaon by the then Supdt. of Post offices, Nagaon with the help of a section of staffs and thereby altogether an amount of Rs. 2,03,000/- has been forcefully debited from the GPF account of the applicant and got the same credited in the Govt. account without any authority of law. Again another amount of Rs. 10,000/- realized from the applicant by the then SSP, Guwahati which is also got credited to the Govt. account at Paltan Bazar Sub Post office and the receipt of the credited amount totaling to Rs. 2,13,000/- also handed over to the applicant by the then Supdt. of Post offices, Nagaon as well as by the SSP, Guwahati. It is pertinent to mention here that when the allegation of mis-appropriation of Govt. money only to the extent of Rs. 1,76,000/-, thereafter disciplinary authority cannot pass order directing to make further recovery of Rs. 2,03,120/- by the impugned

Padma Ram Kalita

order of penalty dated 26.09.2005 and on that short ground the impugned order of penalty dated 26.09.2005 is liable to be set aside and quashed.

Copy of the money receipt dated 14.07.99, 10.08.99 and 23.08.99 and penalty order dated 26.09.2005 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- V (Series) and VI respectively.

4.6 That it is stated that since the total amount alleged to have been misappropriated only to the extent of Rs. 1,76,000/- and when the respondent authority have already realized altogether an amount of Rs. 2,13,000/- from the GPF account of the applicant and got it credited to Govt. account, therefore order of further recovery of an amount of Rs. 2,03,120/- from the terminal benefit of the applicant does not arise at all. More particularly, when the memorandum of charge sheet dated 28.08.2001 specifically alleged to have been misappropriation only to the extent of Rs. 1,76,000/- and therefore Hon'ble Court be pleased to set aside and quashed the order of penalty dated 26.09.2005 to the extent of disciplinary authority have directed to make recovery of Rs. 2,03,120/-.

4.7 That the disciplinary authority have passed an order treating the period of suspension as suspension only for all purposes in total violation of the relevant provisions of CCS (CCA) Rules, 1965. More particularly even in a case where the proceeding has been concluded imposing major penalty then also the disciplinary authority is duty bound to issue a show cause notice and after consideration of the reply of show cause notice, the authority can decide how to treat the period of suspension. However, in the instant case the authority have violated the said provision of the relevant rules and on that score alone the order of the disciplinary authority is liable to be set aside and quashed.

It is relevant to mention here that the applicant placed under suspension way back on 14.07.1999, whereas memorandum of charge sheet was served on the applicant almost after 2 years i.e 28.08.2001 and the

Padma Ram Kalita

inquiry report was submitted by the inquiry officer on 12.04.2003 to the disciplinary authority i.e. after a lapse of about more than 2 years when the applicant has extended his co-operation in each and every stage of the proceeding, but the disciplinary authority taken another 2 years in passing a final order of imposing a penalty only on 26.09.2005. Therefore applicant is not at all responsible in causing the delay for completion of the disciplinary proceeding and as such treating the period of suspension as suspension for all purposes is highly illegal, unreasonable and unfair and the same has cost irreparable loss and injury to the applicant.

- 4.6 That it is stated that your applicant after receipt of the impugned order of penalty dated 26.09.2005 has preferred an appeal on 14.11. 2005 before the appellate authority and also submitted another representation on 05.01.2006 for amendment of the said appeal for correction of certain typographical error occurred due to inadvertence. However, the said appeal is still pending with the authority. It is stated that the applicant raised numbers of grounds in his appeal while pointing out the violation of rules and other infirmities, while conducting the inquiry as well as pointed out the discrepancies and defects in the impugned penalty order dated 26.09.2005, issued by the disciplinary authority. However, the said appeal dated 14.11.2005 is still pending with the authority.

Copy of the appeal dated 14.11.2005 as well as representation dated 05.01.2006 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- VII and VIII respectively.

- 4.9 That your applicant further begs to say that in view of the discrepancies and defects in the impugned order of penalty dated 26.09.2005 and also in view of the pendency of the appeal dated 14.11.2005 before the appellate authority, the applicant is facing acute financial hardship in view of the fact that in one hand there is a appeal pending against the impugned defective order of the disciplinary authority dated 26.09.2005, on the other hand

Padmavati Kalita.

there is no indication on what date the order of compulsory retirement will take effect. Moreover, the order of recovery of Rs. 2,03,120/- passed by the disciplinary authority is contrary to the records rather applicant is entitled to refund the entire amount which was forcibly credited to the Govt. account. Moreover, the applicant is not receiving any subsistence allowance after issuance of the penalty order dated 26.09.2005. In such compelling circumstances applicant approaching before this Hon'ble Tribunal praying for a direction/order upon the respondents, more particularly to the appellate authority to stay the operation of the penalty order dated 26.09.2005 issued by the disciplinary authority as an interim measure to enable the applicant to receive the benefit of subsistence allowance till final decision is taken by the appellate authority. Since there is no provision, of passing of any interim order by the appellate authority in the case of the applicant, therefore applicant is approaching before the learned Tribunal for passing an appropriate order or direction to pay subsistence allowance to the applicant till disposal of the appeal by the appellate authority and also be pleased to pass direction upon the respondents to stay the penalty order dated 26.09.2005 till disposal of the appeal by the appellate authority, otherwise the applicant will suffer irreparable loss and injury.

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

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

5.1 For that, the impugned order of penalty dated 26.09.2005 is totally defective and the order of recovery has been passed contrary to the records as well as contrary to the amounts alleged to have been misappropriated as per Memorandum of charge sheet dated 28.08.2001, as such the impugned order dated 26.09.2005 is liable to be set aside and quashed.

5.2 For that as per Memorandum of Article of Charges only an amount of Rs. 1,76,000/- alleged to have been misappropriated by the applicant.

Padma Rani Kalita.

whereas disciplinary authority have further directed to make recovery of Rs. 2,03,120/- from the terminal benefits of the applicant without noticing the fact that the respondent authority more particularly, Supdt. of post offices, Nagaon and SSP, Guwahati have already recovered/withdrawn an amount of Rs. 2,13,000/- from the applicant and the same was credited to the Govt. amount and the applicant is rather entitled to refund of Rs. 37,000/- from the respondents department and therefore the impugned order of penalty dated 26.09.2005 is defective and contrary to the records and on that score alone the impugned order dated 26.09.2005 is liable to set aside and quashed.

- 5.3 For that, the decision of the disciplinary authority treating the entire period of suspension as suspension for all purposes without providing any reasonable opportunity as required under the relevant rule and on that score alone the penalty order dated 26.09.2005 is liable to be set aside and quashed.
- 5.4 For that, the order of penalty is defective in as much as there is no indication in the order of penalty that from what date the order of compulsory retirement will be affected as required under the rule as such impugned order dated 26.09.2005 is bad in law.
- 5.5 For that, disciplinary authority is not authorized and entitled to under the law to pass order of recovery of any excess amount, then the amount alleged to have been misappropriated as per article of charge sheet dated 28.08.2001.
- 5.6 For that, neither inquiry officer nor disciplinary authority taken into consideration the amount forcibly recovered from the GPF account as well in cash from the applicant by the then Supdt. of Post Offices, Nagaon as well as SSP, Guwahati even after same is specifically brought to the notice of the authority during the course of enquiry.

Padma Ram Kalita.

- 5.7 For that, no formal order of compulsory retirement has been issued in respect of the applicant pursuant to the impugned order dated 26.09.2005 and at the same time the subsistence allowance which was receiving by the applicant has already been stopped after issuance of the impugned order dated 26.09.2005 as such applicant is facing acute financial hardship due to non- receipt of subsistence allowance at the same time when no order has been issued granting retirement benefit in terms of penalty order dated 26.09.2005.
- 5.8 For that, delay in issuing the charge sheet, delay in completion of the proceeding has been caused at the instance of the of the disciplinary authority when applicant was placed on suspension in July 1999 but charge sheet was issued on 28.08.2001 and disciplinary proceeding has been concluded with the order of penalty only on 26.09.2005 due to delay and lapses on the part of the inquiry authority as such order of treating the entire period of suspension as suspension for all purposes that too without providing any opportunity is highly illegal, arbitrary and unreasonable.
- 5.9 For that applicant has been denied reasonable opportunity and natural justice, while conducting the inquiry proceeding in a arbitrary and unfair manner, which has been pointed out in detail by the applicant in his written brief dated 14.03.2003 as well as in his representation against the inquiry report submitted on 21.11.2003 and the grounds raised by the applicant in his appeal dated 14.11.2005 as such the impugned order dated 26.09.2005 is liable to be set aside and quashed due to large scale infirmities committed by the authorities during the course of conducting the inquiry proceeding.
- 5.10 For that in view of pendency of the appeal before the appellate authority and the payment of subsistence allowance has already been stopped by

Padma Ram Kalita.

the respondent authority and the same time no order has been passed for payment of retirement benefits in view of imposing of penalty of compulsory retirement by the impugned order dated 26.09.2005 as such applicant and his dependent family members facing acute financial hardship and now at the stage of starvation.

- 5.11 For that there is no provision of interim order in the CCS (CCA) Rules 1965, against the impugned order of penalty if any imposed by the Disciplinary authority and when the same is pending with appellate authority, in such compelling circumstances the applicant is approaching before this Hon'ble Tribunal to pass an appropriate order directing the respondents at least to release the payment of subsistence allowance till the appeal is disposal of by the appellate authority as an interim measure.

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):

Pachma Ram Kalita

- 8.1 That the Hon'ble Tribunal be pleased to direct the respondents to grant subsistence allowance to the applicant as an interim measure till disposal of the appeal dated 14.11.2005 against the impugned penalty order dated 26.09.2005, which is pending before the appellate authority.
- 8.2 That the Hon'ble Tribunal be pleased to set aside and quash the impugned charge sheet dated 28.08.2001 (Annexure- I) as well as order of penalty dated 26.09.2005 (Annexure- VI).
- 8.3 Costs of the application.
- 8.4 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 to grant subsistence allowance during the pendency of the appeal dated 14.11.2005 before the appellate authority against the impugned penalty order dated 26.09.2005.
- 9.2 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not a bar to grant the relief prayed for.

10.

11. Particulars of the I.P.O

- | | | | |
|------|----------------------------|---|-------------|
| i) | I.P.O No. | : | 266317926 |
| ii) | Date of issue | : | 12.1.06 |
| iii) | Issued from | : | G.P.O, Ghy, |
| iv) | Payable at | : | G.P.O, Ghy |
| 12. | <u>List of enclosures:</u> | | |
| | As given in the index. | | |

Fadma Rana Kalita.

VERIFICATION

I, Shri Padma Ram Kalita, S/o- Late Nivarsha Kalita, aged about 58 years Supervisor, SBCO, Nagaon, (Under suspension), Dist- Nagaon, Assam, 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 25th day of January 2006.

Padma Ram Kalita.

Annexure-I

Statement of articles of charge framed against Sri Padma Ram Kalita, Supervisor, SBCO Nagaon ID (under suspension)

Article-I : That the said Sri Padma Ram Kalita while functioning as UDC SBCO/Supervisor, SBCO at Guwahati GPO during the period from 23.03.81 to 12.06.88 and from 26.06.88 to 14.11.91 and from 23.12.91 to 31.12.96 opened a SB a/c under account no. 241756 on 9.10.80 in the name of Sri Padma Ram Kalita with initial deposit of Rs. 1400.00. This deposit of Rs. 1400.00 was alleged to have inflated and made to Rs. 11400.00 by Sri Kalita by putting figure "1" on the ten thousandth place of the actual deposit of Rs. 1400.00 and the balance was thus inflated and raised to Rs. 11,400.00 in the HO ledger card. Similarly he made subsequent deposits of Rs. 100.00 on 20.07.95 and Rs. 200.00 on 29.02.96 which were also inflated and made to Rs. 6100.00 and Rs. 5200.00 respectively by putting figure 6 & 5 respectively in the unit of thousand place. The increased amounts were withdrawn subsequently by the said Sri Kalita on different dates. Sri Kalita alleged to have misused his official capacity and took the advantage of his easy access to relevant HO SB records as UDC/Supervisor, SBCO Guwahati GPO and inserted wishful figure to inflate the balance of the aforesaid SB a/c in Pass book and HO ledger on the aforesaid different dates of deposits.

Thus the said Sri Padma Ram Kalita by his above acts failed to maintain absolute integrity and acted in a manner which is unbecoming of a govt servant violating the provisions of Rule 3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964. By committing the above monetary irregularities in the aforesaid savings account, he also failed to perform the duties of supervisor as enjoined in the para 2(b)(i) A.N. Dureja's manual on POSSS Part four.

Article-II : That the said Sri Padma Ram Kalita during the aforesaid period opened another SB a/c on transfer under account no. 242211 on 23.3.81 in the name of Mrs. Kamala Kalita, wife of Sri Padma Ram Kalita, SBCO, Guwahati with balance of Rs. 625.00 only. On 2.3.93, when there was a balance of Rs. 465.60 in the aforesaid SB a/c, a deposit of a sum of Rs. 100.00 was made and the balance of the said account after this deposit was actually for Rs. 565.60. This deposit of Rs. 100.00 was alleged to have inflated and made to Rs. 8100.00 by Sri Kalita by putting figure "8" on the left hand side (in the unit of thousand place of the actual deposit of Rs. 100.00 and the balance was thus inflated and raised to Rs. 8565.60 in the HO ledger card and Pass Book. Similarly he alleged to have made subsequent 10 deposits for Rs. 100.00 on 10.7.93, Rs. 200.00 on 19.5.94, Rs. 300.00 on 31.5.94, Rs. 200.00 on 7.9.94, Rs. 200.00 on 30.11.94, Rs. 150.00 on 2.3.95, Rs. 200.00 on 31.5.95, Rs. 150.00 on 9.8.95, Rs. 150.00 on 9.1.96 and Rs. 200.00 on 27.3.96 which were also inflated and made to Rs. 9100.00, Rs. 5200.00, Rs. 4300.00, Rs. 3200.00, Rs. 4200.00, Rs. 3150.00, Rs. 3200.00, Rs. 6150.00, Rs. 6450.00 and Rs. 6200.00 respectively by putting figures 9, 5, 4, 3, 4, 3, 3, 6, 6, & 6 in the unit of thousand places respectively. The increased amounts were subsequently withdrawn by the said Sri Padma Ram Kalita as messenger on different dates. He misused his official capacity and took advantages of his easy access to relevant HO SB records on the aforesaid different dates of deposit. Thus the said Sri Padma Ram Kalita by this above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a govt servant violating the provisions of Rule 3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964. By committing the above monetary irregularities in the aforesaid SB a/c, he also failed to perform the duties of Supervisor as enjoined in the para 2(b)(i) of A.N. Dureja's manual on POSSS Part four.

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Article-III : That the said Sri Padma Ram Kalita during the above period got opened a Savings Account under a/c no. 243977 at Guwahati GPO in the name of Sri Ashim Kr. Kalita (Minor) through father Sri Padma Ram Kalita on 31.5.82 with initial deposit of Rs. 200.00. On 21.12.87, when there was a balance of Rs. 57.30 in the aforesaid SB a/c he deposited Rs. 100.00 and the balance after this deposit was actually for Rs. 157.30. This deposit of Rs. 100.00 was inflated and made to Rs. 6100.00 by Sri Kalita putting figure "6" in the left hand side (in the unit of thousand place) of the actual deposit of Rs. 100.00 and the balance was thus inflated and raised to Rs. 6157.30 in HO ledger and Pass Book. Similarly, he made subsequent five deposits for Rs. 100.00 on 31.12.87, Rs. 100.00 on 26.2.96, Rs. 150.00 on 8.3.96, Rs. 200.00 on 28.6.96 and Rs. 200.00 on 31.7.96 which were also inflated and made to Rs. 4100.00, Rs. 7100.00, Rs. 3150.00, Rs. 1200.00 and Rs. 3200.00 putting 4, 7, 3, 1 & 3 respectively in the unit of thousand place. The increased amount were subsequently withdrawn by Sri Padma Ram Kalita on different dates. Sri Kalita alleged to have misused his official capacity and took advantage of his easy access to relevant PO SB records on the aforesaid different dates of deposit. Thus the said Sri Padma Ram Kalita by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a govt servant violating the provisions of Rule 3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964. By committing the above monetary irregularities in the aforesaid SB a/c. he also failed to perform the duties of supervisor as enjoined in the para 2(b)(i) of A N Dureja's manual on POSSS Part four.

Article IV

That Sri Padma Ram Kalita while working as Supervisor, SBDO, Nagaon HO for the period from 11.01.97 to 13.07.99 opened a Savings Account at Nagaon H.O. under account no. 128256 on 05.02.97 in the name of Sri Padma Ram Kalita, Supervisor, SBDO, Nagaon HO with initial deposit of Rs. 4500.00. On 31.01.98 when there was a balance of Rs. 565.70 in aforesaid savings account he deposited a sum of Rs. 250.00 and the balance of the said account after this deposit was actually for Rs. 815.70. This deposit of Rs. 250.00 was inflated and made to Rs. 6250.00 by Sri Kalita by adding figure "6" on the left hand side (in the unit of thousand place of the actual deposit of Rs. 250.00 and the balance was thus inflated and raised to Rupees 6815.70 in ledger card, long book and pass book. Similarly he made subsequent six deposits for Rupees 200.00 on 28.05.98, Rs. 300.00 on 31.05.98, Rs. 300.00 on 10.12.98, Rs. 300.00 on 03.02.99, Rs. 400.00 on 26.02.99 and Rs. 300.00 on 07.05.99 which were also alleged to have inflated and made to Rs. 6200.00, Rs. 6300.00, Rs. 5300.00, Rs. 2300.00, Rs. 5400.00 and Rs. 6300.00 respectively by putting figures 6, 6, 5, 2, 5, & 6 in the unit of thousand place. The increased amount were subsequently withdrawn by the said Sri Kalita on different dates. He misused his official capacity and took the advantage of his easy access to relevant PO SB records as Supervisor SBDO, Nagaon and inserted wishful figure in the unit of thousand to inflate the balances of the aforesaid savings account in the PD and other relevant PO SB records on the aforesaid different dates of deposit. Thus, the said Sri Padma Ram Kalita by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt Servant violating the provisions of Rule 3(1)(ii) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964. By committing the above monetary irregularities in the aforesaid Savings Account, he also failed to perform the duties of Supervisor as enjoined in the Para 2(b)(i) of A N Dureja's manual on POSSS Part four.

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Article-V

That the said Sri Padma Ram Kalita during the aforesaid period opened at Nagaon H.O another Savings Account under Account no. 128573 on 26.07.97 in the name of his minor son Sri Amarjit Kalita (operated through father) with initial deposit of Rs. 3000.00 on 10.03.98 when there was a balance of Rs. 300.00 in the aforesaid Savings Account, he deposited a sum of Rs. 200.00 and the balance of the said account after this deposit was actually for Rs. 500.00. This deposit of Rs. 200.00 was inflated and made to Rs. 6200.00 by Sri Kalita by adding figure '6' on the left hand side (in the unit of thousand place of the actual deposit of Rs. 200.00 and the balance was thus alleged to have inflated and raised to Rs. 6500.00 in ledger cards, long book and pass book. Similarly he made subsequent four deposits for Rs. 300.00 on 30.05.98, Rs. 300.00 on 05.12.98, Rs. 200.00 on 31.03.99 and Rs. 300.00 on 03.06.99 which were also inflated and made to Rs. 9300.00, Rs. 6300.00, Rs. 6200.00 and 6300.00 respectively by adding figure 9, 6, 6, & 6 in the unit of thousand place. The increased amounts were subsequently withdrawn by the said Sri Kalita on different dates. He misused his official capacity and took the advantage of his easy access to relevant PO SB records as Supervisor, SBCO, Nagaon and inserted wished figure in the unit of thousand to inflate the balances of the aforesaid savings account in the PB and other relevant PO SB records on the aforesaid different dates of deposit. Thus, the said Sri Padma Ram Kalita by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt servant violating the provisions of Rule 3(1)(ii) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964. By committing the above monetary irregularities in the aforesaid Savings Account, he also failed to perform the duties of Supervisor as enjoined in the para 2(b)(1) of A N Durejas manual on POSSS Part four.

Article-VI

That the said Sri Padma Ram Kalita during the above period got opened at Nagaon H.O a Savings Account under Account no. 129290 in the name of Mrs K. Kalita C/o Sri P Kalita on 23.09.98 with initial deposit of Rs. 200.00. On 27.03.99, when there was a balance of Rs. 500.00 in the aforesaid Savings Account, he deposited a sum of Rs. 200.00 and the balance of the said account after this deposit was actually for Rs. 700.00. This deposit of Rs. 200.00 was inflated and made to Rs. 5200.00 by Sri Kalita by putting figure '5' in the left hand side (in the unit of thousand) of the actual deposit of Rs. 200.00 and the balance was thus inflated and raised to Rs. 5,700.00 in ledger card, long book and pass book. The increased amount was subsequently withdrawn by the said Sri Kalita as Messenger. He misused his official capacity and took the advantage of his easy access to relevant PO SB records as Supervisor, SBCO, Nagaon and inserted wished figure in the unit of thousand to inflate the balances of the aforesaid Savings Account in the PB and other relevant POSSB records on the aforesaid dates of deposit. Thus, the said Sri Padma Ram Kalita by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt servant violating the provisions of Rule 3(1)(ii) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964. By committing the above monetary irregularities in the aforesaid Savings Accounts, he also failed to perform the duties of Supervisor as enjoined in the para 2(b)(1) of A N Durejas manual on POSSS Part four.

Annexure-II

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Sri Padma Ram Kalita, Supervisor, SBCO Nagaon H.O (under suspension).

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Article-I : That the said Sri Padma Ram Kalita while functioning as UDC, SBCO/Supervisor SBCO at Guwahati GPO during the period from 23.03.81 to 12.6.88 and from 26.6.88 to 14.11.91 and from 23.12.91 to 31.12.96 opened a SB a/c under account no. 241756 in the name of Sri Padma Ram Kalita with initial deposit of Rs. 1400.00 on 9.10.80. This deposit of Rs. 1400.00 was subsequently inflated and made to Rs. 11400.00 by Sri Kalita by adding figure '1' on the left hand side of the actual deposit of Rs.1400.00 and the balance was thus inflated and raised to Rs. 11400.00 in the HO ledger card. Similarly he made subsequently two deposits as particularised below which were also inflated leading to raising of balances by adding figure in the unit of thousand. The increased amounts were subsequently withdrawn by the said Sri Kalita on different dates.

Date of deposit	Amount of actual deposit	Amount as per pay in slip	Amount as per long book	Amount as per HO ledger (inflated)	Balance inflated and subsequently withdrawn	Remarks if any
09.10.80	1400	-	1400	11400	10000	Pay-in-slip not available
20.07.95	100	100	100	6100	6000	
29.02.95	200	200	200	5200	5000	

The said Sri Kalita misused his official capacity and took advantage of his easy access to relevant POSB records as Supervisor/UDC SBCO Guwahati GPO and inserted wishful figure to inflate the balances of the aforesaid savings account in the HO ledger and pass book on the aforesaid different dates of deposit.

It is therefore, imputed that the said Sri Padma Ram Kalita by his above acts failed to maintain absolute integrity and acted in a manner which is unbecoming of a govt servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.

It is further imputed that by committing the above monetary irregularities in the aforesaid savings account he also failed to perform the duties of Supervisor as enjoined in Para 2(b)(i) of A N Durejas manual on FOSSS Part four.

Article-II : That the said Sri Padma Ram Kalita during the aforesaid period opened on transfer SB a/c under account no. 242211 on 23.3.81 in the name of Mrs Kamala Kalita wife of Sri Padma Ram Kalita SBCO Guwahati with balance of Rs. 625.00 only. On 2.3.93 when there was a balance of Rs. 465.60 in the aforesaid SB a/c, he deposited a sum of Rs. 100.00 and the balance of the said a/c after this deposit was actually for Rs. 565.60. This deposit of Rs. 100.00 was inflated and made to Rs. 8100.00 by Sri Kalita by adding figure "8" on the left hand side (in the unit of thousand) of the actual deposit of Rs. 100.00 and the balance was inflated and raised to Rs. 8565.60 in the HO ledger card and pass book. Similarly he made subsequent 10 deposits as perticularized below which were also inflated in the same manner and raised the balances. The increased amounts were subsequently withdrawn by said Sri Kalita on different dates.

Date of deposit	Amount of actual deposit	Amount as per pay-in-slip	Amount as per long book	Amount as per HO ledger (inflated)	Balance inflated and subsequently withdrawn	Remarks if any
02.03.93	100	100	100	8100	8000	
10.07.93	100	100	100	9100	9000	
19.05.94	200	200	200	5200	5000	

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31.05.94	300	300	300	4300	4000	Long book not available -do-
07.09.94	200	200	200	3200	3000	
30.11.94	200	200	-	4200	4000	
02.03.95	150	150	-	3150	3000	
31.05.95	200	200	200	3200	3000	
09.08.95	150	150	150	6150	6000	
09.01.96	150	150	150	6150	6000	
27.03.96	200	200	200	6200	6000	

The said Sri Kalita misused his official capacity and took advantage of his easy access to relevant records of POSB as Supervisor/UDC SBCO Guwahati GPO and inserted wishful figure to inflate the balances of the aforesaid savings account in the HO ledger and Pass Book on the aforesaid different dates of deposit.

It is therefore imputed that the said Sri Padma Ram Kalita by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a govt servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.

It is therefore imputed that by committing the above monetary irregularities in the aforesaid SB a/c he also failed to perform the duties of Supervisor as enjoined in Para 2(b) (i) of A N Dureja manual on POSS Part four.

Article-III : That the said Sri Padma Ram Kalita during the above period got opened a savings account under a/c no. 243977 on 31.5.82 in the name of Sri Ashim Kr Kalita (minor) through father Sri Padma Ram Kalita with initial deposit of Rs. 200.00. On 21.12.87, when there was a balance of Rs. 57.30 in the aforesaid SB a/c, he deposited Rs. 100.00 and the balance after this deposit was actually for Rs. 157.30. This deposit of Rs. 100.00 was inflated and made to Rs. 6100.00 by Sri Kalita by adding figure "6" in the left hand side (in the unit of thousand) of the actual deposit of Rs. 100.00 and the balance was thus inflated and raised to Rs. 6157.30 in the HO ledger and Pass Book. Similarly he made subsequently five deposits as particularised below which were also inflated in the same manner and raised the balances. The increased amounts were subsequently withdrawn by said Sri Kalita on different dates.

Date of deposit	Amount of actual deposit	Amount as per pay-in-slip	Amount as per long book	Amount as per HO ledger (inflated)	Balance inflated and subsequently withdrawn	Remark
21.12.87	100	-	100	6100	6000	Pay in slip not available -do-
31.12.87	100	-	100	4100	4000	
26.02.96	100	100	100	7100	7000	
08.03.96	150	150	150	3150	3000	
28.06.96	200	200	200	1200	1000	
31.07.96	200	200	200	3200	3000	

The said Sri Kalita misused his official capacity and took advantage of his easy access to relevant POSB records as Supervisor/UDC SBCO Guwahati GPO and inserted wishful figure to inflate the balances of the aforesaid savings account in the HO ledger and pass book on the aforesaid different dates of deposit.

It is therefore imputed that the said Sri Padma Ram Kalita by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a govt servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.

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It is therefore imputed that by committing the above monetary irregularities in the aforesaid SB a/c he also failed to perform the duties of Supervisor as enjoined in para 2(b)(i) of AN Dureja manual on POSSS Part four.

Article-IV

That the said Sri Padma Ram Kalita while functioning as Supervisor, SBCO, Nagaon HO for the period from 11.01.97 to 13.07.99 opened a Savings Account under account no 128256 on 05.02.97 in the name of Sri Padma Ram Kalita with initial deposit of Rs. 4500.00. On 31.01.98 he deposited a sum of Rs. 250.00 when there was a balance of Rs. 465.70 in the aforesaid Savings Account and the balance of the said account after this deposit was actually for 815.70. But this deposit of Rs. 250.00 was inflated and made to Rs. 6250.00 by Sri Kalita by adding figure "6" on the left hand side (in the unit of thousand) of the actual deposit of Rs. 250.00 and the balance was thus, inflated and raised to 6815.70 in ledger card, long book and pass book. Similarly he made 6 deposits as particularised below which were also inflated leading to raising of balances by adding figure in the unit of thousand. The increased amounts were subsequently withdrawn by the said Sri Kalita on different dates.

Date of deposit	Amount of actual deposit	Amount as per pay in slip	Amount as per Ledger card (Inflated)	Amount as per long book (Inflated)	Amount as per Pass book (Inflated)	Balance inflated & subsequently withdrawn
31.01.98	250.00	250.00	6250.00	6250.00	6250.00	6000.00
28.05.98	200.00	6200.00 (Inflated)	6200.00	6200.00	6200.00	6000.00
31.08.98	300.00	6300.00 (Inflated)	6300.00	300.00 (not inflated)	6300.00	6000.00
10.12.98	300.00	5300.00 (Inflated)	5300.00	5300.00	5300.00	5000.00
03.02.99	300.00	300.00	2300.00	2300.00	2300.00	2000.00
26.02.99	400.00	400.00	5400.00	5400.00	5400.00	5000.00
07.05.99	300.00	300.00	6300.00	6300.00	6300.00	6000.00

The said Sri Kalita misused his official capacity and took the advantage of his easy access to relevant POSSB records as Supervisor, SBCO, Nagaon and inserted wishful figure in the unit of thousand to inflate the balances of the aforesaid savings account in the PB and other relevant records on the aforesaid different dates of deposit.

It is, therefore, imputed that the said Sri Padma Ram Kalita, by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt servant violating the provisions of Rule 3(1)(ii) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.

It is further imputed that by committing the above monetary irregularities in the aforesaid Savings Account he also failed to perform the duties of Supervisor as enjoined in Para 2(b)(i) AN Durejas manual on POSSS Part four.

Article-V

That the said Sri Padma Ram Kalita during the aforesaid period opened another Savings Account under number 128573 on 26.07.97 in the name of his minor son Sri Amarjit Kalita (opened through father) with initial deposit of Rs. 3000.00. He made one deposit of Rs. 200.00 on 10.03.98, when there was a balance of Rs. 300.00 in the aforesaid account and the balance of the said account after deposit was actually for Rs. 500.00. But this deposit of Rs. 200.00 was inflated and made to Rs. 6200.00 by Sri Kalita by adding figure '6' on the left hand side (in the unit of thousand) of the actual deposit of Rs. 200.00 and the balance was thus inflated and raised to Rs. 6500.00 in ledger card, long book and pass book. Similarly he made subsequent 4 deposits as particularised below which were also inflated in the

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same manner and raised the balances. The increased amount were subsequently withdrawn by said Sri Kalita on different dates.

Date of deposit	Amount of actual Deposit	Amount as per pay in slip	Amount as per ledger card (Inflated)	Amount as per Long book (Inflated)	Amount as per Pass book (Inflated)	Balance inflated & subsequently withdrawn
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10.03.98	200.00	200.00	6200.00	6200.00	6200.00	6000.00
30.05.98	300.00	9300.00	9300.00	9300.00	9300.00	9000.00
		(Inflated)				
05.12.98	300.00	6300.00	6300.00	6300.00	6300.00	6000.00
		(Inflated)				
01.03.99	200.00	6200.00	6200.00	200.00 (not inflated)	6200.00	6000.00
		(Inflated)				
03.06.99	300.00	300.00	6300.00	300.00	6300.00	6000.00

The said Sri Kalita misused his official capacity and took the advantage of his easy access to relevant POSB records as Supervisor SBCO, Nagaon and inserted wishful figure in the unit of thousand to inflate the balances of the aforesaid savings account in the PB and other relevant records on the aforesaid different dates of deposit.

It is, therefore, imputed that the said Sri Padma Ram Kalita, by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt servant violating the provisions of Rule 3(1)(ii) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.

It is further imputed that by committing the above monetary irregularities in the aforesaid Savings Account he also failed to perform the duties of Supervisor as enjoined in Para 2(b)(i) of AN Durejas manual on POSSS Part four.

Article-VI

That the said Sri Padma Ram Kalita while functioning as Supervisor, SBCO, Nagaon for the aforesaid period got opened another Savings Account under No. 129290 on 23.09.98 in the name of Mrs K. Kalita C/o Sri P.R. Kalita with initial deposit of Rs. 200.00. He made one deposit of Rs. 200.00 on 27.03.99 in the aforesaid account when there was a balance of Rs. 500.00 and the balance of he said account was actually for Rs. 700.00. But this deposit of Rs. 200.00 was inflated and made to Rs. 5200.00 by Sri Kalita by adding figure '5' on the left hand side in the unit of thousand) of the actual deposit of Rs. 200.00 and the balance was thus inflated and raised to Rs. 5700.00 in ledger card, long book and pass book. The increased amount was later withdrawn by Sri Kalita as Messenger.

The said Sri Kalita misused his official capacity and took the advantage of his easy access to relevant POSB records as Supervisor, SBCO, Nagaon and inserted wishful figure in the unit of thousand to inflate the balances of the aforesaid savings account in the PB and other relevant records on the aforesaid different dates of deposit.

It is, therefore, imputed that the said Sri Padma Ram Kalita, by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt servant violating the provisions of Rule 3(1)(ii) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.

It is further imputed that by committing the above monetary irregularities in the aforesaid Savings Account he also failed to perform the duties of Supervisor as enjoined in Para 2(b)(i) of AN Durejas manual on POSSS Part four.

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Annexure-III

List of documents by which the articles of charge framed against Shri Padma Ram Kalita, Supervisor, SECO, Nagaon HD (under suspension) are proposed to be sustained.

1. Guwahati GPO SB ledger cards of SB a/c no. 241756, 242211 and 243977.
- 2(a) Pay-in-slips dated 20.07.95 and 29.2.96 in respect of SB a/c no. 241756.
- 2(b) Pay-in-slips dated 2.3.93, 10.7.93, 19.5.94, 31.5.94, 7.9.94, 30.11.94, 28.2.3.95, 31.5.95, 9.8.95, 9.1.96 and 27.3.96 in respect of SB a/c no. 242211.
- 2(c) Pay-in-slips dated 26.2.96, 8.3.96, 28.6.96 and 31.7.96 in respect of SB a/c no. 243977.
3. Written statement of Shri Padma Ram Kalita, Supervisor, SECO, Nagaon HD (under suspension) dated 9.8.99.
4. Guwahati GPO SB long books for the following periods.

a)	From	27.06.80 to 14.08.81
b)	"	17.08.81 to 21.04.82
c)	"	22.04.82 to 16.03.83
d)	"	17.03.83 to 10.12.83
e)	"	12.12.83 to 13.11.84
f)	1	14.11.84 to 11.07.85
g)	1	12.07.85 to 02.04.86
h)	1	03.04.86 to 29.11.86
i)	1	01.12.86 to 31.07.87
j)	1	01.08.87 to 11.04.88
k)	1	12.04.88 to 24.01.89
l)	1	25.01.89 to 16.09.89
m)	1	18.09.89 to 02.06.90
n)	1	04.06.90 to 03.01.91
o)	1	04.01.91 to 24.08.91
p)	1	26.08.91 to 30.06.92
q)	1	01.07.92 to 01.03.93
r)	1	02.03.93 to 10.09.93
s)	1	11.09.93 to 19.04.94
t)	1	20.04.94 to 04.11.94
u)	1	09.05.95 to 08.11.95
v)	1	09.11.95 to 18.03.96
	2	21.03.96 to 22.06.96
		13.09.96 to 27.03.97
		29.03.97 to 13.12.97
		15.12.97 to 01.09.98
		02.09.98 to 20.02.99
5. Nagaon HD Savings Pass Book A/c No. 128256 in the name of Shri Padma Ram Kalita (Fresh Pass Book issued on 17.11.98 in lieu of used up one).
6. Nagaon HD Savings Pass Book Account No. 128573 in the name of Sri Amarjit Kalita (minor) operated through father Shri Padma Ram Kalita.
7. Nagaon HD Savings Pass Book Account No. 129290 in the name of Mrs K Kalita C/o P Kalita.
8. Nagaon HD Savings Ledger Cards of Savings Account Nos 128256, 128573 and 129290.
9. Nagaon HD SB Long Books for the following periods :-

24.11.97 to 02.02.98
03.02.98 to 17.04.98
18.04.98 to 24.06.98
25.06.98 to 01.09.98
28.11.98 to 12.03.99
13.03.99 to 10.05.99
11.05.99 to 29.06.99


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10. A) Pay in slips dtd 31.01.98, 28.05.98, 31.08.98, 10.12.98, 03.02.99, 26.02.99 and 07.05.99 in respect of Nagaon Savings Account Number 128250.
10. B) Pay in slips dtd 10.03.98, 30.05.98, 05.12.98, 31.03.99 and 03.06.99 in respect of Nagaon Savings Account Number 128573.
10. C) Pay in slip dtd 27.03.99 in respect of Nagaon Savings Account No. 129290.
11. SB list of transactions of Nagaon HO for the dated viz 31.01.98, 28.05.98, 31.08.98, 10.12.98, 03.02.99, 26.02.99, 07.05.99, 10.03.98, 30.05.98, 05.12.98, 31.03.99, 03.06.99 and 27.03.99
12. Written Statement of Sri Padma Ram Kalita, Supervisor, SBCO, Nagaon HO (under suspension) dtd 10.08.99.

Annexure-IV

List of witnesses by whom the articles of charge framed against Sri Padma Ram Kalita, Supervisor, SBCO, Nagaon HO (under suspension) are proposed to be sustained.

01. Sri N.C. Das, Sr. AO IOO (SB), O/O the Postmaster General, Assam Region, Guwahati.
02. Sri S. Dey Purkayasthan, ASFOs (Divn), O/O the SSFOs, Guwahati Division, Guwahati.
03. Sri Gajon Pathak, PA, SBCO, Nagaon HO and now PA, SBCO, Guwahati H.O.


Supdt. of Post Offices,
Nagaon Div. Nagaon-782001
Nagaon Division
Nagaon - 782001

To,

Sri Abdul Hye, Inquiry Authority & C.I. Nagaon Divn.,
Nagaon.

Dated at Nagaon the 14th March/03.

Sub: Rule 14 inquiry against Sri Padma Kam Kalita Supervisor
SBCO Nagaon (under sub-... submission of brief
thereof.

Sir,

With reference to the S. Post Nagaon memo of charges bearing No. P4-1(c)/99-00 at 28/8/01. I beg to submit first the following arguments in each of the article of charges framed against me for favour of your careful study in reality & findings of your own in the matter.

Article No I

This relates to Guwahati GPO SB A/C No. 241756 standing in the name of one Padma Kalita. The period of my incumbency as noted were not categorically split up and that the period shown from 26/6/88 to 14/11/91 was also wrongly noted. The charge of manipulation / inflation of figure in SB A/C No. 241756 as shown opened on 9/10/80 was wrongly framed against me as during the period before & after 9/10/80 I was working at SBCO, Shillong H.O. It will appear from the ledger card PE 1/1 that the address of the depositor noted as son of N.C. Kalita C/O. M.C. Kalita O/O the DIO Guwahati does not belong to me & therefore the charge is totally baseless & may be dropped from the purview of the charge sheet. Had the relevant pass book been produced in the inquiry I could throw clear light in the matter. It is clearly evident that the disciplinary authority was not clear, definite & specific while framing of charge against me & thereby an attempt was made to throw the blame on me.

Article II

This speaks of Guwahati GPO SB A/C No. 242211 standing in the name of Mrs. Kamala Kalita. My contentions in this regard stand that as the relative pass book of the above A/C was not exhibited, I am not in a position to submit my argument in a clear & comprehensive manner as there is no scope to have a comparative study of the pay-in-slips marked as PE-6 to PE-16 in absence of the relating pass books. It is further pointed out that I had no dealing with the SB binder of the A/C. Moreover my wife is a literate person to operate on the A/C independently by herself. I like to add further that there was no confronted inquiry or statement of the depositor in favour of the charge. Hence the question of

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inflating balance by putting additional figure in the original amount of deposit as noted in this charge may not be imposed on me. As regards the charge of withdrawal of amounts from the raised balance of the above A/C, I held the view that in absence of the corresponding SB Warrant of payments as well as the specific dates of withdrawal the charge is reasonably not consistent but unfounded & baseless. Hence I may be exempted from the purview of the charge.

Article III

This is regarding operation of Gumanati GPO SB A/C No. 243977 standing in the name of minor Sri Ashim Kr. Kalita. The ledger card of the A/C marked PE 3 does not indicate the name of the operator to authenticate whether the A/C was operated by me or any of my near relatives. In absence of vital documents like relative SB-3 form & relative pass book which was not produced in the inquiry the allegation brought against me could not be sustained. My further arguments in this regard go in the light as the article II above. The ledger card was authenticated by me as exhibit because of the fact that it bears my official address.

Article IV

This is regarding Nagaon SB A/C No. 128256 standing in the name of Padma Kalita. In this A/C the corresponding pay-in-slips relating to the dates mentioned in the charge were not exhibited but suppressed to the liking of the authority. Thereby I was deprived to make a comparative study. The additions & alterations of the deposit figures on the said dates in the P B, did not take place while the P B was in my possession. It was already noted in my statement at 24/1/03 furnished before you in the form of my self witness that my personal bag containing this pass book & interalia was forcibly snatched away by the staff of Nagaon H.P.O. on 14/7/99 who also badly scolded, defamed & harassed me to the extreme degradation of my official position, which has been confirmed by my witness Sri G.C. Das in your presence. As Supervisor SBCCO Nagaon I had no material relation with binder, long books & L.O. Tag & had no childish role on my part to play by putting additional figures in my pass book A/C No. 128256 which was not formally requisitioned & taken possession of by the authority & required by the system. The PB remained in the custody of the authority for

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more than two years without even providing me a duplicate one for which I bear ground for suspicion in addition / alteration of figures to intentionally put me to harassment. Further as regard the charge of withdrawal of money on different dates whatever may be the amounts by the disciplinary authority I held that the life of the charge stands expired in as much as there was no documentary evidence like withdrawal forms in support. So it is inconsistent, vague, vindictive & perfunctory in character to defame me.

Article V

This relates to Nagaon H O SB A/C No. 123573 (minor) standing in the name of Sri Amarjit Kalita son of P. Kalita. Operated through 'father' bracketed so is undocumented but 'hypothetical' as exhibits PE 49 & PE 52 being photocopies of P.B. & L.C. do not indicate so, as name of the operator was not mentioned both in the P.B. & L.C. There was no single pay-in-slip of the concerned dates as noted in the charge & the vital documents like SB-3 was produced for my confirmation. My further contention in this case is same as noted in article IV above with the addition that the exhibits were authenticated by me only because of my official address.

Article VI

This is regarding Nagaon SB A/C No. 129290 in the name of Mrs. K. Kalita C/O. P. Kalita. In this case I am a co-party to the depositor Mrs. K. Kalita who might have operated upon the A/C by herself. The prosecution did not produce the pay-in-slips of the concerned dates as well as the result of confronted inquiry with depositor & myself. The charge of withdrawal of amount on different dates from the A/C owned by an individual is logically speculative but not specific in absence of relative SB warrant of payments. The disciplinary authority is prejudiced by biased in saying without basis that withdrawals were made through me as messenger. The charge is therefore not self-contained but baseless & unfounded. It is only as held by me the preponderance of probability without definite clues on document so far the charges of withdrawal of money are concerned.

It is further mentioned with a request to you to examine carefully that the contents of preliminary report submitted by Sr. A O ICO (SB) do not in fact correspond with his deposition as witness giving before you on 22/11/02. His deposition is different from what he reported to the authority on 12/7/99 as because what he did on 12/7/99 was completely motivated and revengeful. As reported

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he visited the office on a mere unnamed telephone call is quite unbelievable & inquiry made on such unnamed call was unprecedented. Some evil motive acted behind it which was a preplanned one on which he became successful to make a platform of conspiracy against me.

It may also be noted that the outcome of depositions made by Sri Purkayastha on 20/12/02 as a state witness has no cogence & not maintainable in his functioning as a member of inquiry squad & he could not substantiate through questions & answers that he noted so. It is thus clear that he was mere a spectator of the inquiry squad having no function.

Now with reference to the written briefs submitted by the P.O. I beg to state that my above arguments cover in refutation of the points narrated by the P.O. which almost run in the spirit of wordings of the chargesheet without the reality of facts & documents. The P.O. with deliberate intention did not touch the following vital points in his brief which may kindly be judged by your goodself with your realistic assessment and upright decession.

(1) The chargesheet bear inherent lacuna, it is not clear, specific & precise in its form but unnecessarily numerous and verbose in contrary to the procedure of the CCS CCA rules 1965 for which I was put to confusion. The charge & allegation are the both sides of same coin.

(2) Withdrawal of amounts on different dates as alleged in the chargesheet is not specific & does not rest on documentary proof.

(3) There was no formal procedure or system adopted by the authority to show which were the pass books snatched away.

(4) The charges of misappropriation expressed in the above articles are the signs of clear assumption & presumption of non facts and it amounts to a conduct of postmortem test without dead body.

(5) The P.O. contention that I took the advantage of excess to records is untenable because I was already custodian not the material man dealer & I had no occasion to requisition any particular SB binder for any monetary benefit as pointed out in the charge sheet. Exchange of records / documents is done through manual procedure as known to the P.O.

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(6) As per procedure any confession / admission of allegation by the C.O. should be incorporated in the charges, 'it was not shown done because my statements dt. 9/8/99, 10/8/99 were not free & fair but recorded under threat & duress. It may further be examined that the statements were recorded not as apart of preliminary inquiry of the case but obviously under preplanned manner.

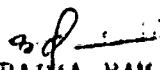
(7) The report / opinion of forensic test or handwriting test expert is required by statutory provisions in rules to decide as a final authority when dispute arises between yes & no. The authority says yes & I say no. In this connection my statement in the form of self witness before you on 24/01/03 may kindly be taken into consideration before giving your findings.

(8) The remarks given by the P.O. in his brief regarding my defence witness Sri G.O. Das the then A.S.P.Os, Nagaon is objectionable and it was superficially observed by the P.O. without giving due weightage. This may kindly be examined & observed by you.

(9) As regards the arguments by the P.O. regarding alleged non information against forcible credit of the amount from me it has already been clarified somewhere in the examination of the defence witness that the circumstantial situation compelled me to abstain from the taking further action in the matter as the authority itself bias in character and the party in doing so. The documentary evidence in this score will speak that except the signature the other portion of GPF withdrawal form even filled in by the authority itself which implies that the action of the authority was forceful, one sided & against the principle of natural justice.

In the above circumstances I being a responsible & senior official state that I never intervened & violated the rules as quoted in the chargesheet & pray that by considering my above arguments exonerated from the purview of the charge sheet & thereby allow me to survive in the society & to allow me to enjoy the principles of justice in the matter. Thanking you.

Yours faithfully,


(PALMA RAM KALITA)

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INQUIRY REPORT**INQUIRY REPORT ON RULE-14 INQUIRY AGAINST SHRI PADMA RAM
KALITA, SUPERVISOR, SBCO NAGAON**

NO- Rule-14/ P. R. Kalita dated at Nagaon the 12th April 2003**1. Introductory:**

Vide SPOs Nagaon Memo. No. F4-1@/99-00 dated 04/12/01, I had been appointed as Inquiry Authority for inquiring into the charges framed against Shri Padma Ram Kalita, Supervisor, SBCO Nagaon HO, by the SPOs Nagaon vide his memo. No. F4-1@/99-00 dated 28/08/2001.

2. The articles of charges and substances of imputations of misconduct or misbehavior:

Following articles of charges were framed against the said Shri Padma Ram Kalita (herein after called the CO).

ARTICLE-I

That the said CO while functioning as UDC SBCO / Supervisor, SBCO at Guwahati GPO during the period from 23/03/81 to 12/06/88, from 26/06/88 to 14.11.91 and from 23.12.91 to 31.12.96, opened a SB account under account no. 241756 on 9.10.80 in the name of the CO with initial deposit of Rs.1400.00. This deposit of Rs.1400.00 was inflated and made to Rs.11400.00 by the CO adding figure "1" on the left side of the actual deposit of Rs.1400.00 and the balance was thus inflated and raised to Rs.11, 400.00 in the HO Ledger Card. Similarly he made subsequent deposits of Rs.100.00 on 20.07.95 and Rs.200.00 on 29.02.96, which were also inflated, made to Rs.6100.00 and Rs.5200.00 respectively by adding figure in the unit of thousand. The increased amounts were withdrawn subsequently by the said the CO on different dates. He misused his official capacity and took the advantage of his easy access to relevant PO SB records as UDC/Supervisor, SBCO Guwahati GPO and inserted wishful figure to inflate the balance of the aforesaid SB a/c in passbook and HO ledger on the afore said different dates of deposits.

Thus the said the CO, by his above acts failed to maintain absolute integrity and acted in a manner which is unbecoming of Govt. Servant violating the provisions of Rule 3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964. By committing the above monetary irregularities in the aforesaid Savings accounts, he also failed to perform the duties of supervisor as enjoined in para 2(b)(i) of Savings bank Control Procedure.

According to the statement of imputation of misconduct or misbehavior in support of the above article-I of the charges, the CO while functioning as UDC, SBCO/Supervisor SBCO at Guwahati GPO during the period from 23/03/81 to 12/06/88, from 26/06/88 to 14/11/91 and from 23/12/91 to 31/12/96, opened a SB account under account No. 241756 in the name of the CO with initial deposit of

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Advocate*

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Rs.1400.00 on 09/10/80 which was subsequently inflated and made to Rs.11400.00 in the HO ledger card by the CO by adding figure '1' on the left hand side of the actual deposit of Rs.1400.00. Similarly he made two subsequent deposits as particularized below which were also inflated leading to raising of balances by adding figure in the unit of thousand. The CO subsequently withdrew the increased amounts on different dates.

Date of deposit	amount of actual deposit	amount as per pay-in slip	amount as per long book	amount as per HO ledger (inflated)	balance inflated and subsequently withdrawn	Remarks, if any
09/10/80	1400	-	1400	11400	10000	pay-in-slip not available
20/07/95	100	100	100	6100	6000	
29/02/95	200	200	200	5200	5000	

The said CO misused his official capacity and took advantage of his easy access to relevant PO SB records as Supervisors/UDC SDCO Guwahati GPO and inserted wishful figure to inflate the balances of the aforesaid savings account in the HO ledger and passbook on the aforesaid different dated of deposits.

Therefore, it is imputed that the CO by his above acts failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.

It is further imputed that by committing the above monetary irregularities in the aforesaid savings accounts, the CO also failed to perform the duties of Supervisor as enjoined in para 2(b)(i) of Saving Bank Control Procedure.

ARTICLE-II

That the said CO, during the aforesaid period opened on transfer, another SB account under account No.242211 on 23.03.81 in the name of Mrs. Kamala Kalita, wife of the CO with balance of Rs.625.00 only. On 2.3.93 when there was a balance of Rs. 465.60 in the aforesaid SB account, he deposited a sum of Rs.100.00 and balance of the said account after this deposit was actually for Rs.565.60. This deposit of Rs.100.00 was inflated and made to Rs.8100.00 by the CO by adding figure '8' on the left hand side (in the unit of thousand) of the actual deposit of Rs.100.00 and the balance was thus inflated and raised to Rs.8565.60 in the HO ledger card and passbook. Similarly, he made subsequent 10 deposits for Rs.100.00 on 10.07.93, Rs.200.00 on 19.05.94, Rs.300.00 on 31.05.94, Rs.200.00 on 07.09.94, Rs.200.00 on 30.11.94, Rs.150.00 on 02.03.95, Rs.200.00 on 31.05.95, Rs.150.00 on 09.08.95, Rs.150.00 on 09.01.96 and Rs.200.00 on 27.03.96 which were also inflated and made to Rs.9100.00, Rs.5200.00, Rs.4300.00, Rs.3200.00, Rs.4200.00, Rs.3150.00, Rs.3200.00, 6150.00, Rs.6150.00 and Rs.6200.00 respectively by adding figure in the unit of thousand. The CO as messenger subsequently withdrew the increased amounts on different dates. He misused his official capacity and took advantage of his easy access to relevant PO SB records on

the aforesaid different dates of deposits. Thus the said CO, by his above acts, failed to maintain absolute integrity and acted in a manner, which is unbecoming of a Govt. servant violating the provisions of Rule 3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1964. By committing the above monetary irregularities in the aforesaid SB account, the CO also failed to perform the duties of Supervisor as enjoined in the para 2(b)(i) of Savings Bank Control Procedure.

According to the statement of imputation of misconduct or misbehavior in support of the article-II of the charges, the CO, during the aforesaid period, opened on transfer SB account No.242211 on 23.03.81 in the name of Mrs. Kamala Kalita, wife of Shri Padma Ram Kalita, SBCO Guwahati with balance of Rs. 625.00 only. On 02.03.93, when there was a balance of Rs.465.60 in the aforesaid SB account, he deposited a sum of Rs.100.00 and the balance of the said account after this deposit was actually for Rs.565.00. This deposit of Rs.100.00 was inflated and made to Rs.8100.00 by the CO by adding figure '8' on the left hand side (in the unit of thousand) of the actual deposit of Rs.100.00 and the balance was thus inflated and raised to Rs.8565.60 in the HO ledger card and passbook. Similarly, he made subsequent 10 deposits as particularized below which were also inflated in the same manner and raised the balances. The CO as messenger subsequently withdrew the increased amounts on different dates.

Date of deposit	amount of actual deposit	amount as per pay-in slip	amount as per longbook	amount as per HO ledger (inflated)	balance inflated and subsequently withdrawn	Remarks, if any
✓ 02.03.93	100	100	100	8100	8000	
✓ 10.07.93	100	100	100	9100	9000	
✓ 19.05.94	200	200	200	5200	5000	
✓ 31.05.94	300	300	300	4300	4000	
✓ 07.09.94	200	200	200	3200	3000	
✓ 30.11.94	200	200	---	4200	4000	long book not available
✓ 02.03.95	150	150	---	3150	3000	—do—
✓ 31.05.95	200	200	200	3200	3000	
✓ 09/08/95	150	150	150	6150	6000	
✓ 09.01.96	150	150	150	6150	6000	
✓ 27.03.96	200	200	200	6200	6000	

The said CO misused his official capacity and took advantage of his easy access to the relevant records of PO SB as supervisor/ UDC SBCO Guwahati GPO and inserted wishful figure to inflate the balances of the aforesaid savings account in the HO ledger and passbook on the aforesaid different dates of deposit.

It is therefore imputed that the said CO by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt.

servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964.

It is therefore imputed that by committing the above monetary irregularities in the aforesaid SB account he also failed to perform the duties of Supervisor as enjoined in para 2(b)(i) of Savings Bank Control Procedure.

ARTICLE-III

That the said CO during the aforesaid period got opened a savings account under account no. 243977 in the name of Shri Ashim Kr. Kalita (Minor) through father Shri Padma Ram Kalita on 31.05.82 with initial deposit of Rs.200.00. On 21.12.87, when there was a balance of Rs.57.30 in the aforesaid SB account, he deposited Rs.100.00 and the balance after this deposit was actually for Rs.157.30. This deposit of Rs.100.00 was inflated and made to Rs.6100.00 by the CO adding figure "6" in the left hand side (in the unit of thousand) of the actual deposit of Rs.100.00 and the balance was thus inflated and raised to Rs.6157.30 in HO ledger and Pass Book. Similarly, he made subsequent five deposits for Rs.100.00 on 31.12.87, Rs.100.00 on 26.02.96, Rs.150.00 on 08.03.96, Rs.200.00 on 28.06.96 and Rs.200.00 on 31.07.96 which were also inflated and made to Rs.4100.00, Rs.7100.00, Rs.3150.00, Rs.1200.00 and Rs.3200.00 respectively by adding figure in the unit of thousand. The CO subsequently withdrew the increased amounts on different dates. He misused his official capacity and took advantage of his easy access to relevant PO SB records on the aforesaid different dates of deposit.

Thus the said CO, by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt. servant, violating the provisions of Rule 3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules 1964. By committing the above monetary irregularities in the aforesaid SB account, he also failed to perform the duties of Supervisor as enjoined in the para 2(b)(i) of Savings Bank Control Procedure.

According to the statement of imputation of misconduct or misbehavior in support of the article-III of the charges, the said CO, during the above period got opened a Savings account under account No. 243977 on 31.05.82 in the name of Shri Ashim Kr. Kalita (minor) through father Shri Padma Ram Kalita with initial deposit of Rs.200.00. On 21.12.87 when there was a balance of Rs.57.30 in the aforesaid SB account, he deposited Rs.100.00 and the balance after this deposit was actually for Rs.157.30. This deposit of Rs.100.00 was inflated and made to Rs.6100.00 by the CO by adding figure '6' in the left hand side (in the unit of thousand) of the actual deposit of Rs.100.00 and the balance was thus inflated and raised to Rs.6157.30 in the HO ledger and passbook. Similarly, he made subsequently five deposits as particularized below which were also inflated in the same manner and raised the balances. The said CO subsequently withdrew the increased amounts on different dates.

Date of deposit	amount of actual deposit	amount as per pay-in slip	amount as per longbook	amount as per HO ledger (inflated)	balance inflated and subsequently withdrawn	Remarks, if any
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21.12.87	100	-----	100	6100	6000	pay-in-slip not available
31.12.87	100	-----	100	4100	4000	-----do-----
26.02.96	100	100	100	7100	7000	
08.03.96	150	150	150	3150	3000	
28.06.96	200	200	200	1200	1000	
31.07.96	200	200	200	3200	3000	

The said CO misused his official capacity and took advantage of his easy access to relevant PO SB records as supervisor/ UDC SBCO Guwahati GPO and inserted wishful figure to inflate the balances of the aforesaid Savings account in the HO ledger and passbook on the aforesaid different dates of deposit.

It is therefore imputed that the said CO by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rule 3(1)(i) and Rule 3 (1) (iii) of CCS (conduct) Rules, 1964.

It is therefore imputed that by committing the above monetary irregularities in the aforesaid SB account he also failed to perform the duties of Supervisor as enjoined in para 2(b)(i) of Saving Bank Control Procedure.

ARTICLE-IV

The said CO, while working as Supervisor, SBCO Nagaon HO for the period from 11.01.97 to 13.07.99, opened a Savings account under account No. 128256 on 05.02.97 in his own name with initial deposit of Rs.4500.00. On 31.01.98, when there was a balance of Rs.565.70 in the aforesaid savings account, the CO deposited a sum of Rs.250.00 and the balance of the said account after this deposit was actually for Rs.815.70. This deposit of Rs.250.00 was inflated and made to Rs.6250.00 by the CO by adding figure '6' on the left hand side (in the unit thousand) of the actual deposit of Rs.250.00 and the balance was thus inflated and raised to Rs.6815.70 in the ledger card, long book and passbook. Similarly, he made subsequent six deposits for Rs.200.00 on 28.05.98, Rs.300.00 on 31.08.98, Rs.300.00 on 10.12.98, Rs.300.00 on 03.02.99, Rs.400.00 on 26.02.99 and Rs.300.00 on 07.05.99 which were also inflated and made to Rs.6200.00, Rs.6300.00, Rs.5300.00, Rs.2300.00, Rs.5400.00 and Rs.6300.00 respectively by adding figures in the unit of thousand. The CO subsequently withdrew the increased amounts on different dates. He misused his official capacity and took the advantage of his easy access to relevant PO SB records as Supervisor SBCO, Nagaon and inserted wishful figure in the unit of thousand to inflate the balances of the aforesaid savings account in the PB and other relevant PO SB records on the aforesaid different dates of deposit.

Thus the said CO, by his above acts, failed to maintain absolute integrity and acted in a manner, which is unbecoming of a Govt. servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964. By committing the above monetary irregularities in the aforesaid SB account, the CO also failed to perform the duties of Supervisor as enjoined in the para 2(b)(i) of Savings Bank Control Procedure.

According to the statement of imputation of misconduct or misbehavior in support of the article-iv of the charges, the said CO, while functioning as Supervisor, SBCO Nagaon HO for the period from 11.01.97 to 13.07.99, opened a savings account under account No. 128256 on 05.02.97 in the name of Shri Padma Ram Kalita with initial deposit of Rs.4500.00. On 31.01.98, he deposited a sum of Rs.250.00 when there was a balance of Rs.565.70 in the aforesaid savings account and the balance of the said account after this deposit was actually for Rs.815.70. But this deposit of Rs.250.00 was inflated and made to Rs.6250.00 by the CO by adding figure '6' on the left hand side (in the unit of thousand) of the actual deposit of Rs.250.00 and the balance was thus inflated and raised to Rs.6815.70 in the ledger card, long book and passbook. Similarly he made 6 deposits as particularized below which were also inflated leading to raising of balances by adding figure in the unit of thousand. The said CO subsequently withdrew the increased amounts on different dates.

Date of deposit	amount of actual deposit	amount as per pay-in slip	amount as per ledger card (inflated)	amount as per long book (inflated)	amount as per passbook (inflated)	balance inflated and subsequently withdrawn
31.01.98	250.00	250.00	6250.00	6250.00	6250.00	6000.00 ✓
28.05.98	200.00	6200.00 (Inflated)	6200.00	6200.00	6200.00	6000.00 ✓
31.08.98	300.00	6300.00 (inflated)	6300.00	300.00 (not inflated)	6300.00	6000.00 ✓
10.12.98	300.00	5300.00 (inflated)	5300.00	5300.00	5300.00	5000.00 ✓
03.02.99	300.00	300.00	2300.00	2300.00	2300.00	2000.00 ✓
26.02.99	400.00	400.00	5400.00	5400.00	5400.00	5000.00 ✓
07.05.99	300.00	300.00	6300.00	6300.00	6300.00	6000.00 ✓

The said CO misused his official capacity and took the advantage of his easy access to relevant PO SB records as Supervisor SBCO, Nagaon and inserted wishful figure in the unit of thousand to inflate the balances of the aforesaid savings account in the PB and other relevant records on the aforesaid different dates of deposits.

It is therefore imputed that the said CO by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964.

It is further imputed that by committing the above monetary irregularities in the aforesaid SB account he also failed to perform the duties of Supervisor as enjoined in para 2(b)(i) of Saving Bank Control Procedure.

ARTICLE-V

That the said CO during the aforesaid period opened another savings account under account no. 128573 on 26.07.97 in the name of his minor son Shri Amarjit Kalita (operated through father) with initial deposit of Rs.3000.00. On 10.03.98, when there was a balance of Rs.300.00 in the aforesaid savings account, he deposited a sum of Rs.200.00 and the balance of the said account after this deposit was actually for Rs.500.00. This deposit of Rs.200.00 was inflated and made to Rs.6200.00 by the CO by adding figure '6' on the left hand side (in the unit of thousand) of the actual deposit of Rs.200.00 and the balance was thus inflated and raised to Rs.6500.00 in the ledger card, long book and passbook. Similarly he made subsequent four deposits for Rs.300.00 on 30.05.98, Rs.300.00 on 05.12.98, Rs.200.00 on 31.03.99 and Rs.300.00 on 03.06.99, which were also inflated and made to Rs.9300.00, Rs.6300.00, Rs.6200.00 and Rs.6300.00 respectively by adding figure in the unit of thousand. The CO subsequently withdrew the increased amounts on different dates. He misused his official capacity and took the advantage of his easy access to relevant PO SB records as Supervisor, SBCO Nagaon and inserted wishful figure in the unit of thousand to inflate the balances of the aforesaid savings accounts in the PB and other relevant PO SB records on the aforesaid different dates of deposits.

Thus the said CO, by his above acts, failed to maintain absolute integrity and acted in a manner, which is unbecoming of a Govt. servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964. By committing the above monetary irregularities in the aforesaid SB account, the CO also failed to perform the duties of Supervisor as enjoined in the para 2(b)(i) of Savings Bank Control Procedure.

According to the statement of imputation of misconduct or misbehavior in support of the article-v of the charges, the said CO, during the aforesaid period opened another savings account under number 128573 on 26.07.97 in the name of his minor son Shri Amarjit Kalita (operated through father) with initial deposit of Rs.3000.00. He made one deposit of Rs.200.00 on 10.03.98 when there was a balance of Rs.300.00 in the aforesaid account and the balance of the said account after the deposit was actually for Rs.500.00. But this deposit of Rs.200.00 was inflated and made to Rs.6200.00 by the CO by adding figure '6' on the left hand side (in the unit of thousand) of the actual deposit of Rs.200.00 and the balance was thus inflated and raised to Rs.6500.00 in the ledger card, long book and passbook. Similarly he made subsequent four deposits as particularized below which were also inflated in the same manner and raised the balances. The said CO subsequently withdrew the increased amounts on different dates.

Date of deposit	amount of actual deposit	amount as per pay-in slip	amount as per ledger card (inflated)	amount as per long book (inflated)	amount as per passbook (inflated)	balance inflated and subsequently withdrawn
✓ 10.03.98	200.00	200.00	6200.00	6200.00	6200.00	6000.00

30.05.98	300.00	9300.00 (inflated)	9300.00	9300.00	9300.00	9000.00
05.12.98	300.00	6300.00 (inflated)	6300.00	6300.00	6300.00	6000.00
01.03.99	200.00	6200.00 (inflated)	6200.00	200.00 (not inflated)	6200.00	6000.00
03.06.99	300.00	300.00	6300.00	300.00	6300.00	6000.00

The said CO misused his official capacity and took the advantage of his easy access to relevant PO SB records as Supervisor SBCO, Nagaon and inserted wishful figure in the unit of thousand to inflate the balances of the aforesaid savings account in the PB and other relevant records on the aforesaid different dates of deposits.

It is therefore imputed that the said CO by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964.

It is further imputed that by committing the above monetary irregularities in the aforesaid SB account he also failed to perform the duties of Supervisor as enjoined in para 2(b)(i) of Saving Bank Control Procedure.

ARTICLE-VI

That the said CO during the above period got opened a savings account under account no. 129290, in the name of Mrs. K. Kalita c/o Shri P. Kalita on 23.09.98 with initial deposit of Rs.200.00. On 27.03.99, when there was a balance of Rs.500.00 in the aforesaid savings account, he deposited a sum of Rs.200.00 and the balance of the said account after this deposit was actually for Rs.700.00. This deposit of Rs.200.00 was inflated and made to Rs.5200.00 by the CO by adding figure '5' in the left hand side (in the unit of thousand) of the actual deposit of Rs.200.00 and the balance was thus inflated and raised to Rs.5700.00 in the ledger card, long book and passbook. The said CO as messenger subsequently withdrew the increased amount. He misused his official capacity and took the advantage of his easy access to relevant PO SB records as Supervisor, SBCO Nagaon and inserted wishful figure in the unit of thousand to inflate the balance of the aforesaid savings account in the PB and other relevant POSB records on the aforesaid date of deposit.

Thus the said CO, by his above acts, failed to maintain absolute integrity and acted in a manner, which is unbecoming of a Govt. servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964. By committing the above monetary irregularities in the aforesaid SB account, the CO also failed to perform the duties of Supervisor as enjoined in the para 2(b)(i) of Savings Bank Control Procedure.

According to the statement of imputation of misconduct or misbehavior in support of the article-vi of the charges, the said CO, while functioning as

Supervisor, SBCO Nagaon for the aforesaid period got opened another savings account under account no.129290 in the name of Mrs. K. Kalita c/o Shri P. Kalita on 23.09.98 with initial deposit of Rs.200.00. On 27.03.99, when there was a balance of Rs.500.00 in the aforesaid savings account, he deposited a sum of Rs.200.00 and the balance of the said account after this deposit was actually for Rs.700.00. This deposit of Rs.200.00 was inflated and made to Rs.5200.00 by the CO by adding figure '5' in the left hand side (in the unit of thousand) of the actual deposit of Rs.200.00 and the balance was thus inflated and raised to Rs.5700.00 in the ledger card, long book and passbook. The said CO as messenger subsequently withdrew the increased amount

The said CO misused his official capacity and took the advantage of his easy access to relevant PO SB records as Supervisor, SBCO Nagaon and inserted wishful figure in the unit of thousand to inflate the balance of the aforesaid savings account in the PB and other relevant POSB records on the aforesaid date of deposit.

It is therefore imputed that the said CO by his above acts, failed to maintain absolute integrity and acted in a manner which is unbecoming of a Govt. servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964.

It is further imputed that by committing the above monetary irregularities in the aforesaid SB account he also failed to perform the duties of Supervisor as enjoined in para 2(b)(i) of Saving Bank Control Procedure.

3. The Inquiry-

The dates of inquiry into the case were fixed on 22/01/2002, 14-15/02/2002, 19-20/03/2002, 03-04/04/2002, 26/04/2002, 17/05/2002, 18-20/06/2002, 17-19/09/2002, 06-07/11/2002, 21-22/11/2002, 13/12/2002, 20/12/2002, 08/01/2003 and 24/01/2003. The inquiries dated 15/02/2002, 19-20/03/2002, 04/04/2002, 26/04/2002, 18-20/06/2002, 17-19/09/2002, and 06-07/11/2002 were adjourned/postponed due to one or other reason.

4. The case of the Disciplinary Authority:

The disciplinary authority appointed Shri D. Mandal SDI (P) Nagaon west sub-division as Presenting Officer to present the case on his behalf.

The prosecution side in support of the charges, produced following documents-

- 1) Ledger card of Guwahati GPO SB a/c No. 241756 in 4 pages, (listed as PE-1).
- 2) Ledger card of Guwahati GPO SB a/c No. 242211 in 7 pages, (listed as PE-2).
- 3) Ledger card of Guwahati GPO SB a/c No. 243977 in 4 pages, (listed as PE-3).
- 4) Pay-in-slip dated 20.07.95 for Rs.100.00 in r/o Guwahati GPO SB a/c No.
- 5) 241756 (listed as PE-4).
- 6) Pay-in-slip dated 29.02.96 for Rs.200.00 in r/o Guwahati GPO SB a/c No.
- 7) 241756 (listed as PE-5).
- 8) Pay-in-slip dated 02.03.93 for Rs.100.00 in respect of Guwahati GPO SB a/c
- 9) No. 242211, pay-in-slips dated 10.07.93 for Rs.100.00, 19.05.94 for Rs.200.00, 31.05.94 for Rs.300.00, 07.09.94 for Rs.200.00, 30.11.94 for Rs.200.00, 02.03.

95 for Rs.150.00, 31.05.95 for Rs.200.00, 09.08.95 for Rs.150.00, 09.01.96 for Rs.150.00 and 22.03.96 for Rs.200.00, all in respect of Guwahati GPO SB a/c No. 242211, (listed as PE-6, PE-7, PE-8, PE-9, PE-10, PE-11, PE-12, PE-13, PE-14, PE-15 and PE-16 respectively).

10) Pay-in-slips dated 26.02.96 for Rs.100.00, dated 08.03.96 for Rs.150.00, 28.06.96 for Rs.200.00 and 31.07.96, all in r/o Guwahati GPO SB a/c No. 243977, (listed as PE-17, PE-18, PE-19 and PE-20 respectively).

11) W/S of Shri P. R. Kalita, Supervisor, SBCO Nagaon HIO dated 09.08.99, (listed as PE-21).

12) Guwahati GPO SB Long books for the periods from 27.06.80 to 14.08.81, 17.08.81 to 21.04.82, 22.04.82 to 16.03.83, 17.03.83 to 10.12.83, 12.12.83 to 13.11.84, 14.11.84 to 11.07.85, 12.07.85 to 02.04.86, 03.04.86 to 29.11.86, 01.12.86 to 31.07.87, 01.08.87 to 11.04.88, 12.04.88 to 24.01.89, 25.01.89 to 16.09.89, 26.08.91 to 30.06.92, 04.01.91 to 24.08.91, 01.07.92 to 01.03.93, 18.09.89 to 02.06.90, 04.06.90 to 03.01.91, 02.03.93 to 10.09.93, 11.09.93 to 19.04.94, 20.04.94 to 04.11.94, 21.03.96 to 22.06.96, 09.05.95 to 08.11.95, 09.11.95 to 18.03.96, 18.09.96 to 27.03.97, 29.03.97 to 13.12.97, 15.12.97 to 01.09.98 and 02.09.98 to 20.02.99, listed as PE-22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46 and 47 respectively.

13) IPB dated 17/11/98 in respect of Nagaon HIO SB account no. 128256 in the name of the CO, (listed as PE-48).

14) Nagaon HO SB PB (Minor) account no. 128573 in the name of Shri Amarjit Kalita (name of operator not available in passbook), (listed as PE-49).

15) Nagaon HO SB passbook account No. 129290 in the name of Mrs. K. Kalita, (listed as PE-50).

16) Nagaon HIO SB ledger card for account No. 128256, (listed as PE-51).

17) Nagaon HO SB ledger card for account No. 128573 in the name of Shri Amarjit Kalita (minor) (name of operator not mentioned IC), (listed as PE-52).

18) Nagaon HO SB Ledger card for account No. 129290 (listed as PE-53).

19) Nagaon HO SB long books for the period from 24-11-97 to 02-02-98, 03-02-98 to 17-04-98, 18-04-98 to 24-06-98, 25-06-98 to 01-09-98, 28-11-98 to 12-03-99, 13-03-99 to 10-05-99 and 11-05-99 to 29-06-99; listed as PE-54, 55, 56, 57, 58, 59 and 60 respectively.

20) Written statement of Shri Padma Ram Kalita, Supervisor, SBCO Nagaon HO dated 10-08-99, (listed as PE-61).

21) Pay-in-slips dated 31.01.98, 28.05.98, 31.08.98, 10.12.98, 03.02.99, 26.02.99 and 07.05.99 (all Photostat copies) in respect of Nagaon savings account no. 128256 which were listed as PE-62, PE-63, PE-64, PE-65, PE-66, PE-67, and PE-68 respectively.

22) Photostat copies of pay-in-slips dated 10.03.98, 30.05.98, 05.12.98, 31.03.99 and 03.06.99 in respect of Nagaon savings account no. 128573, purported to be attested by the SPOs Nagaon. These documents are listed as PE-69, PE-70, PE-71, PE-72 and PE-73.

23) Photostat copy of pay-in-slip dated 27-03-99 in respect of Nagaon savings account no. 129290, purported to be attested by the SPOs Nagaon. This is listed as PE-74.

24) Photostat copies of SB list of transactions of Nagaon HO for dates 31-01-98, 28-05-98, 31-08-98, 10-12-98, 03-02-99, 26-02-99, 07-05-99, 10-03-98, 30-05-98, 05-12-98, 31-03-99, 03-06-99 and 27-03-99, purported to be attested by the SPOs Nagaon. These documents were listed as PE-75, PE-76, PE-77, PE-78, PE-79, and PE-80, PE-81, PE-82, PE-83, PE-84, PE-85, PE-86 and PE-87.

Photostat copies of exhibits no. PE-48 to 53 was supplied to the defence side at their request.

The PO examined following witnesses to sustain the imputations brought against the CO

1. Shri S. D. Purkayastha, then ASP (Dn), Guwahati.
2. Shri G. Pathak, then PA SBCO, Nagaon
3. Shri N. C. Das, then AO, ICO (SB), CO, Guwahati.

The PO had been permitted to examine Shri A. Jalil II, then CI, Nagaon as additional prosecution witness.

The Defence Witness Shri G.C.Das, then ASP(Dn), Nagaon was also cross-examined by the PO.

The PO cross-examined the CO while the later examined himself as his defence witness. The PO in his written brief dated 17/02/03 argued that the charges framed against the CO had been established.

5. The case of the defendant:

The CO engaged Shri N. N. Dutta, a retired SPM to assist him in defending the case. During preliminary inquiry the CO pleaded not guilty of the charges framed against him. The CO examined the documents submitted by the PO and authenticated them except the following-

- 1) PE-1- The document is authenticated by the defence side. But while examining this document, the defence side pointed out that the LC does not bear signature & designation stamp of issuing officer and the address of the depositor written on the LC is not relevant to the CO.
- 2) PE-5: This document is authenticated by the defence side but stated this document to be irrelevant as date of deposit of Rs.200.00 as per statement in page 4 of the charge sheet is 29.02.95..
- 3) PE-21: The W/S of Shri P. R. Kalita, Supervisor, SBCO Nagaon HO dated 09.08.99, not authenticated by the CO.
- 4) PE-22 to 47: These documents were neither examined nor authenticated by CO/DA.
- 5) PE-50: Nagaon HO SB passbook account No. 129290 in the name of Mrs. K. Kalita, examined but not authenticated by CO as relationship of Mrs. K. Kalita is not stated in the passbook.
- 6) PE-51: Not authenticated by CO as it does not bear designation stamp of issuing Supervisor.

- 7) PE-54 to 60: Neither examined nor authenticated by CO
- 8) PE-61: Not authenticated.
- 9) PE-62 to 87: The defence side did not accept as authentic as their originals were not shown to them during inquiry.

The defence side demanded production of following documents for examination and taking copies thereof.

1. Copy of FIR to concerned authority requesting preliminary investigation.
2. Copy of statements of witnesses recorded in course of preliminary investigation.
3. Copy of report of preliminary investigation.

The disciplinary authority replied that there was no formal FIR to the concerned authority who conducted the preliminary investigation and no witness was examined during preliminary investigation. The disciplinary authority also denied the relevancy of the preliminary investigation report with the charges framed against the CO.

No defence document was produced/examined by the CO. Except Shri S.D.Purkayastha, none of the prosecution witness was cross-examined by the CO.

The CO examined Shri G.C.Das, then ASP (Dn), Nagaon as his defence witness.

The CO also examined himself as his defence witness.

The CO in his written brief dated 14/03/03 submitted that the charges framed against him are not established.

6. Analytical assessment of evidences and records: -

The allegation brought against the CO focused at the following points.

That the CO deposited small amounts ranging from Rs 100 to Rs 250 in various POSB accounts standing in his own name and the names of his family members opened at Nagaon IPO and Guwahati GPO on the specified dates. He subsequently raised the figures of deposits to higher amounts by adding figures in the Thousand's place of the deposits in the passbooks. He also managed to inflate the figures to higher amounts adding figures in the Thousand's place in PO longbooks Pay-in-slips and SB ledger cards and he subsequently withdrew the amounts so inflated.

Now to establish the alleged charges the disciplinary authority has produced the relevant Pass Books, POSB longbooks, Ledger Cards, SB deposits slips and written statements recorded by the CO during departmental inquiry confessing the allegations. The Disciplinary Authority has not produced the relevant SB-7 in support of the allegation that the CO has subsequently withdrawn the inflated amounts from the stated accounts. However, entries of the withdrew amounts in the Pass Books, in the Long Books, Ledger Cards and the Written statements of the CO are reasonable proof of the allegations. Now the question is the validity, authenticity and relevancy of the documents and evidences produced by the disciplinary authority and the CO in support/defence of the charges.

(A) The documents

The prosecution documents, which are authenticated by the CO after examination, need no discussion at this stage. Both sides beyond question accept the information/evidences contained in these documents as authentic.

Validity, authenticity and relevancy of following documents were questioned by the defence side-

1) PE-1: Ledger card of Guwahati GPO SB account No. 241756. This document was authenticated by the defence side on 14/02/02 without any question. But on 03/04/02, the defence side raised a motion of revision in respect of this document on the following points-

a) The I/C does not bear signature and designation stamp of the issuing officer.

b) Address of the depositor written on the L/C is not relevant to the CO.

Unless the CO questions the authenticity of the contents of this document and specifically denies the account to be his own, above points cannot make this document irrelevant after the CO once authenticates it. All the transactions entered in this L/C are initialed by the concerned PA and Supervisor. Moreover, the CO vide his W/S dated 09/08/99 (PE-21) admitted this account to be his own. //

2) PE-5: this is a pay-in-slip dated 29/02/96 for Rs.200/- in respect of Guwahati GPO SB account No. 241756. The defence side claimed the document to be irrelevant as the date of deposit of Rs.200/- as per annexure II in respect of article-I of the charges is 29/02/95. The prosecution side did not clarify the position during inquiry. However, as per annexure-I in respect of the article-I of the charges the date is 29/02/96. Obviously, it was a typical mistake only. As such, the relevancy of the document is sustained.

3) PE-21 & 61: These are the written statement of the CO. The defence side did not authenticate these documents on the plea that these were got written and signed by the CO under threat and duress. The CO admitted that the contents of PE-21&61 are of his own handwriting written on being dictated by other and signed by him. But during inquiry the CO could not establish his claim with evidence that he recorded these W/S under threat and duress contents being dictated by others. As such the plea of the CO is rejected and the authenticity of the documents are sustained. //

4) PE-50: This is Nagaon HO SB passbook account No. 129290 in the name of Mrs. K. Kalita. The CO did not except the document as authentic as the relation of Mrs. K. Kalita with the CO is not stated in the passbook. This is not a sufficient reason for challenging the authenticity of a document. The allegation is that the same particular account is in the name of Mrs. K. Kalita, c/o of the CO and he made transactions in this account as a messenger of the depositor. Whatever may be his relationship with the depositor of this account, the CO should specifically admit or deny the fact of acting as messenger of the depositor. Unless the CO specifically disprove the allegation brought against him in respect of this account

and with out questioning the accuracy and correctness of the transactions recorded in the passbook, the claim of the CO can not be sustained. The CO vide his W/S dated 10/08/99 (PE-61) admitted Mrs. Kamala Kalita, depositor of this account to be his wife.

- 5) PE-51: Nagaon HO SB ledger card for account No. 128256. The defence side did not authenticate the document, as it does not bear the designation stamp of issuing supervisor. This is a simple operational omission. CO was required to examine the transactions entered in the document and question their correctness, genuineness and authenticity. All the entries made in this document are authenticated by initial of concerned PA and Supervisor. Simply disagreement with the authenticity of a document on the plea of absence of designation stamp of issuing authority cannot be sustained. Hence the document is considered authentic.
- 6) PE-62 to 68: This are Photostat copies of deposit slips in support of the amounts deposited in Nagaon HO SB account No. 128256 on specified dates. A gazetted Govt. Officer certifies contents of these documents to be true to the originals of the concerned documents under attestation by him. The CO could have questioned the authenticity of the attestation and correctness of the information available in these documents. Simply in the plea of non-production of the original copies of the documents, authenticity of the documents cannot be denied.
- 7) PE-69 to 73: This are Photostat copies of deposit slips in support of the amounts deposited in Nagaon HO SB account No. 128573 on specified dates. A gazetted Govt. Officer certifies contents of these documents to be true to the originals of the concerned documents under attestation by him. The CO could have questioned the authenticity of the attestation and correctness of the information available in these documents. Simply in the plea of non-production of the original copies of the documents, authenticity of the documents cannot be denied.
- 8) PE-74: This is Photostat copy of deposit slip in support of the amount deposited in Nagaon HO SB account No. 129290 on 27/03/99. A gazetted Govt. Officer certifies contents of this document to be true to the original of the document under attestation by him. The CO could have questioned the authenticity of the attestation and correctness of the information available in this document. Simply in the plea of non-production of the original copy of the document, authenticity of the document cannot be denied.
- 9) PE-75 to 87: These are Photostat copies of SB list of transactions of specified dates. A gazetted Govt. Officer certifies contents of these documents to be true to the originals of the documents under attestation by him. The CO could have questioned the authenticity of the attestation and correctness of the information available in these documents. SB list of transaction is copy of SB long book of concerned date. Relevant SB long books were produced for examination. CO could have verified the entries of list of transactions with concern SB long book. Simply in the plea of non-production of the original copies of the documents, authenticity of the documents cannot be denied.
- 10) PE-22 to 47: These are SB long books of Guwahati GPO of related period. The CO neither examined nor authenticated these documents. As the long books are records of SB transactions made on particular dates, relevancy of these documents in this case cannot be denied.

11) PE-54 to 60: These are SB long books of Nagaon HO of related period. The CO neither examined nor authenticated these documents. As the long books are records of SB transactions made on particular dates, relevancy of these documents in this case cannot be denied.

B. The witnesses

1) SW-1: Shri S.D.Purkayasta

From his deposition it reveals that the written statement of the CO dated 09/08/99 was recorded voluntarily. There was no threat or duress from any side. His deposition also reveals that the CO deposited some small amounts in SB accounts standing in his own name and in the name of his son and wife and subsequently inflated the amounts of deposits into higher amounts and subsequently withdrew the amounts. The S/W-1 was a part of the squad constituted for investigating alleged fraud case at Guwahati GPO. In his deposition the S/W-1 mentioned that the said SB accounts in respect of which his squad had made investigations were standing at Guwahati GPO. He did not state the account numbers involved in the case and the dates of alleged fraudulent transactions made therein. The S/W also added that the CO could inflate the figures in the PC ledger cards misusing his official capacity as UDC/Supervisor SBCO, Guwahati GPO. The defence side on their cross examination of the S/W-1 could not derive any specific point of defence.

2) S/W-2 Shri N.C. Das

His deposition reveals that he investigated the alleged fraud case in the capacity of Sr. AO (ICO) SB, CO Guwahati. He investigated the case related to the period of incumbency of the CO as supervisor, SBCO, Nagaon and found discrepancies between the passbook balances and the ledger balances in respect of some passbooks standing in the name of the CO. He also stated that imputation of inflation of figures of the deposits by the CO in his own accounts and other accounts standing in the name of his wife and his son by adding figures in the left side of the actual amounts of deposits in passbooks and ledger cards were proved by him after examination of related passbooks, ledger cards, list of transactions, cash book, objection register, pay-in-slips, and long books. The S/W-2 in his deposition did not mention the office in which the accounts were standing, the No. of the accounts and the dates of fraudulent transactions.

3) S/W-3 Shri Gajen Pathak

The S/W-3 stated that in course of making ledger agreement of Nagaon HO SB binder No. 47, he noticed discrepancy of Rs.1000/- of transaction dated 31/03/99 in respect of Nagaon HO SB account No. 128573(minor account operated by Shri P.R. Kalita). No more specific information in support of the charges framed against the CO could be derived from his deposition.

4) Additional S/w Shri A. Jalil II

From the deposition of this S/W, it was confirmed that the W/S of Sri P.R.Kalita dated 10/8/99 was recorded voluntarily without any threat from any corner.

5) D/W: Sri G.C.Das

The D/W conducted preliminary investigation into the case. He did not examine any records but found out some withdrawal forms from the SBCO branch with the help of Sri Hiren Das PA SBCO Nagaon, the custodian of the vouchers, the Supervisor being on leave. He also stated that the W/S of the CO dated 10/8/99 was recorded by the CO. He is not aware of any threat or duress put on the CO while recording the W/S. He was present only at the beginning and at the end of recording of the W/S. He did not state as to where he was during the period in between starting and ending of the recording of the W/S. I did not find any specific point in support of the charges or in favour of the defence from the deposition of the D/W.

6) CO as his own D/W:

In his deposition, the CO stated that he was not to handle or dealt with the record like cashbook, LOT, long book, ledger cards any way as a Supervisor of SBCO. This claim of the CO is not agreed to on the ground as discussed in para 7(4) below. He also claimed that no addition or manipulation of the figure of deposits and raising of balance took place while the passbooks were with him. I like to mention here that the relevant passbooks were produced during inquiry as PE. The CO could have raise question on the authenticity of the passbooks if the inflation or manipulation of the figures of the deposits were done after the passbooks were taken away from him. He also demanded production of the report of GEOD and Forensic report in support of alleged charges. This was not a stage for demanding production of any additional document. Moreover, the technicalities of Criminal Law cannot be invoked in departmental disciplinary proceedings. He also denies the account no. 241756 be his own and demanded exclusion of the same from the charge which is not sustainable due to reason as already discussed in para 6(A)(1) above. Other depositions made by him have no specific relation to any point of defence in his favour.

7. FINDINGS:

(1) Undersigned has gone through the statement of the of the imputation of misbehaviour or misconduct on which article of charges are framed against the CO, exhibits produced during the enquiry and heard the deliberation of the witnesses examined during the enquiry. The undersigned also gone through the written brief submitted by the prosecution and defence side.

(2) This is a departmental proceeding. Charges drawn in this proceeding are to be sustained or disproved on the strength of material evidences and documents examined during inquiry and directly relevant to the charges. Other arguments/reasoning put forwarded by both sides are not sustainable.

(3) The main question arises in this case is that who inflated the figures in the passbooks, in the ledger cards, in the long books etc. Why other will do these misdeeds when it will cause benefit to depositor only. Except the passbooks others are official documents and it is supposed that the CO is not aware as to who inflated the figures in these documents. Then what is about the passbooks? A depositor or his/her messenger is supposed to check the correctness of the entries made in the passbooks by the PO after each transaction. If the PO is making entry of wrong figure in the passbooks in every case of deposit tendered by a particular depositor / messenger, Shri Kalita, as a good and honest depositor should have pointed out it to the PO authority. Here Shri Kalita is not only a depositor, he is also a govt. servant and his honesty, integrity and faithfulness is most deserving. As a govt. servant, what conduct/ behavior Shri Kalita had exhibited by deriving undue and illegal benefit from wrongful insertion in the official documents. Under signed feels that if Shri Kalita denies his involvement in inflation of the deposited figures anyway, then he has committed more serious crime by withdrawing benefit from the inflated/ manipulated records willfully. He has not at all maintained integrity as required under Rule and his acts are totally unbecoming of a govt. servant. As such he knowingly violated the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964. Therefore, it is reasonably held that the CO has inflated the figures of deposit in the said passbooks for deriving undue and illegal monetary benefit.

(4) As a supervisor of the SBCO, the CO was the custodian of the related list of transactions and vouchers (including pay-in-slips) and it is only he who can inflate the related figures in these documents. Irrespective of maintenance of any record of movement of PO records in between PO and SBCO, it is a fact that PO records like ledger, long book etc. are easily accessed by the staff of SBCO as frequently as required. So, undoubtedly the CO has managed to inflate the figures of deposits in list of transactions, pay-in-slips, ledger cards and long book so far he could accessed to equalize the inflated figures of passbooks with other relevant records

(5) Over and above and beyond all argument, the CO has clearly admitted/confessed the acts of committing frauds in all the SB accounts as stated in the in article-i to vi of the charge sheet vide his w/s dated 09/08/99 (PE-21) and w/s dated 10/08/99 (PF-61).

(6) Shri Kalita was functioning as the supervisor of SBCO. Records like list of transactions and vouchers (including pay-in-slips) remains in the personal custody of the supervisor. And it is the supervisor and only the supervisor who is responsible for preventing these records from any kind of manipulation. He is duty bound to ensure that the staff of the SBCO performs the duties properly as prescribed in the rules and orders issued from time to time and to perform duties specially assigned to him in the rules and in the orders issued from time to time. As per the Preamble to the Savings Bank Control Procedure, SBCO is responsible for proper maintenance of SB accounts of the HO. If the binder agreement works would have been done properly, correctly, and honestly in time, the irregularity and differences of amounts in between SB103, LOT and L/C would have come to light forthwith. For not doing so and not getting the same done, the CO has violated the provisions of para 2 (b)(i) of the Savings Bank Control Procedure.

(7) Now the undersigned records his findings on each article of charge separately-

Article- I

This article of charge relates to Guwahati GPO SB account no, 241756 in the name of the CO. The undersigned is not considering the transaction-dated 09.10.80 made in this account, as the prosecution side could not produce the relevant voucher. The CO is not hold guilty of charge in respect of this transaction. According to the PF-4 the actual amount deposited in this account on 20.07.95 was Rs.100/- but the amount was subsequently inflated and raised to Rs. 6100/- in the passbook and ledger card. According to PF-5 the actual amount deposited in this account on 29/02/96 was Rs. 200/- but the amount was subsequently inflated and raised to Rs. 5200/- in the passbook and ledger card.

The defence side in their written brief argued that the period of incumbency of the CO from 26/6/88 to 14/11/91 is wrongly noted in the charge sheet and during the period between and after 9/10/80 the CO was working at Shillong. As I have already excluded the transaction dated 09/10/80 from discussion, this period has become irrelevant now. The fraud is fraud. Whether it is committed in one transaction or in more transaction.

The second argument of the defence side in respect of this article of charge is non-production of the passbook. Naturally the depositor is the custodian of a passbook. As the CO could not establish during inquiry that the relevant passbook was taken away or seized by the disciplinary authority, burden of production of the passbook for his defence lies upon him. Po ledger card, which is exact copies of transaction as in the passbook, is considered as the copy of the passbook.

The third argument of the defence side is relevancy of the address of the depositor as written on the L/C to the CO. This argument is not sustainable in view of the discussion in para 6(A)(1) above and admission of the CO in his W/S listed as PE-21.

In view of above discussion and discussion made in para 6 and 7(1) to 7(6) above, there is no doubt that the CO has inflated the figures of deposits dated 20/07/95 and 29/02/96 made in Guwahati GPO SB account No. 241756 and thereby exhibited lack of integrity and acted in manner which is unbecoming of a Govt. Servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964.

By his failure to perform his supervisory duties properly as discussed in para 7(6) above, the CO has violated the provisions of para 2 (b)(i) of the Savings Bank Control Procedure.

Though the CO is not hold guilty of the allegations in respect of the transaction dated 09/10/80, the article-I of the charges remains unaffected as the allegations related to other two transactions are proved.

Therefore it is held that the article-I of the charges framed against the CO is established.

Article-II

This article of charge relates to Guwahati GPO SB account no. 242211.

According to the PF- 6 the actual amount deposited in this account on 02.03.93 was Rs.100/- but the amount was subsequently inflated and raised to Rs. 8100/- in the passbook and ledger card. According to PE-7 the actual amount deposited in this account on 10/07/93 was Rs. 100/- but the amount was subsequently inflated and raised to Rs. 9100/- in the passbook and ledger card. According to the PE-8 the actual amount deposited in this account on 19.05.94 was Rs.200/- but the amount was subsequently inflated and raised to Rs. 5200/- in the passbook and ledger card. According to PE-9 the actual amount deposited in this account on 31/05/94 was Rs. 300/- but the amount was subsequently inflated and raised to Rs. 4300/- in the passbook and ledger card. According to the PE-10 the actual amount deposited in this account on 07.09.94 was Rs.200/- but the amount was subsequently inflated and raised to Rs. 3200/- in the passbook and ledger card. According to PE-11 the actual amount deposited in this account on 30/11/94 was Rs. 200/- but the amount was subsequently inflated and raised to Rs. 4200/- in the passbook and ledger card. According to the PE-12 the actual amount deposited in this account on 02.03.95 was Rs.150/- but the amount was subsequently inflated and raised to Rs. 3150/- in the passbook and ledger card. According to PE-13 the actual amount deposited in this account on 31/05/95 was Rs. 200/- but the amount was subsequently inflated and raised to Rs. 3200/- in the passbook and ledger card. According to the PE-14 the actual amount deposited in this account on 09.08.95 was Rs.150/- but the amount was subsequently inflated and raised to Rs. 6150/- in the passbook and ledger card. According to PE-15 the actual amount deposited in this account on 09/01/96 was Rs. 150/- but the amount was subsequently inflated and raised to Rs. 6150/- in the passbook and ledger card. According to the PE-16 the actual amount deposited in this account on 27.03.96 was Rs.200/- but the amount was subsequently inflated and raised to Rs. 6200/- in the passbook and ledger card.

The defence side in their written brief argued the matter of non-production of the relevant passbook. Naturally the depositor is the custodian of a passbook. Here the depositor is the wife of the CO. As the CO could not establish during inquiry that the relevant passbook was taken away or seized by the disciplinary authority, burden of production of the passbook for his defence lies upon him. Po ledger card, which is exact copies of transaction as in the passbook, is considered as the copy of the passbook. The CO also did not demand production of this passbook at the appropriate stage of the inquiry.

The argument regarding the CO having no dealing with the SB hinder of the account is not sustainable in view of the reason discussed in para 7(4) above.

The literacy of the depositor is not considerable factor for engagement of messenger for depositing and withdrawing money to/from a SB account. Unless the CO specifically denies the fact of acting as the messenger of the depositor, this argument put forwarded by the defence side is not sustainable. The CO is required to disprove the charges brought against him. He has no jurisdiction to question the shortcomings and adequacy of the inquiry made by the departmental authority for framing the charges.

The matter regarding non-production of the SB warrant of payment (SB-7) has been discussed in second sub-para of para 6 above. CO could have demanded production of this document at appropriate stage of inquiry for their defence.

Over and above all, the CO has admitted to have committed the said fraudulent activities in the said SB account vide his W/S listed as PF-21.

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In view of above discussion and discussion made in para 6 and 7(1) to 7(6) above, there is no doubt that the CO has inflated the figures of deposits dated 02/03/93, 10/07/93, 19/05/94, 31/05/94, 07/09/94, 30/11/94, 02/03/95, 31/05/95, 09/08/95, 09/01/96 and 27/03/96 made in Guwahati GPO SB account No. 242211 and thereby exhibited lack of integrity and acted in manner which is unbecoming of a Govt. Servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964.

By his failure to perform his supervisory duties properly as discussed in para 7(6) above, the CO has violated the provisions of para 2 (b)(i) of the Savings Bank Control Procedure.

Therefore it is held that the article-II of the charges framed against the CO is established.

Article-iii

This article of charge relates to Guwahati GPO SB account no. 243977. The undersigned is not considering the transactions dated 21.12.87 and 31.12.87 made in this account as the relevant vouchers could not be produced by the prosecution side. The CO is not hold guilty of charges in respect of these transactions. According to PE-17 the actual amount deposited in this account on 26/02/96 was Rs. 100/- but the amount was subsequently inflated and raised to Rs. 7100/- in the passbook and ledger card. According to the PE- 18 the actual amount deposited in this account on 08.03.96 was Rs.150/- but the amount was subsequently inflated and raised to Rs. 3150/- in the passbook and ledger card. According to PE-19 the actual amount deposited in this account on 28/06/96 was Rs.200/- but the amount was subsequently inflated and raised to Rs. 1200/- in the passbook and ledger card. According to the PE-20 the actual amount deposited in this account on 31.07.96 was Rs.200/- but the amount was subsequently inflated and raised to Rs. 3200/- in the passbook and ledger card.

As the CO in his W/S dated 9/8/99 (PE-21) admitted that he operated the said SB account standing in the name of his minor son Shri Ashim Kr. Kalita, the argument made by defence side in their written brief dated 14/03/03 in respect of the article-iii of the charges is not at all sustainable. The CO has authenticated the relevant ledger card (PE-3) without any question and did not question his relationship with minor depositor of the said account during inquiry.

The argument regarding non-production of the relevant passbook is not sustainable in view of the observations already recorded in findings in this regard in respect of article -I & II of the charges above.

Production of relevant SB-3 form is not called for in this inquiry. However, CO could have demanded its production at appropriate stage of the inquiry for his defence

In view of above discussion and discussion made in para 6 and 7(1) to 7(6) above, there is no doubt that the CO has inflated the figures of deposits dated 26/02/96, 08/03/96, 28/06/96, and 31/07/96 made in Guwahati GPO SB account No. 243977 and thereby exhibited lack of integrity and acted in manner which is unbecoming of a Govt. Servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964.

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By his failure to perform his supervisory duties properly as discussed in para 7(6) above, the CO has violated the provisions of para 2(b)(i) of the Savings Bank Control Procedure.

Though the CO is not hold guilty of the allegations in respect of the transactions dated 21/12/87 and 31/12/87, the article of the charge remains unaffected as the imputations in respect of other four transactions are proved.

Therefore it is held that the article-III of the charges framed against the CO is established.

Article-iv

This article of charge relates to Nagaon HO SB account no. 128256 in the name of the CO. The imputations brought against the CO under this article of charge relates to seven transactions made in the aforesaid SB account. The passbook produced by the prosecution side (PE-48) does not contain the transactions dated 31/01/98, 28/05/98 and 31/08/98. The Photostat copies of relevant pay-in-slip produced in respect of transaction dated 28/05/98(PE-63), 31/08/98(PE-64) and 10/12/98(PE-65) show the same amount of deposits as in the ledger card and passbook. Pay-in-slips being Photostat copies, it is difficult to conclude observation whether the amounts available in the pay-in-slips are original amounts written thereon or subsequently inflated amounts. Under this circumstance the undersigned does not hold the CO guilty of the imputations in respect of transactions dated 31/01/98, 28/05/98, 31/08/98 and 10/12/98, as it will not be reasonably justified to hold the CO guilty, only on the strength of his W/S dated 10/08/99(PE-61).

According to PE-66 the actual amount deposited in this account on 03/02/99 was Rs. 300/- but the amount was subsequently inflated and raised to Rs. 2300/- in the passbook, long book and ledger card. According to the PE- 67 the actual amount deposited in this account on 26.02.99 was Rs.400/- but the amount was subsequently inflated and raised to Rs. 5400/- in the passbook, long book and ledger card. According to PE-68 the actual amount deposited in this account on 07/05/99 was Rs.300/- but the amount was subsequently inflated and raised to Rs. 6300/- in the passbook, long book and ledger card.

The defence side in their written brief dated 14/3/03 argued that the corresponding pay-in-slips were not exhibited during inquiry. This argument is overruled in view of discussion made in para 6(A)(6) above.

The second argument that the additions and alterations of deposits figures in the passbook did not take place while the passbook was in the possession of the CO is also not acceptable in view of the discussion in para 6(B)(6) above.

Humiliation of the CO and snatching away of his belongings by the staff of Nagaon HPO is a different matter and not related to charges brought against the CO anyway.

The matter regarding non-production of the SB warrant of payment (SB-7) has been discussed in second sub-para of para 6 above. CO could have demanded production of this document at appropriate stage of inquiry for his defence.

Other arguments made by the defence side in their written brief have no specific point to defend the charge.

In view of above discussion and discussion made in para 6 and 7(1) to 7(6) above, there is no doubt that the CO has inflated the figures of deposits dated

03/02/99, 26/02/99, and 07/05/99 made in Nagaon HPO SB account No. 128256 and thereby exhibited lack of integrity and acted in manner which is unbecoming of a Govt. Servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964.

By his failure to perform his supervisory duties properly as discussed in para 7(6) above, the CO has violated the provisions of para 2(b)(i) of the Savings Bank Control Procedure.

Though the CO is not hold guilty of the imputations in respect of the transactions dated 31/01/98, 28/05/98, 31/08/98 and 10/12/98, the article of the charge remains unaffected as the imputations in respect of other three transactions are proved.

Therefore it is held that the article-IV of the charges framed against the CO is established.

Article-V

This article of the charge relates to Nagaon HO SB account No. 128573 in the name of Shri Amarjit Kalita, minor son of the CO (operated through the CO). The Photostat copies of relevant pay-in-slip produced in respect of transaction dated 30/05/98(PE-70), 05/12/98(PE-71) and 31/03/99(PE-72) show the same amount of deposits as in the ledger card and passbook. Pay-in-slips being Photostat copies, it is difficult to conclude observation whether the amounts available in the pay-in-slips are original amounts written thereon or subsequently inflated amounts. Under this circumstance the undersigned does not hold the CO guilty of the imputations in respect of transactions dated 30/05/98, 05/12/98, 01/03/99(the correct date is 31/03/99), as it will not be reasonably justified to hold the CO guilty, only on the strength of his W/S dated 10/08/99(PE-61).

According to PE-69 the actual amount deposited in this account on 10/03/98 was Rs. 200/- but the amount was subsequently inflated and raised to Rs. 6200/- in the passbook, long book and ledger card. According to the PE- 73 the actual amount deposited in this account on 03.06.99 was Rs.300/- but the amount was subsequently inflated and raised to Rs. 6300/- in the passbook, and ledger card.

The defence side in their written brief dated 14/03/03 argued that the name of the operator of this account is not mentioned in the relevant passbook (PE-49) and ledger card (PE-52). The defence side in their written brief has not categorically denied the fact that the CO is the operator of this account. Their argument is also overruled in view of the confession of the CO vide his W/S dated 10/08/99(PE-61). Regarding non-production of the pay-in-slips, the claim of the defence side is not sustainable in view of observations recorded in para 6(A)(7) above.

The argument regarding non-production of the relevant SB-3 form is not sustainable, as the defence side did not demanded for the same at appropriate stage of the inquiry.

Other arguments made by the defence side in their written brief have no specific point to defend the charge.

In view of above discussion and discussion made in para 6 and 7(1) to 7(6) above, there is no doubt that the CO has inflated the figures of deposits dated 10/03/98, and 03/06/99 made in Nagaon HPO SB account No. 128573 and thereby exhibited lack of integrity and acted in manner which is unbecoming of a Govt. Servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964.

By his failure to perform his supervisory duties properly as discussed in para 7(6) above, the CO has violated the provisions of para 2 (b)(i) of the Savings Bank Control Procedure.

Though the CO is not hold guilty of the imputations in respect of the transactions dated 30/05/98, 05/12/98, and 31/03/99, the article of the charge remains unaffected as the imputations in respect of other two transactions are proved.

Therefore it is held that the article-V of the charges framed against the CO is established.

Article-VI

This article of the charge relates to Nagaon HCO SB account No. 129290 in the name of Mrs. K. Kalita, the wife of the CO. According to PE-74 the actual amount deposited in this account on 27/03/99 was Rs. 200/- but the amount was subsequently inflated and raised to Rs. 5200/- in the passbook, long book and ledger card.

The arguments made by the defence side in their written brief dated 14/03/03 are not sustainable on following grounds-

i) The relationship of the CO with the depositor of this account is clearly admitted by the CO in his W/S dated 10/8/99 (PE-61). The CO has not categorically denied the act of functioning as the messenger of the depositor.

ii) The matter regarding non-production of pay-in-slip has already been discussed in para 6(A)(8).

iii) The CO has no jurisdiction to question the shortcomings and adequacy of the inquiry made by the departmental authority for framing the charges.

iv) The matter of non-production of the relevant SB-7 (warrant of payment) has already been discussed in second sub-para of para 6 above. CO could have demanded its production at appropriate stage of the inquiry for his defence.

In view of above discussion and discussion made in para 6 and 7(1) to 7(6) above, there is no doubt that the CO has inflated the figures of deposit dated 27/03/99 made in Nagaon HCO SB account No. 129290 and thereby exhibited lack of integrity and acted in manner which is unbecoming of a Govt. Servant violating the provisions of Rule 3(1)(i) and Rule 3(1)(iii) of CCS (conduct) Rules, 1964.

By his failure to perform his supervisory duties properly as discussed in para 7(6) above, the CO has violated the provisions of para 2 (b)(i) of the Savings Bank Control Procedure.

Therefore it is held that the article-VI of the charges framed against the CO is established.

8. Conclusion:

On the basis of the documentary and oral evidences adduced in the case and in view of the reasons discussed in the foregoing paras, I hold that all the charges brought against Shri Padma Ram Kalita, Supervisor, SBCO Nagaon vide the SPOs Nagaon Memo. No. F4-10/99-00 dated 28/08/2001 stand proved.

(A. Hye)
HCOs(PG)

O/o the SPOs, Nagaon

To,

The Director of Postal Services,
office of the Postmaster General,
Assam Region, Dibrugarh.

Respected Sir,

With humble submission I beg to state that a Departmental inquiry under Rule 14 of the CCS (CCA) Rules 1965 was proposed against me under memorandum no. F4-1(C)99-00 dt. 28/8/01 of S. post Nagaon & that the proposed inquiry was held & concluded by the I/O Sri .Hye I/O. IPOS PG, Nagaon who submitted his report of findings with the observation that all the articles of charges framed against me were established.

That sir, after completion of the inquiry proceedings I was directed to submit my written brief on the outcome on the documentary & oral findings & also with ref. to the brief submitted by the P.O. As directed by the Supdt. of POS Nagaon under his No. F4-1(c)/99-00 dt. 21/10/03 to submit my written representation if any against the findings of the I/O, I hereby submit my representation as follows for favour of your perusal and upright decision in the matter with your own observations in each articles of charges.

That sir, this is a case of conspiracy by the vested circle to put me in trouble. The Sr. AO Ico visited the office on a more unnamed telephone call & inquiry was made on such unnamed call was quite unbelievable & unprecedented. Some evil motive must have acted behind it.

That sir, in this connection a copy of the written brief dt. 14.3.03 submitted to the I/O is annexed herewith as a part of my representation advanced to your goodself on the ground & to my utter dissatisfaction that the points & arguments having reference to the facts resting with the enlisted documents like pay in slips, relevant pass books & HOSB ledgers etc. were not carefully examined by the I/O but the I/O unreasonably & unduly made some comments ignoring documents.

As regards I/O's report under caption (Analytical assessment of evidences & records) I beg to state that it was already represented to the I/O that the alleged manipulation of figures of deposits & raising of the balances in

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*Attested
Advocate*

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the Pass Books shown to me were not made by me when these were in my custody before snatching out. But these were not reasonably proved by the I/O nor did he take necessary steps to get them proved materially.

That sir, my vital arguments & grievance in the matter of inquiry are that the vouchers viz SB withdrawal forms relating to the alleged amounts of withdrawals were intentionally suppressed at the hands of the authorities & not produced for my inspections for quite reasonable grounds & principles of natural justice & thus I was deprived in the matter including the transparency & equity as required by the provisions of rules CCS(CCA) Rules 1965.

I was unduly & without any reasonable ground was insulted on various ways by the staff of the Nagaon HPO on 14/7/99 on the floor of the PO which affected me adversely in my mental setup. The I/O in his report accepted my W/S dt. 9.8.92 & 10.8.99 as genuine. But in this regard I emphatically state that my W/S under ref. were not at all voluntary but coercive. Despite my retraction of the statements the I/O unfortunately beyond constitutional safeguard acted at his own accord and also did not consider the vital points narrated in my self examination (D/W). Refraining to record my statement before the I/O at the time of inquiry he has ignored my constitutional right. If my W/S dt. 9.8.99 and 10.8.99 were considered as my confession/admission then it was quite unnecessary to hold the rule 14 inquiry. Further I beg to state that his remark & observation relating to the withdrawals are speculative & superfluous not supported by documentary evidence like the SB withdrawal forms noted in the report. In article 1 of his findings he has reported that the production of a pass book which is in the name of some padma Kalita, S/O N.C. Kalita, C/O M.C. Kalita, O/O the DTO GH lies upon me. Fortunately he has not remarked that burden of production of SB-7 i.e. Wdt. forms also lies upon me.

That sir, the above points & arguments noted by me may kindly be examined by applying your own mind & observation, I categorically denied that SB withdrawals from the account U/R in absence of SB wdt. forms and also it was stated that out of grudge and malice some interested persons of the office might have taken interest to put me in trouble by addition of figures in the pass books which remained for a prolonged period in the custody of the authority. My personal documents with 2/3 pass books were snatched away by the staff on 14/7/99

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but the I/O did not take cognizance of the point & as I felt that there was no hurry on the part of the authority to requisition or seize my pass books formally. But this was not done. Further it appears from the I/Os report that the role of the I/O was not free from bias & he was guided by the spirit of the charge sheet and also expressed some irrelevant comments relating to the additions/alterations of figures in the pass books. It is my contention that an I/O is appointed to find out truth & either to prove or disprove the charges & allegations having reference to documents & relevant circumstances in his independent line of thinking without resorting to inference & speculations. But in my case he did so, which may kindly be judged carefully at your hands.

I/Os speculations like who will inflate the pass books which will cause benefit to depositor is quite irresponsible. In my case I have been harassed & put in trouble not to speak of benefit. Already I have stated that this is a case of conspiracy by vested circle. The official records like LCs, Long books & LOTs have been manipulated during my leave period. It is the admitted fact that sup. SBCO is the custodian of pay in slip, SB-7, LOTs etc. & if so, where from the Sr. AO I/O Sri N.C. Das, verified the pay in slips & LOTs during the leave period of sup. SBCO. Regarding verification of PBs on 12/7/99 it is beyond question as because these are the personal documents of Padma Kalita sup. SBCO (then on leave). His investigation report which he did on unknown telephone call & his deposition as SWZ as noted in the I/Os report may kindly be adjudged. The answer of the I/Os speculation who will inflate, who will be benefited by doing these misdeeds would have automatically come out if he could have acted impartially. To suppress all these points, immediately on my joining on 14/7/99 I was harassed, insulted, manhandled & snatched away my pass books. But the I/O has sorrowfully failed to unearth the facts & willfully given the blame on me.

The origin & circumstance leading to framing of charges against me were not based on formal preliminary investigation which was evident from the report of the I/O & it is my contention that the relevancy of documents like FIR & preliminary investigation report could not be decided by the I/O who is an independent statutory body but stated depending on the version of the Disciplinary authority that the above reports were not relevant. Thereby I have the plea to state that the charges & allegations were prepared by a lobby having vested interest & motivation in the matter. In para marked "(A) The Documents" of the I/Os report it is seen that the date of deposit is 29/2/96 showing a deposit of Rs. 200/- in Guwahati GPO SB A/C No. 241756, but as per

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allegation the date of deposit was 29/2/95. In this particular case of which the depositor is one Padma Kalita S/O N.C. Kalita C/O M.C. Kalita O/O DTO, GH, there was no Pass Books to be produced in the inquiry & inspite of the anomaly in the date of deposit shown in the allegation as 29/2/95 was stated to be a typographical mistake. I/O's remark is undoubtedly a speculation & irresponsible by which he wanted to implicate me in this case. This is an irregularity shown by the I/O.

Further it is mentioned that the I/O did not examine the points that the documents like L.C., Long books, Cash books & LOTs were not my concern as I had no ~~xxxxxxxx~~ occasions to deal with or handle those documents during the periods of my performance at Guwahati which were also wrongly shown in the charge sheet. The I/O in his report has made various irrelevant and baseless comments & findings without referring to the reality & genuine cases & thus it is evident that the I/O made an attempt to divert the attitude & impression of the Disciplinary authority against me which may kindly be taken into consideration before giving findings by your goodself.

I painfully beg to state with utter dissatisfaction that the members of the staff of Nagaon LPO forcibly obtained my signatures on two GPF withdrawal forms & after sanction of the amount a sum of Rs. 63,000/- & Rs. 1,35,000/- were directly credited to the Govt. on 14/7/92 & 10/8/99 respectively without any proper assessment of the case & not a single funding out of the amount withdrawn was paid to me. This was a glaring & great injustice done to me by a segment of staff who all along acted against me after my suspension from service on the day i.e. 14/7/99.

On the conclusion "the I/O has stated that all the charges have been established on the basis of documentary evidence. The documents produced at the time of inquiry were only mere photocopy without any attestation & the P.O. failed to produce the originals on demand on the plea that these were in police custody. On the next hearing date the P.O. produced the same with attestation by the Supdt. of POs Nagaon without date. When questioned whether prescribed procedures were followed for attestation when the originals were in the police custody, the PO could not answer. Only on the basis of manipulated passbooks, L.Cs, Long Books, & LOT which were not dealt with me I surprise how a charge can be established without the SB-3 i.e. SB withdrawal form. Thus the I/O has acted at his own without any proper assessment.

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Under the above facts & circumstances as well as the arguments & contentions put forward in my defence brief I fervently request your honour that my defence statement will meet the spirit and fairness of justice at your hands for favour of your granting me an exemption from the purview of the charges & allegations, for which act of your kindness I will remain ever grateful.

Yours faithfully,

Padma Ram Kalita

(Padma Ram Kalita)
Supervisor SBCO , Nagaon
under Suspension.

21/11/03

भारतीय डाक विभाग

DEPARTMENT OF POSTS INDIA

[डाक-तार वित्त पुस्तिका खण्ड I के नियम 8, 154, 159 और 160 तथा डाक-तार वित्त पुस्तिका खण्ड III (भाग I) द्वितीय संस्करण के नियम 100 देखें] प्रथम संस्करण (पुनर्मुद्रित)

(See Rules 8, 154, 159 and 160 of Posts and Telegraphs Financial Handbook, Volume I Second Edition and Rule 100 of P. & T. Financial Handbook, Vol. III (Part I)) First Edition (Reprint)

पुस्तक संख्या 628 रसीद संख्या 76
Book No. GH Receipt No.

Received from Shri Padma Ram Kalita

रु./Rs. 6800/- रुपये/Rupees Six thousand

on account of Shri Padma Ram Kalita

स्थान Nagaon

दिनांक 10/8/99

Date 10/8/99

Postmaster Nagaon 782001

ए. सी. जी.-67

A.C.G.-67

अनुलिपि

Duplicate

भारतीय डाक विभाग

DEPARTMENT OF POSTS INDIA

[डाक-तार वित्त पुस्तिका खण्ड I के नियम 8, 154, 159 और 160 तथा डाक-तार वित्त पुस्तिका खण्ड III (भाग I) द्वितीय संस्करण के नियम 100 देखें] प्रथम संस्करण (पुनर्मुद्रित)

(See Rules 8, 154, 159 and 160 of Posts and Telegraphs Financial Handbook, Volume I Second Edition and Rule 100 of P. & T. Financial Handbook, Vol. III (Part I)) First Edition (Reprint)

पुस्तक संख्या 628 रसीद संख्या 80
Book No. GH Receipt No.

Received from Shri Padma Ram Kalita

रु./Rs. 129000/- रुपये/Rupees One lakh twenty nine thousand

on account of Shri Padma Ram Kalita

स्थान Guwahati

दिनांक 10/8/99

Date 10/8/99

Signature Designation

Filed for record

भारतीय डाक विभाग

DEPARTMENT OF POSTS INDIA

[डाक-तार वित्त पुस्तिका खण्ड I के नियम 8, 154, 159 और 160 तथा डाक-तार वित्त पुस्तिका खण्ड III (भाग I) द्वितीय संस्करण के नियम 100 देखें] प्रथम संस्करण (पुनर्मुद्रित)

(See Rules 8, 154, 159 and 160 of Posts and Telegraphs Financial Handbook, Volume I Second Edition and Rule 100 of P. & T. Financial Handbook, Vol. III (Part I)) First Edition (Reprint)

पुस्तक संख्या 628 रसीद संख्या 79
Book No. GH Receipt No.

Received from Shri Padma Ram Kalita

रु./Rs. 6000/- रुपये/Rupees Six thousand

on account of Shri Padma Ram Kalita

स्थान Nagaon

दिनांक 10/8/99

Date 10/8/99

Signature Designation

मूल

Original



भारतीय डाक विभाग

DEPARTMENT OF POSTS INDIA

[डाक-तार वित्त पुस्तिका खण्ड I के नियम 8, 154, 159 और 160 तथा डाक-तार वित्त पुस्तिका खण्ड III (भाग I) द्वितीय संस्करण के नियम 100 देखें] प्रथम संस्करण (पुनर्मुद्रित)

(See Rules 8, 154, 159 and 160 of Posts and Telegraphs Financial Handbook, Volume I, Second Edition and Rule 100 of P & T Financial Handbook, Vol. III (Part I)) First Edition (Reprint)

पुस्तक संख्या 74 रसीद संख्या 74
Book No. GH Receipt No.

Received from Shri Padma Ram Kalita

रु./Rs. 10,000/- रुपये/Rupees Ten thousand

on account of Shri Padma Ram Kalita

स्थान Guwahati

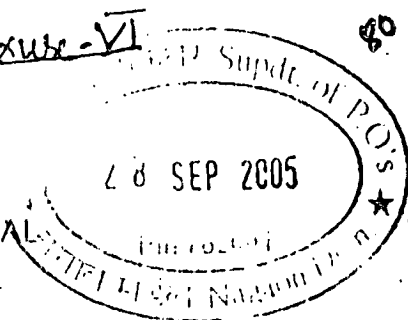
दिनांक 10/8/99

Date 10/8/99

Signature Designation

- 56 - Annexure-VI

DEPARTMENT OF POSTS: INDIA
OFFICE OF CHIEF POSTMASTER GENERAL
ASSAM CIRCLE, GUWAHATI - 781001



Memo No. Staff / 21 - 2 / 2004 Dated at Guwahati the 26.09.2005

Shri Padma Ram Kalita, then Supervisor, SBCO, Nagaon HO (under suspension) was informed vide Supdt of Post Offices, Nagaon Division, Nagaon Memo No. F4-1(C)/99-00 dated 28.08.2001 that it was proposed to hold an enquiry against him under Rule-14 of CCS (CCA) rules 1965 on the basis of the statement of articles of charges and statement of imputation of misconduct or misbehaviour etc enclosed thereto, which were enclosed herewith as Annexure "A". In the aforesaid memo dated 28.08.2001 said Shri Padma Ram Kalita was given an opportunity to submit within 10 (ten) days of receipt of the said memo a written statement of his defence and also to state whether he desired to be heard in person.

2. No written statement of defence against Supdt of Post Offices, Nagaon Dn. Memo No F4-1(C)/99-00 dtd 28.08.2001 was received from Shri Padma Ram Kalita.

3. It was therefore decided to hold a procedural inquiry under Rule 14 ibid and Shri A. Hye, SDIPOs, Hojai Sub Dn, Hojai then ASPOs (HQ) Nagaon and Shri D.K. Mandal, SDIPOs, Nagaon (West) Sub Dn, Nagaon then ASPOs (Dn) Nagaon were appointed as Inquiring Authority and Presenting Officer respectively for the purpose of inquiry into the charges framed against said Shri Padma Ram Kalita vide Supdt of Post Offices, Nagaon Division, Nagaon vide his memo No F4-1 (C)/99-00 dated 04.12.01.

*Shri A. Hye
Inquiring
Advocate*

4. The preliminary hearing was held by the I.O. on 22.01.2002 and the charged official denied the charges categorically in the hearing and intimated that he will engage Defence Assistant in the next date of inquiry. The next hearing was held on 14.02.2002 and the C.O. Shri Kalita engaged Shri N.N.Duta, retired SPM, Guwahati Dn. as his defence assistant who was also present in the hearing dated 14.02.02 and the P.O. produced some listed documents, which were examined by the defence side and taken into the proceedings. Subsequent hearings were held on 03.04.02, 17.05.02, 18.09.02, 21.11.02, 22.11.02, 13.12.02, 20.12.02, 08.01.03 and the inquiry was concluded on 24.01.2003.

5. The I.O. Shri A. Hye submitted his inquiry report of the case vide his letter No Rule-14/P.R. Kalita dtd 12.04.03 a copy of which is enclosed herewith as Annexure "B".

6. A copy of the inquiry report was sent to Shri Padma Ram Kalita, the charged official vide SPOs, Nagaon letter No F4-1 (C)/99-00 dtd 21.10.03 for submission of his representation against the I.O's report within two weeks from the date of receipt. Shri Padma Ram Kalita prayed for another 10 (ten) days time for submission of his written representation.

7. Shri Padma Ram Kalita, charged official has submitted his representation under his letter dated Nil vide Assam Sachivalaya RL No 5643 dtd 21.11.2003 a copy of which is enclosed herewith as annexure "C".

8. I have gone through the representation dated 21.11.2003 submitted by Shri Padma Ram Kalita very carefully and given due consideration it

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deserves. I am discussing below the points raised by Shri Padma Ram Kalita in his representation dtd 21.11.2003 with my findings :-

a) In para 3 of representation, the charged official stated that this is a case of conspiracy by the vested circle to put him in trouble etc. etc, but the contention of the charged official is not based on facts since he has attended the inquiry and got all opportunity to defend the case during the course of inquiry held against him under 14 of CCS (CCA) Rules, 1965. He has also not substantiated his contention through any documents or witness, during the enquiry.

b) The contention of charged official expressed in para 4 of representation that the enlisted documents like pay-in slips, relevant pass books and HOSB ledger etc were not carefully examined by the I.O. is not found based on facts since the Rule 14 inquiry under CCS (CCA) Rules 1965 was held as per procedures and the listed documents have actually been examined authenticated and admitted to the extent given in I.O's report, which are sufficient to prove the charges.

c) Regarding para 5 of representation, the manipulation of figures of deposits and raising the balances in the pass books were made by the charged official himself since he was the sole custodian of the pass books being the depositor of the pass books (which belongs to him and members of his family) is established in Rule 14 inquiry. He has also failed to explain or substantiate who and for what reason planted these figures.

d) Regarding para 6 of representation, the charged official mentioned that SB withdrawal forms relating to amount of withdrawal

were not produced for inspection and he was deprived from principles of natural justice. Non production of withdrawal forms do not deprive him from the principles of natural justice, since the entries of withdrawal amounts were available in the pass books which were in his custody and no other person except him has the chance to make entry in the pass books and entries were also available in SB Long books, ledger cards which were produced during inquiry and the charged official vide his written statement dated 09.8.99 (P E-21) and dated 10.08.99 (P E-61) had admitted the charges.

e) Regarding Para 7 of representation treating his W/S as confession, no constitutional right was ignored by the I.O. as alleged as he accepted to be witness in his own case, and since the Inquiry under Rule-14 of CCS (CCA) Rules 1965 was held as per prescribed procedures and all reasonable opportunities were given to the charged official during inquiry and in para 8 of representation the allegation that the I.O. was not free from bias, is not true since the charged official was given all opportunities by the I.O. to defend his case as per procedures, during the inquiry. The charged official has neither brought out any reason nor material substance for the bias as alleged by him. I consider that simply alleging bias is not sufficient to hold the charged official innocent.

f) Regarding para 9 of representation, the charged official alleged that this is a case of conspiracy against him is only reflection of his para 3 and the I.O. has failed to unearth the facts and willfully given the blame to the charged official, but since the Rule-14 inquiry was held as per prescribed procedures by the I.O. and the charged official co-operated with the I.O. on all the dates of hearing and all reasonable

opportunities were given to the charged official, the allegation is found not based on facts, for the reasons stated in (d) above.

g) The charges framed against the charged official in Articles I to VI of the charge sheet based on relevant records and are established during the course of inquiry held under Rule 14 of CCS (CCA) Rules 1965 and his allegation made in para 10 of representation on the origins of framing the charges is irrelevant.

h) The contention of the charged official as stated in para 11 of representation is not true, since the records as cited in the C/S and I.O report, like pay-in slips, long books, pass books etc were shown to the C.O. and taken into proceedings of the Rule 14 inquiry, duly authenticated, admitted and reasonably argued.

i) Regarding para 12 of the representation, the point raised by the C.O. could not be established in his favour during the Rule 14 inquiry and this is a false allegation.

9. I have gone through the inquiry reports submitted by the I.O. with all the relevant records/documents, prosecution witness as well as Defence statement etc of the case minutely and agree with the findings of the I.O. into the case and the charges framed against the charged official Shri Padma Ram Kalita in articles I to VI are established and said Shri Padma Ram Kalita violated the provisions of Rule 3 (1)(i), 3(1)(ii), 3(1)(iii) of CCS (Conduct) rules 1965 and provisions of para 2 (b)(i) of the Savings Bank Control procedure, amounting to gross misconduct.

Thus by his above acts, the Deptt. has suffered a loss of Rs 4,90,120/- (Rs Four lakhs ninety thousand one hundred twenty only). This is serious offence committed by the said Shri Padma Ram Kalita, which, if shown any leniency, will further only encourage such acts of misconduct.

ORDER

I, M R Pania, Director Postal Services (Hq), in exercise of powers conferred on me vide Rule 11 of CCS (CCA) Rules, 1965, do hereby order that Shri Padma Ram Kalita, the then Supervisor (SBCO), Nagaon HO, be **Compulsory retired**, and further order that the amount of unrecovered loss of Govt. money to the extent of **Rs. 2,03,120/-** be recovered from his terminal benefits, as per rules. The period of suspension will be treated as Suspension only for all purposes.

Sd/.

(M R PANIA)

Director Postal Services (HQ)
Assam Circle
Guwahati-781001

Copy to :-

✓ Shri Padma Ram Kalita, Supervisor (SBCO), Nagaon HO
(Under suspension) **(through Supdt of POs, Nagaon)**

2-3. The Supdt. of Post Offices, Nagaon Division, Nagaon. A copy of the order shall be delivered to the official under receipt and the same may be sent to AD (Staff), O/O the PMG, Dibrugarh Region, Dibrugarh.

4. The Postmaster, Nagaon HO *f.m.c.*

5-6. CR/PF of the official.

7-8. Office copy/Spare.

f.m.c.
Sd/.

(M R PANIA)

Director Postal Services (Hq)
Assam Circle
Guwahati-781001

To,

The Chief Post Master General,
Assam Circle, Guwahati.

Ref:- Order bearing memo No: Staff/21-2/2004 dated 29.6.05, issued by the Director (HQ), Assam Circle, imposing upon me along with other deprivations, the penalty of compulsory Retirement from service.

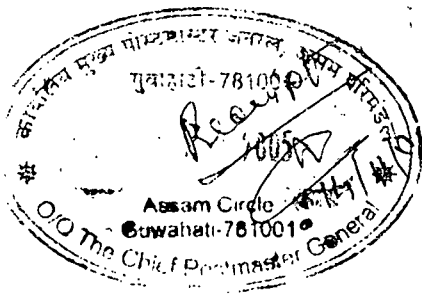
Sub:- An appeal under Rule 23(ii) of the CCA (CCS) Rule, 1965 against the above referred order dated 29.6.05.

Sir,

With due deference and profound submission, I beg to lay the following few lines for your Honour's kind consideration and necessary action;

- (1) That the order under reference was the culmination of a proceeding initiated against me based on false and fabricated charges. I was placed under suspension way back on 12.7.99 and it took the authorities 6 long years to complete the proceedings against me. I have been made to face innumerable hardships, humiliation and deprivation during the said 6 years and the same was for no fault on my part.
- (2) That I was served with an order dated 12.7.99 on 14.7.99, placing me under suspension basing on a preliminary enquiry report submitted by the then Sr. AO, ICO (SB) on 12.7.99 wherein allegations were leveled against me of having defalcated a sum of Rs. 68,000/- by manipulating/inflating the amounts actually deposited in 3 SB Accounts opened and operated at Nagaon P.O immediately after being placed under suspension i.e. on 14.7.99, my hand bag containing my personal documents including some pass books were seized from my possession.

I was also forced to write out 2 written statements dated 9.8.99 and 10.8.99 under duress & threat and as per dictation of the authorities of the department at Nagaon. Further, I was forced to fill up 2 GPF withdrawal forms and amounts of Rs. 68,000/- and Rs. 1,35,000/- (totaling Rs. 2,03,000) was forcefully debited from my GPF account and credited to the



Handwritten signature and text:
 Accepted
 for
 Adv. O. C. C. I.

Government account. Further on 23.8.99 a sum of Rs. 10,000/- was exhortated from me by the then SSP, Gauhati, which was also credited to the Government account. I was as such forced to part with a sum of Rs. 2,13,000/- and such action on the part of the authorities was without any authority or jurisdiction.

- (3) That on 23.8.01 a charge sheet, framing as many as 6 charges against me was issued to me and thereafter on 4.12.01 an Enquiry officer was appointed to enquire into the charges leveled against me.
- (4) The charges as leveled/framed against me contain allegations of similar nature and content. It is the allegation in all the charges, that I had made deposits in the accounts in question on various dates and thereafter by manipulating/inflating the figure as recorded in the various records pertaining to the transactions in question inflated the balance and thereafter I had withdrawn the inflated amounts causing loss to the Department. It is the specific allegation in the charges framed, that it was I who had carried out the manipulations/inflations in the records of the transactions carried out in the SB accounts in question and that I had withdrawn the inflated amounts. As per the charge memo, the total amount allegedly defalcated by me with regard to all the transactions in question works out of Rs. 1,76,000/- only. It may be mentioned here that an amount of Rs. 2,13,000/- i.e. an amount in excess of the amount alleged to have been defalcated by me, has already been realized from me in an unfair way.
- (5) That the Enquiry was initiated and continued in a hostile environment and I was not given a fair hearing therein. Mere perusal of the Daily order sheets would reveal that I was denied opportunities to cross examine the deponents/witnesses as produced by the authorities in the enquiry. Further my prayer as made in the enquiry for having the handwritings available in the records as regards the manipulations carried out to be examined by the

GEQD or a competent handwriting expert was rejected/ignored and this denied to me an opportunity to prove that the manipulations as alleged were not done by me. My defence was further hindered by the inaction on the part of the enquiry officer for not calling for the records of the withdrawal forms pertaining to the transactions in question, inspite of the fact that it was revealed in the enquiry that the withdrawal forms were available with the authorities.

- (6) That in pursuance to the enquiry, which was a mere eye wash, the enquiry office after considerable period of time, submitted his enquiry report on 12.4.03, holding the charges leveled against me as proved. Mere perusal of the enquiry report would reveal that none of the conclusions drawn by the enquiry officer is based on any material available on record and the enquiry officer in support of his findings failed to highlight any material which even remotely connects me to the charges leveled against me. The Enquiry officer with a view to substantiate the charges leveled against me, proceeded to rely upon the W/S taken from me under duress & threat on 9.8.99 & 10.8.99. The said W/S were categorically denied by me to have been voluntarily made and I had also specifically stated in the enquiry that the same was taken from me under duress and threat.
- (7) That as highlighted by me in my representation dated 21/11/03 preferred against the enquiry report, the enquiry officer had recorded his findings as regards the charges in question basing on his surmises & conjectures and he has also brought his imagination into play for the purpose of holding the charges leveled against me as proved. The conclusions reached by the enquiry officer are all perverse and no man capable of discharging the responsibilities of an enquiry officer would have recorded findings as was done in my case, without even basing his findings on any objective material.

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- (8) That the enquiry officer in his findings had concluded that I had carried out the alleged inflation in the records of the SB accounts in question & that I had withdrawn the amounts, thereby defalcated the amounts, however, such a finding has been reached by the enquiry officer solely based on imagination without any supporting material. There exists no material towards even remotely indicating that it was I who had carried out the said manipulations. The absence of any material towards, even remotely, indicating my involvement in the matter is further clear from the action on the part of the enquiry officer in placing reliance on the W/S submitted by me on 9.8.99 & 10.8.99, which was categorically denied, to have been voluntarily made, by me in the enquiry.
- (9) The findings recorded by the enquiry officer are all perverse and are based on surmises & conjectures. The conclusions of the enquiry office are all sudden conclusions, without any basis.
- (10) That the disciplinary authority in a most arbitrary and illegal manner, without appreciating the contentions as raised by me in the representation dated 21/11/03, proceeded to concur with the findings of the enquiry officer and proceeded to issue the order under reference imposing upon me the following deprivations/penalties:
- (a) Penalty of compulsory retirement from service.
 - (b) Recovery of further amount of Rs. 2,03,120.
 - (c) Treating the period of suspension, as suspension for all purposes.

The penalty of recovery of a further amount of Rs. 2,03,120/- would result in the amounts recovered from me being Rs. 4,90,120/-, which is arbitrary & illegal inasmuch as the charge memo only quantified the alleged defalcation attributed to me at Rs. 1,76,000/- Further my period of

suspension could not have been dealt with without a notice to me as prescribed under the rules. As such the penalties as b) & c) have been imposed upon me without jurisdiction & authority by the Disciplinary Authority.

11. That the reasoning as given by the Disciplinary Authority are all perverse and the same reveals total non-application of mind in the matter. The contentions as were raised by me before him were not appreciated and dealt with in its proper perspective. There was considerable and unexplained delay on the part of the department in first concluding the enquiry and then in issuing the order dated 26.9.05. The delay as occasioning in the matter caused great prejudice to me and the same has the effect of vitiating the entire proceeding.

In view of the above, I would like to prefer this appeal amongst others, on the following grounds:

GROUND

- (a) For that the deprivations/denials meted out to me in the enquiry has the effect of denying to me fair hearing and this has vitiated the Enquiry. No penalty ought to have been imposed upon me, basing on the conclusions reached in such vitiated & biased enquiry.
- (b) For that in absence of the very basic material, i.e. material indicating that it was I who had carried out the manipulations/inflations in the records of the SB A/C in question and that I had withdrawn the alleged inflated amounts, the charges leveled against me ought not to have been held to be proved. Failure on the part of the Disciplinary Authority to appreciate this vital aspect of the matter has caused great prejudice to me; accordingly the order dated 26.9.05 has been rendered null & void.

- (c) For that the order dated 26.9.05 is based on the enquiry report dated 12/4/03, but the disciplinary authority while proceeding to concur with the findings of the enquiry officer failed to appreciate the fact that the findings of the enquiry officer were not based on any objective material which established even remotely the fact that I had carried out the alleged manipulations. As such non-application of mind in the matter by the Disciplinary Authority is writ large on the face of the order dated 26.9.05.
- (d) For that mere perusal of the enquiry report dated 12/4/03 & the order dated 26.9.05 would reveal that the same is based on a superficial exercise carried out and the intention to reveal the truth as regards the allegations leveled against me is clearly missing. The authorities have dealt the matter in a most mechanical manner, without analyzing the evidences of record in its proper & true perspective. It is clear that the only intention was to some how fasten upon me, the charges leveled against me.
- (e) For that as revealed from the enquiry report and the order dated 26.9.05 the only reasoning put forward towards fastening the charges upon me is that I was the only person who stood to benefit from the manipulation/defalcation alleged, but such conclusion is not supported by any objective material. To put complete reliance on the said reasoning, it was necessary on the part of the said authorities to base their conclusions on some cogent material towards fastening the said charges on me. Failure on the part of the authorities to indicate any cogent material towards fastening the charges upon me has caused great prejudice to me. No conclusion as regards my guilt and complicity as regards the charges in question could have been recorded basing on the presumption that I benefited from the said manipulation/defalcation. Such a course of action as adopted by the authorities has rendered the enquiry to be a mere eye wash.

- (f) For that the enquiry officer for the purpose of holding the charges leveled against me as proved could not have relied upon the W/S dated 9.8.99 & 10.8.99 inasmuch as the same were denied by me in the enquiry to have been voluntarily made. The reliance placed on the said W/S has the effect of vitiating the enquiry and no penalty could have been imposed upon me basing on such a vitiated enquiry.
- (g) For that the reasoning given by the Disciplinary authority in the order dated 26.9.05 towards imposing the said penalties upon me are all mechanical reasoning and is not supported by any materials. Non application of mind in the matter is writ large on the face of the order dated 26.9.05.
- (h) For that there is no charge of having defalcated a sum of Rs. 4,90,120/- and the charge memo only specifies the alleged defalcation, stated to have been done by me, at Rs. 1,76,000/- as such it was not open to the disciplinary Authority to quantify the alleged loss at Rs. 4,90,120/- without any material or basis. Such arbitrary action has caused great prejudiced to me.
- (i) For that the Disciplinary authority could not have proceeded to deal with the suspension period without any notice to me. The treating of the period of suspension, as suspension, has caused great prejudice to me, inasmuch as the delay occasioning in the matter is clearly attributable to the lack of interest on the part of the authorities for an early conclusion of the matter and accordingly I could not have penalised for no fault on my part.
- (j) For that in any view of the matter the penalty imposed upon me is not sustainable and the same is liable to be set aside and quashed.
- (k) For that the decision of the Disciplinary Authority imposing penalty vide memo dated 29.06.05 is full of contradictory with the facts and figures

with the enquiry report and on that score alone the order of penalty dated 26.9.05 is liable to be quashed.

- (l) For that there is no discussion of evidence as required under the rule in the impugned order of penalty-dated 26.09.05 issued by Directorate of Postal service, H.Q Assam circle, Guwahati. Moreover, the said penalty order is not with the conformity with the relevant provision of CCs (CCA) Rules, 1965 in as much as the disciplinary authority has failed to specify the date of effect of the order of penalty of compulsory retirement.
- (m) For that the period of suspension has been decided by the Disciplinary authority, treating the same as suspension for all purposes without providing any opportunity to me as required under the CCS (CCA) Rules, 1965.
- (n) For that the disciplinary authority has reached to a arbitrary findings to the effect that the Department has suffered a loss of Rs. 4,90,120/- without showing any details of the loss, which is contrary to the alleged defalcated sum shown in the memorandum of Article of charge sheet dated 28.8.01, where only an amount of Rs. 1,76,000/- alleged to have been misappropriated by the undersigned as such findings or conclusion reached by the Disciplinary authority is contrary to the enquiry report as well as same is contrary to the memorandum of charge sheet dated 28.8.01.
- (o) For that there is no indication in the report of the enquiry officer regarding forceful realization of Rs. 2,03,000/- from the G.P.F account of the undersigned.
- (p) For that no indication or record is maintained regarding deposition of Rs. 10,000/- at G.P.O, Paltan Bazar, Guwahati by the applicant out of the

threat and pressure from the then S. Superintendent of Post offices, Guwahati.

- (q) For that order of recovery of Government money to the extent of Rs. 2,03,120/- is totally wrong and no details of accounts is given that how the Disciplinary authority arrived to such findings towards recovery.
- (r) For that on 14.7.99 an amount of R. 2,03,000/- was forcefully sought to be withdrawn from my C.P.F account after obtaining my signature in two separate G.P.F withdrawal forms & subsequently the said amount of Rs. 2,03,000/- got credited in the Govt. account at the instigation of the then Post master, Nagaon and the then Superintendent of Post offices, Nagaon, but no such amount is neither shown in the memorandum of charge sheet or in the inquiry report and even the said amount of Rs. 2,03,000/- also not shown in the order dated 26.9.05.
- (s) For that when the total amount of alleged mis-appropriation amount stand to Rs. 1,76,000/- only as per memorandum of charge sheet dated 28.08.2001 and there cannot be any recovery of Rs. 4,90,120/- from the charged officer.
- (t) For that order of recovery to the extent of R. 2,03,120/- as ordered by the Director of Postal services by his order dated 26.09.2005 is wrong and contrary to the records and on that score alone the Impugned order of penalty is liable to be set aside and quashed.
- (u) For that withdrawal of voucher receipt has not been examined in the enquiry proceeding to establish the charge of withdrawal and on that score alone the impugned order of penalty is liable to be set aside and quashed.

For the Director, Nagaon (C.P.F. & C.A.)
 (Signature)
 14/8/05

For the Director, Nagaon (C.P.F. & C.A.)
 (Signature)
 14/8/05

- (v) For that the Disciplinary authority cannot make any recovery except the amount alleged to have been misappropriated as per memorandum of charge sheet, whereas in the instant case, Department sought to make a recovery of Rs. 4,90,120/- without having any jurisdiction.
- (w) For that no action has been initiated against the staff and officer responsible for forceful withdrawal of G.P.F money from the G.P.F accounts of the charged official and subsequently crediting the said amount with the Government account.
- (x) For that the undersigned neither received any substantive allowance nor received any pensionary benefit in terms of the order dated 26.9.2005, and as a result applicant is suffering from huge financial hardship and facing starvation with the dependent family members.

In the circumstances stated above I most humbly and respectfully pray that the operation of the impugned penalty order dated 26.9.05 may kindly be stayed till finalization of my appeal, in view of the fact that there is already an order of recovery of Rs. 2,03,120/- from my terminal benefit otherwise the undersigned shall suffer irreparable loss and injury.

Thanking You

Yours faithfully

Padma Ram Kalita

(Padma Ram Kalita)

Supervisor SRO, Nagaon

Under suspension.

Copy to DPS, HQ Assam Circle, Guwahati for information & N/A.

Padma Ram Kalita
Supr. SRO, Nagaon
u/s.

Date: 14/11/05

-72.

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Annexure-VIII

To,

The Chief Post Master General,
Assam Circle,
Guwahati.

Sub: - My appeal dated 14.11.2005

Respected Sir,

Most humbly and respectfully I beg to say that I have preferred an appeal against the order of penalty issued under Memo No. Staff/21-2/2004 dated Guwahati the 26.09.2005 on 14.11.2005. However, due to inadvertence the order of penalty issued by the Disciplinary Authority has been wrongly referred as order dated 29.06.2005 instead of 26.09.2005, more particularly, in the reference column as well as in the subject column in appeal dated 14.11.2005. I regret for such unintentional mistake and also request you to read the Memo No. Staff/21-2/2004 dated Guwahati the 29.06.2005 as Memo No. Staff/21-2/2004 dated Guwahati the 26.09.2005, wherever applicable. This is for your kind information and necessary action.

It is further submitted in view of the grounds taken by the undersigned in my appeal dated 14.11.2005, your honour be pleased to exonerate me from the charges labelled against me.

Date:

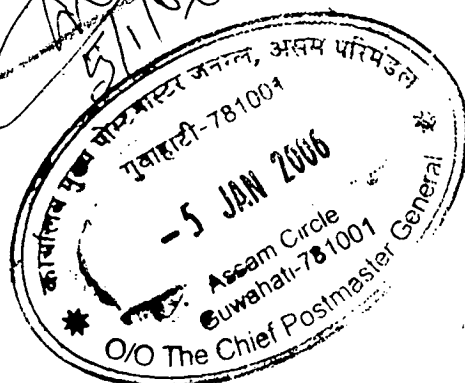
5/1/06

Yours faithfully

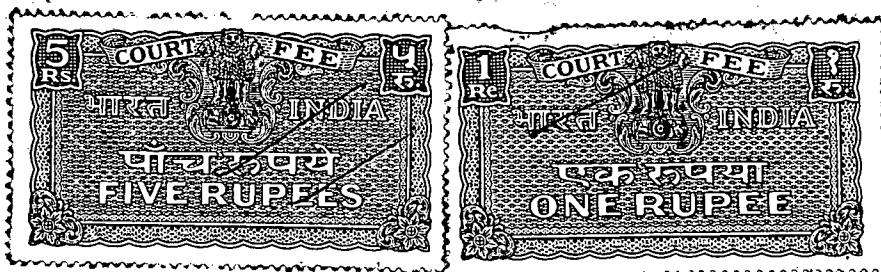
Padma Ram Kalita

(PADMA RAM KALITA)

Supervisor, SBCO, Nagaon
Under suspension.



Attended
Law
Advocate



VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O. A. No. 24 /2006

Shri Padma Rani Kalita

...Applicant(s)

-Vs-

Union of India & others

...Respondent(s)

Know all men by these presents that the above named Applicant do hereby appoint, nominate and constitute Sri Manik Chanda, Sri G. N. Chakraborty and Sri S. Nath, Advocate(s) and such of below mentioned Advocate(s) as shall accept this VAKALATNAMA to be my/our true and lawful Advocate(s) to appear and act for me/us in the above noted case and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filing in or taking out papers, deeds of composition etc. for me/us and on my/our behalf and I/We agree to ratify and confirm all such acts to be mine/our for all intends and purposes. In case of non-payment of the stipulated fee in full, no Advocate(s) shall be bound to appear and/or act on my/our behalf.

In witness whereof, I/We hereunto set my/our hand on this the 25th day of January 2006.

Received from the Executant, Mr. _____ And accepted
satisfied and accepted. Senior Advocate will lead me/us in the case.

Sudhakar Das
Advocate

Subrata Nath
Advocate

Manik Chanda
Advocate

Padma Rani Kalita

NOTICE

From:- Subrata Nath.
Advocate

To. G. C. S. C.
CAT, Ghy.

Sus:- O. A. No. — 106 (Padma Karm Karita Vs.
U. O. I. Gov.)

Sir, find please enclosed herewith a copy of the
O. A. This is for your information and
necessary action.

Please acknowledge receipt of the same.

Received
Usha Das.
Addl. Chs. e
For (G. Baishya)
Sr. C. G. S. C.
25/1/06.

Yours Sincerely
Subrata Nath
Advocate.
25/1

Chetabhai 28-8-01
12/4/03
26/9/05

Ady. Prady

ATR 1958
CAT 643
25/1/06

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MEMORANDUM OF APPEARANCE

Date : 1/2/06

To,

The Registrar
Central Administrative Tribunal
Bhangagarh, Rajgarh Road,
Guwahati.

IN THE MATTER OF :

O.A. No. 24 of 2006

Sri Padma Ram Kalita

----- Applicant

- Vs -

Union of India & Others

----- Respondents

I, M. U. Ahmed, Addl. Central Govt. Standing Counsel, Central Administrative Tribunal, Guwahati, hereby enter appearance on behalf of the Union of India & Respondents Nos. 164 in the above case. My name may kindly be noted as Counsel and shown as Counsel for the Respondent/s.

1/2
(Motin Ud-Din Ahmed)
Addl. C.G.S.C.