

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

13

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 246/2006
R.A/C.P No. 11/2010 (O.A. 246/06)
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SECTION OFFICER (Judl.)

[Signature]

FROM NO. 4
(SEE RULE 24)
CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH:

1. Original Application No. 246/08
2. Mice Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) Smt. Meera Kushwaha

Respondant(S) U.O.I GOM

Advocate for the Applicant(S) A.K. Roy, Smt. S. Roy...

h. Wapang, M. Ghosh...
Ms. G. Bafshy Sr. C.S.C.

Advocate for the Respondat(S) U.O.I GOM

Notes of the Registry	Date	Order of the Tribunal
286926742 26.9.08 Plus P.H. NS 16/10/08 Petitioner's G.P's for Memoranda are received Wm. Sund. P.H. 16/10/08	24.10.2006	Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman. The Applicant, who is working as Aya in the Regional Research Institute (Ayurveda), was charge sheeted and after inquiry, imposed the penalty of Censor and revoked her suspension. The Appellate Authority disagreed with the punishment and not accepted the order of Disciplinary Authority on the ground that inquiry was incomplete and further inquiry was directed to be conducted by appointing a "responsible officer" from the State Government on the same charges superceding the earlier. Thereafter, second inquiry was also completed and the inquiry authority submitted its report and memorandum annexure - J was issued on 20th July 2005. Thereafter, the Applicant approached the Hon'ble Gauhati High Court and High Court directed the Applicant to approach this Tribunal for want of jurisdiction and proceedings were also stayed till such time. Hence, this


2
Contd/-

24.10.2006

Application.

Heard Mr A.K. Roy, learned Counsel for the Applicant and Mr G. Baishya, learned Sr. C.G.S.C. for the Respondents. Mr Baishya, learned Sr. C.G.S.C. wanted to take instructions. Let it be done.

Post on 05.12.2006. In the meantime, the Applicant is permitted to submit representation on the annexure - G and it is also made clear that no final order shall be passed without permission of this Court.

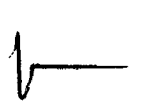

Vice-Chairman

/mb/

5.12.06

Four weeks time is granted to the respondents to file written statement.

Post on 5.1.07 for order.


Vice-Chairman

pg

22.1.2007

Mr.G.Baishya, learned Sr.C.G.S.C. is granted, on request, further four weeks time to file reply statement within two days.

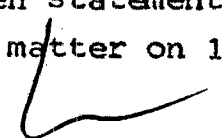
Post on 23.2.2007.


Vice-Chairman

/bb/

23.2.07.

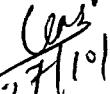
Counsel for the respondents wanted to file written statement. Let it be done. Post the matter on 19.3.07


Vice-Chairman


lm

Received
Gabin
Sr. C.G.S.C.
27.10.06


order dt. 24/10/06
issuing to learned
advocates for both
the parties.


27/10/06


No Wks has been
filed.


19.1.07.

No Wks has been
filed.


22.2.07.

No Wks has been
filed.


16.3.07.

No Wks has been
filed.


8.5.07.

9.5.07.

Counsel for the respondents wanted time to file written statement. Post the matter on 11.6.07.

Vice-Chairman

lm

No Wks has been filed.

11.6.2007

Mr.G.Baishya, learned Sr.C.G.S.C. sought for further time to file reply statement. Four weeks' time is granted for the same.

Post on 16.7.2007. Interim order shall continue till such time.

Vice-Chairman

/bb/

Wks not filed.

17.7.2007

Mr.G.Baishya, learned Sr.C.G.S.C. is granted further four weeks time to file reply statement.

Post the case on 16.8.2007. In the meantime interim order shall continue.

Vice-Chairman

/bb/

10.9.2007

Mr.G.Baishya, learned Sr.C.G.S.C. is granted four weeks time to file reply statement.

Post on 9.10.2007. Interim order shall continue till such time.

Vice-Chairman

/bb/

10.9.07.

Pl. comply.

No Wks filed.

8.10.07.

09.10.07.1.

Issue Notice to the Respondents. Requiring them to file reply by 04.12.07.

Call this matter on 04.12.07

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

(Khushiram)
Member(A)

(Manoranjan Mohanty)
Vice-Chairman

lm

04.12.2007

No Written Statement has yet been filed in this case by the Respondents. Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Union of India seeks more time to file written Statement.

Call this matter on 08.01.2008 awaiting Written Statement from the Respondents.

6/11/07. D/MG-1432 to 1435
D/- 20/11/07.

- ① Service report awaited.
- ② Wls not b'leed.

3.12.07.

Notice duly served on R-3.

lm

8/12/07. 08.01.2008

Wls not b'leed.

7.1.08.

No written statement has yet been filed in this case by the Respondents. Mr. G. Baishya, learned Sr. Standing counsel for the Union of India, seeks more time to file written statement.

Call this matter on 22.02.2008 awaiting written statement from the Respondents.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

/bb/

Wls not b'leed.

21.12.08.

22.02.2008

Mr .A. K. Roy, learned counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents are present.

Counsel for the Applicant wants four weeks time to file rejoinder. Prayer is allowed.

Call this matter on 26.03.2008.

(Khushiram)
Member (A)

Lu

26.03.2008

In this case written statement has already been filed. Mr. A. K. Roy, learned counsel appearing for the Applicant states that no rejoinder is necessary to be filed by the Applicant in this case.

Call this matter before the ~~next~~ Division Bench on 13.05.2008 for final disposal.

(M.R. Mohanty)
Vice-Chairman

lu

13.05.2008

None appears for the Applicant nor the Applicant is present. However, Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, representing the Respondents, is present. In order to give one more chance to the Applicant call this matter on 19.06.2008 for hearing.

PTD

26.2.08

W/s filed by
the Respondent copy
submitted.

26/2/08

Rejoinder not
filed.

25.3.08

Rejoinder not
filed.

12.5.08

Dt. 13.5.08.

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

13/5/08

Copy of order dt. 13/5/08 send to D/Section for issuing to applicant and the respondents by post.

D/No-2446 to 2450
Dt- 23/5/08.

21/5/08

nkm

Rejoinder not filed.

19.06.2008

Call this matter on 25th August 2008 for hearing.

18.6.08

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

Rejoinder not filed.

24.7.08

25.07.2008

Heard Mr A.K. Roy, learned Counsel appearing for the Applicant and Mr G. Baishya, learned Sr. Standing Counsel for the Union of India.

In course of hearing, Mr A.K. Roy has raised a point that the Appellate Authority passed orders in exercise of the revisional powers under Rule 29 (I) (v) of the CCS (CCA) Rules, 1965 and the said revisional powers were not exercised by calling for records within six months of imposition of penalty of censure dated 27.10.2003. He has also raised a point that before issuing the revisional order, the Appellate Authority did not give an opportunity to the Applicant to have her say in the matter and therefore, the revisional order is not sustainable.

10.09.2008 On the prayer of counsel for both the parties, call this part heard matter on 05.11.2008; when the Sr. Standing counsel should produce the departmental files pertaining to this case.

Rejoinder not
filed

4.11.08.

lm

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

05.11.2008 Ms.T.Das, Advocate, is present on behalf of the Applicant. Mr.G.Baishya, learned Sr.Standing Counsel appearing for the Union of India, who was to produce the Departmental Proceedings records/revisional proceedings records, seeks an adjournment till 18th November, 2008.

W/s filed.

17.11.08

Call this matter on 18th November, 2008 for hearing.

(S.N.Shukla)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

18.11.2008 On the prayer of learned counsel appearing for both the parties, call this matter on 16.12. 2008; when the Review records should be produced by the Respondents.

Send copies of this order to the Respondents, who should positively produce the Review records on the date fixed/16.12.2008.

(S.N.Shukla)
Member(A)

(M.R.Mohanty)
Vice-Chairman

21.11.08

Pl send copies of this order to the Respondents who should positively produce the Review records on the date fixed/16.12.08

19/11/08

Copies of order dt.18/11/08 send to D/Sec. for issuing to respondents by post. M.No. 4530 to 4533
21/11/08. W/s filed.
15.12.08

The Respondents were, by order dated 13.05.2008, called upon to cause production of departmental records pertaining to departmental proceeding through the Sr. Standing Counsel. Mr G. Baishya states that he has not been supplied with the records. He undertakes to cause production of the records by 19.08.2008.

Call this matter on 19.08.2008 for further hearing; when the Respondents should cause production of the departmental proceeding files and revisional proceeding files (of the Appellate Authority) pertaining to the present Applicant/this case through the Sr. Standing Counsel on the date fixed.

The Respondents should produce all the records through the Sr. Standing Counsel well before 14.08.2008.

Copies of this order be sent to all the Respondents by post at the addresses given in the O.A. and free copies of this order be handed over to the learned Counsel for the parties.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

19.08.2008

Mr.A.K.Roy, learned counsel appearing for the Applicant is present. Mr.G.Baishya, learned Sr. Standing counsel for the Union of India seeks last adjournment in order to produce records of the Revisional Authority. Prayer is allowed.

Call this part heard matter on 10.09.2008 for hearing.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

Dt. 25.7.08

Pl. send copies of this order to all the Respondents by post at the addresses given in the O.A.

Free copies of this order be handed over to the learned Counsel for the parties.

Received order dated 25.07.2008 on behalf of the applicant.
Harshvardhan
(Advocate)

Copies of order dt. 25/7/08. send to D/Section for issuing to respondents and counsel for the parties.

nkmm

6/8/08. D/No-3377 to 3382
Dt: 7/8/08.

W/S filed

18.08.2008

/bb/

16.12.2008

None appears for the Applicant. On the prayer of Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, call this matter on 22.01.2009.

(S.N. Shukla)
Member (A)

(M.R. Mohanty)
Vice-Chairman

nkm

27.01.2009

Call this matter on 04.03.2009 for hearing.

(M.R. Mohanty)
Vice-Chairman

pg

Rejoinder not
filed.

23.1.09.

- 10 -

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No.246 of 2006

Smt. Meera Kushwaha

Applicant

Versus

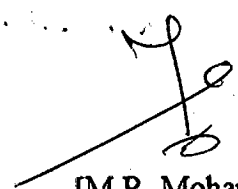
Union of India & others

Respondents

Order dated 25.02.2009

Call this matter on 23.03.09 for hearing.

Send copies of this order to the Applicant
and the Respondents.


[M.R. Mohanty]
Vice-Chairman

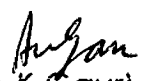
cm

23.03.2009

Ms.B.Kaur holding brief of Mr.G.Baishya,
learned Sr. C.G.S.C. for the Respondent prays
for adjournment. Mr.A.K.Roy, learned counsel
for the Applicant has no objection.

List the case on 30.04.2009.


(Khushiram)
Member (A)


(A.K. Gaur)
Member (J)

/bb/

30.04.2009

Call this matter on 17.06.2009.


(M.R. Mohanty)
Vice-Chairman

/bb/

25.2.09

Copy of the order
dated 25.2.09 sent
to the office for
issue the rule to
the Applicant as
well as to the
Respondents No. 1 to 4
by post.

H.L. No. 631-641

dt-25.02-09

Rejoinder not
filed.

20.3.09

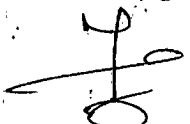
Rejoinder not
filed.


29.4.09

17.06.2009

Call this matter on 0408.2009 for hearing.

Rejoinder not
filed.


(M.R. Mohanty)
Vice-Chairman


3.8.09


/bb/

04.08.2009

Mr.A.K.Roy, learned counsel for the Applicant is present. In absence of Mr.G.Baishya, learned Sr. Standing counsel for the Govt. of India, call this matter on ~~call this matter on~~ 01.09.2009 for hearing.

Copy of The order
Dated-4-8-09 prepared
and send to D. Section
for issuing of The same
to the respondents.
Vide D.No-9235 to 9238
Date-6/8/09

Send copies of this order to the Respondents; who should make arrangement for proper representation of their case on the date fixed. Departmental proceeding records shall also be produced on the date fixed.


6.8.09.


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman


/bb/

No rejoinder filed.

01.09.2009

Mr.A.K.Roy, learned counsel appearing for the Applicant is present. In absence of Mr.G.Baishya, learned Sr. Standing counsel, call this matter on 22.10.2009.

No rejoinder
filed.


21.10.09


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

12

O.A.246 of 06

22.10.2009 Mrs. M. Das, learned counsel for the Respondents states that departmental records as directed to be produced are not available and prays for time to obtain proper instructions as well as to obtain briefs from the Respondents.

In the circumstances, another opportunity is granted.

List on 16.11.2009.

Reminder not
billed.

13.11.09

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

16.11.2009

Heard counsel for the parties. Hearing concluded. Judgment delivered in open court.

For the reasons recorded separately the O.A. is allowed.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

Received
Damber Kishore
on behalf of A.K. Roy.
25.11.2009

Received copy for
Mrs. M. Das, Sr. C.A.S.C.
P. K. Zannet
1.12.09

Final order dated 16-11-2009
Issue vide memo
No. 12801 to 12804
dt- 7-12-2009

16.12.09

14
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....
O.A. Nos. 246 of 2006

DATE OF DECISION: 16 -11-2009.

Smt Meera Kushwaha

.....Applicant/s

Mr. A. K. Roy

.....Advocates for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Mrs M. Das, Sr. C.G.S.C.

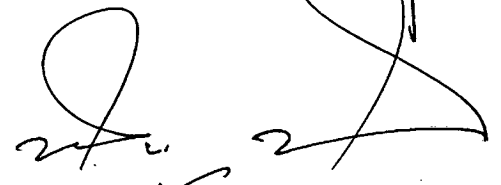
.....Advocate for the
Respondent/s

CORAM

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

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

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No


Member (J)/Member(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI :

O.A. Nos.246 of 2006

DATE OF DECISION : THIS IS THE 16TH DAY OF NOVEMBER, 2009.

THE HON'BLE MR MUKESH KUMAR GUPTA, MEMBER (J)
THE HON'BLE MR MADAN KUMAR CHATURVEDI, MEMBER (A)

Smt Meera Kushwaha
Working as 'Aya'
Regional Research Institute (Ayurveda)
P.O. Itanagar, Arunachal Pradesh.

.....Applicant

By Advocate Mr A.K. Roy

-Versus-

1. Union of India
represented by the Secretary,
Ministry of Health & Family Welfare,
Govt. of India,
New Delhi-1.
2. The Director,
Central Council for Research in
Ayurveda and Sidha, No. 61-65,
Institutional Area, Opposite D Block,
Janakpuri, New Delhi-58.
3. Ad-hoc Disciplinary Authority cum Inquiry Officer,
Regional Officer,
Regional Research Institute (Ayur),
Itanagar.
4. Dr P. Makhija (Inquiry Officer)
Research Officer, Regional Research Institute (Ayur)
Tadgong Gangtok,
Sikkim-731102.

.....Respondents

By Advocate Mrs M. Das, Sr.C.G.S.C.



.....

ORDER (ORAL)MR MUKESH KUMAR GUPTA, MEMBER (J)

Smt Meera Kushwaha, in this application filed under Section 19 of the Administrative Tribunals Act, 1985 challenges validity of order dated 27.5.2004 (Annexure-G) vide which order dated 27.10.2003 inflicting the punishment of recordable censure and further enquiry has been set aside. She also challenges validity of Memorandum dated 20.7.2005 vide which enquiry officer's report had been furnished to her requiring her to submit representation, if any, against the finding recorded holding that the charge stood proved against her. She also seeks direction to reinstate her in service in terms of order dated 27.10.2003 with arrears salary for suspension period w.e.f. 9.4.2003 till date treating said period as on duty for all purposes with all consequential benefits.

2. Admitted facts are charge Memo dated 8.7.2003 has been issued under Rule 14 of CCS (CCA) Rules 1965 containing 5 articles of charges and ultimately upon holding oral inquiry detail order dated 27.10.03 penalty of recordable censure was inflicted on her. On oral enquiry held, adhoc disciplinary authority was inclined to take lenient view and awarded the aforementioned penalty with warning that she must keep away herself from any illegal construction in future within the premises of the Institute. She was also reinstated in service with immediate effect. Her period of suspension from 9.4.2003 to date of said order was treated as spent on duty for all intent and purposes. Later on the appellate authority & Director of Jawaharlal Nehru Bhartiya



Chikisa Avum Homoeopathy Anusandhan Bhawan, New Delhi rescinded the aforesaid penalty order holding that the adhoc disciplinary authority did not accept^d the incomplete enquiry report and he proposed to hold further enquiry into the matter by appointing a responsible officer from State Govt. against her on the same charge already framed against her. In continuation of said order, enquiry officer was appointed and an oral enquiry was held. Vide Memorandum dated 20.7.05 (Annexure-J) the enquiry report was made available to her requiring her to submit representation against it, if any, within a period of 15 days from the date of its receipt.

3. The aforesaid order Memorandum dated 20.7.2005 as well as consequential action has been challenged in present O.A.

4. The basic ground urged in support of the contention is under Rule 29 of CCS (CCA) Rules 1965, the appellate authority could not have taken suo motu action for recalling & reviewing of the order beyond the period of 6 months from the date of order, so proposed to be revised. Though numerous other contentions have been raised but we do not intend to enter into those grounds as the present O.A. can be decided on pure question of law. Under Rule 29 of CCS (CCA) Rules appellate authority is precluded from taking action of revising the order passed by the disciplinary authority beyond the period of 6 months from the date of the order, contended emphatically, learned counsel.

5. Respondents in their reply have raised numerous contentions including that she was convicted by a court of law on the same allegation as contained in charge memo dated 8.7.2003 besides

numerous other contentions raised. We may at this stage note that Criminal Court vide judgment dated 10.6.2005 (Annexure C-2) has only warned her and required her to execute bond for good behaviour. There is absolutely no answer furnished in reply to aforesaid legal contention raised by the applicant.

6. We have heard learned counsel for the parties, perused the pleadings and other materials placed on record. In our considered view since the matter needs to be disposed of on short question of law, we are not inclined to consider any other aspects, which otherwise cannot dilute our findings. Relevant excerpts of Rule 29(1) are produced below

:

"29. (Revision)

(1) Notwithstanding anything contained in these rules –

.....
(v) the Appellate Authority, within six months of the date of the order proposed to be; or

.....
may at any time, either on his or its own motion or otherwise call for the records of any inquiry and any order made under these rules or under the rules repealed by Rule 34 from which an appeal is allowed, but from which no appeal has been preferred or from which no appeal is allowed after consultation with the Commission where such consultation is necessary, and may

(a) confirm, modify or set aside the order; or

(b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or

(c) remit the case to the authority which made the order to or any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or

(d) pass such other orders as it may deem fit.

[Provided that no order imposing or enhancing any penalty shall be made by any revising authority unless the Government servant concerned has been


2

given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in Clauses (v) to (ix) of Rule 11 or to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in those clauses, and if an inquiry under Rule 14 has not already been held in the case, no such penalty shall be imposed except after an inquiry in the manner laid down in Rule 14 subject to the provisions of Rule 19, and except after consultation with the Commission where such consultation is necessary].”

On perusal of above, we have come to inescapable conclusion that the appellate authority though is empowered to revise an order of the disciplinary authority either modifying or setting aside the said order and imposing other penalty including remanding the matter for further enquiry as may deem fit in the circumstances, but it has to be done time limit provided in said rules i.e. “within six months of the date of order”. Admittedly penalty order of recordable censure had been passed on 27.10.2003, while the order of its rescinding has been issued on 27.5.2004, which is admittedly beyond the period of 6 months, so required under the rules.

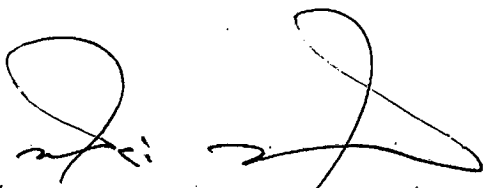
6. Furthermore, we may note that no opportunity of hearing has been afforded to the applicant prior to passing of said order. In this view of the matter, further proceeding initiated against her in the nature of holding further enquiry and action proposed to be taken is rendered unsustainable and void ab-initio besides being illegal.

Thus O.A is allowed. Order dated 27.5.2004 as well as memorandum dated 20.7.2005 being Annexures G & J respectively are quashed and set aside. Consequently she would be entitled to benefit of



order dated 27.10.2003. She should be paid all the dues within a period of 3 months from the date of receipt of this order. No costs.

(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER



(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

/pg/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

Original Application No. 246 / 2006

Smt. Meera Kushwaha.

..... Applicant.

Vs -

Union of India & Ors.

..... Respondents.

LIST OF DATES

Dates	Particulars	Para	Annexure	Page
5.11.1986	Applicant joined as 'Aya' in the Regional Research Institute (Ayurveda), Itanagar.	4(ii)		3
9.4.2003	Order of suspension	4(iii)	A	3
8.7.2003	Letter of respondent through which charge-sheet was served leveling five charges on applicant.	4(iv)	B	3-4
26.7.2003	Defence statement of applicant to respondent No.3.	4(v)	C	4
13.10.2003	Respondent No.3 supplied the enquiry report which was conducted as per Rule 14 of C.C.S.(CCA) Rule.	4(vi)	D	4-5
22.10.2003	Applicant submitted her representation against the enquiry report.	4(vii)	E	5
27.10.2003	Final order passed by the disciplinary authority imposing penalty of (Recordable censure with further warning) and also reinstate her in service treating the suspension period as on duty.	4(viii)	F	5-6
June, 2004	Applicant received order dated 27.5.2004 issued by the respondent No.2 whereby said authority set aside the order dated 27.10.2003 and proposed to initiate further enquiry from initial stage by appointing another enquiry authority.	4(x)	G	6
28.4.2005	Letter of Defence Assistant withdrawing himself from the case due to the unfair and biased	4(xi)	H	6-7

Filed by the applicant
 through: L. Wapang.
 26.9.06
 Advocate

	attitude of the enquiry authority and also due to misbehaviours of the said authority.			
6.5.2005	Representation of the applicant expressing her inability to participate in enquiry without help of Defence Assistant copy of which was also sent to the respondent No.2 through registered post.	4(xi)	I	6-7
20.7.2005	Memorandum issued by the respondent No.2 through which the copy of fresh enquiry report served to the applicant and was asked to submit representation, if any.	4(xii)	J	7-8
August, 05	Writ petition being W.P(C) No.513(AP)/2005 was filed.	4(xiv)		7-9
13.9.2006	Order passed by the Hon'ble High Court in W.P(C) No.513(AP)/2005 directing applicant to approach this Hon'ble Tribunal within two weeks alongwith some other observation.	4(xiv)	K	7-8

Filed by -

(Limawapang)

Advocate.

3
2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

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

Original Application No 246 of 2006

Smt. Meera Kushwaha.

.....Applicant.

- Vs -

The Union of India and Ors.

.....Respondents.

I N D E X

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For use in the Office

Signature

Date:

24
Filed by the applicant
through : V. Wapeng
26.9.06
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

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

Original Application No. 246 of 2006

BETWEEN

Smt. Meera Kushwaha

Working as 'Aya',

Regional Research Institute (Ayurveda)

P.O-Itanagar, Arunachal Pradesh.

Applicant.

1. Union of India,

Represented by the Secretary,

Ministry of Health and Family

Welfare, Govt. of India,

New Delhi. - 1

2. The Director,

Central Council for Research in

Ayurveda and Sidha, No.61-65,

Institutional Area, Opposite D-Block,

Janakpuri, New Delhi-58.

3. Ad-Hoc Disciplinary Authority-cum-

Inquiry Officer, Regional Officer,

Regional Research Institute (Ayur),

Itanagar.

4. Dr. P. Makhiya (Inquiry Officer),
Research Officer, Regional Research
Institute (Ayu), Tadgong, Gangtok,
Sikkim-731102.

.....Respondents.

**PARTICULARS OF THE ORDER(S) AGAINST
WHICH THIS APPLICATION IS DIRECTED -**

This application is directed against :

- a) Order dated 26/27-5-04 through which the Appellate Authority has set aside the final order dated 27.10.03 passed by the Adhoc Disciplinary Authority and also proposed for further enquiry (Annexure G.)
- b) Subsequent enquiry proceedings alongwith memorandum dated 20.7.05 (Annexure - J) issued by the Respondent No.2.

2) JURISDICTION:

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

3) LIMITATION

The applicant also declares that the present application is within the limitation period as has been prescribed under Section 21 of the Administrative Tribunal Act, 1985.

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4) FACTS OF THE CASE

i) That the applicant is a citizen of India by birth. She hails from village 7, P.O-Anmour, District-Chapra (Bihar) and as such she is entitled to all the rights, protections and privileges guaranteed under the Constitution of India and the laws framed thereunder in force.

ii) That the applicant states that she passed Bihar Board Examination which is equivalent to Class-X, passed standard. The applicant joined in regular service as "Aya" at Regional Research Institute (Ayurveda), Itanagar on the date of 05.11.1986. The R.R.I.(Ayur), Itanagar is a State Office of the Central Council of Research in Ayurveda and Siddha which is again an autonomous body under the Ministry of Health and Family Welfare, Govt. of India.

iii) That the applicant states that she was placed under suspension vide an order issued on the date of 09.04.03 under Sub Rule (I) of Rule 10 of the CCS(CC&A) Rule 1965 contemplating a departmental proceeding.

A copy of the order dated 9.4.03 is annexed herewith as Annexures-A.

iv) That the applicant states that after suspension, vide a letter No.RRI/IIA/VIG/1/2003-04/16 dated 8.7.03, the applicant was charge-sheeted by one Dr. M.N.

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Surjyavanshi, the Adhoc Disciplinary Authority of RRI (Ayur), Itanagar. The said charge sheet was accompanied by the Memorandum annexed with Article of Charges, List of documents and list of witnesses.

A copy of the letter dated 8.7.03 alongwith the memorandum is annexed herewith as Annexure-B.

v) That the applicant states that in the Article of Charges of said Memorandum, there were in total 5(five) charges and the applicant was directed to submit written statements if any against the charges. The applicant submitted her statements of defence on the date 26.7.03 to the said Adhoc Disciplinary authority, i.e. the respondent No.3. The applicant denied the charges leveled against her.

A copy of written statement dated 26.7.03 is annexed herewith as Annexure-C.

vi) That the applicant states that the respondent No.3, on being not satisfied with the reply of the applicant intends to proceed against the applicant by departmental enquiry and himself get appointed as the Inquiry Officer. During the course of the enquiry as was conducted by the respondent no.3, examined all available witness, allowed to cross by the applicant and concluded the inquiry. After such conclusion of the enquiry, the respondent no.3 vide

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a letter No.RRI/ITA/VIG/I/2003-04/41 dated 13.10.03 supplied a copy of the said enquiry report to the applicant and asked to submit representation if any within a period of 10 days from the date of receipt of the said enquiry report.

A copy of letter dated 13.10.03 alongwith the enquiry report is annexed herewith as Annexure-D.

vii) That the applicant states that she submitted her representation on the date of 22.10.03 to the respondent No.3 and requested to the said Adhoc Disciplinary authority to exonerate her from the charges on the face of detailed explanation made through her said representation.

Further, requested to revoke the order of suspension and to let the applicant to join in duty.

A copy of the representation dated 22.10.2003 is annexed herewith as Annexure-E.

viii) That the applicant states that Disciplinary authority did not exonerated the appellant from the charges. In result, said Adhoc Disciplinary authority, vide order dated 27.10.2003 imposed the penalty of recordable censure with further warning that the applicant must keep away herself from any illegal construction in future within the premises of the Institute. The applicant was also reinstated in

service with immediate effect and the period of suspension from 9.4.2003 to the date of the said order was also treated as on duty for all intent and purposes.

Copy of the said order dated 27.10.03 is annexed herewith as Annexure-F.

(ix) That the applicant states that though vide said order dated 27.10.03, the penalty of censure imposed upon the applicant and revoked her suspension order treating the period as on duty, however, the applicant till date remain under suspension. Though, she has been kept under suspension, but she has not been given the subsistence allowance as per required rate.

x) That the applicant states that to her utter surprise, in the month of June, 2004 she received one order dated 27.5.2004 issued by the Director, i.e., appellate authority through which the said authority set aside the order dated 27.10.2003 and also further stated that further enquiry to be conducted by appointing an officer on the same charges as were framed against her. The said authority issued the said order without following the due procedure of natural justice as well as the statutory provision.

Copy of the said order dated 27.5.2004 is annexed herewith as Annexure-G.

xi) That the applicant, as was not aware about the legal position, participated in the fresh enquiry which was started on 21.4.2005 along with her

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defence Assistant. But, the enquiry Officer conducted the proceeding unfairly and arbitrarily against which the defence Assistant raised objection.

As the Defence Assistant raised objection, the enquiry officer misbehaved with him and hence Defence Assistant withdraw himself from the proceeding and hence the applicant was handicapped informed the said authority about her inability to participate in the proceeding. The Defence Assistant, Shri Mohan Kaye vide his letter dated 28.4.2005 expressed his inability to conduct the case. The applicant also through her representation dated 6.5.2005 informed her inability without any Defence Assistant. Be it also stated that the enquiry officer used condemnatory words towards the people of Arunachal Pradesh, besides the thing the enquiry Officer himself acted as if he was presenting officer.

Copy of the letter dated 28.4.2005 and representation dated 6.5.2005 are annexed herewith as Annexure-H and I respectively.

- xii) That the applicant states that inspite of the aforesaid representation, the enquiry officer, continued the preceding very illegally and without following the settled position of law. In the enquiry, behind the back of the applicant, allowed new prosecution witness and also new documents which

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were not annexed with the charge-sheet and accordingly completed the proceeding and came to the conclusion that all the charges proved. The applicant has been served with the copy of the said enquiry report by the Director through his Memorandum dated 20.7.2005 and thereby asked her to submit representation, if she desires so, within a period of 15(fifteen) days of receipt of the same.

Copy of the said enquiry report alongwith Memorandum dated 20.7.2005 is annexed herewith as Annexure-J.

xiii) That the applicant states that the said respondent N.2 set aside the earlier order of penalty and initiated the de-novo proceeding without providing any opportunity to this applicant as is required under statutory provision of law and also after the stipulated period and hence the same is not within his power. The said authority with malafide and motivated intention initiated the fresh proceeding without following the settled position of law. This is also very much clear from the fact that though the applicant vide her representation dated 6.5.2005, copy of which also sent to that authority, did not stopped the further proceeding, rather he accepted the report without applying his mind. Be it also stated here as the earlier enquiry was conducted by

xiii) following the due procedure of Rule 14, the appellate authority cannot initiate further/De-Novo proceeding in any manner.

xiv) That the applicant, on being consultation with legal expert, came to know that the action of the respondent in starting fresh enquiry is very much illegal, arbitrary and against the provision of statutory Rule. The respondent No.2 initiated the fresh/De-novo enquiry proceeding from the very stage of issuing the charge-sheet, with motivated intention and in contrary to the statutory Rule. She also apprehended that the said authority, on the basis of the enquiry report as was furnished vide Memorandum dated 20.7.2005 may impose major penalty on her and hence she approached the Hon'ble Gauhati High Court by filing a writ petition being W.P(C) No.513(AP)/2005 and the Hon'ble High Court was pleased to direct this applicant to approach this Hon'ble Tribunal with certain other direction by the judgment and order dated 13.9.2006.

Copy of the said judgment and order dated 13.9.2006 is annexed herewith as Annexure-K.

xv) That the applicant states and submits that as the matter is under jurisdiction of this Hon'ble Tribunal and as the applicant is aggrieved with the action of

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the respondents and as she apprehends that the Respondent No.2 may impose any penalty on the basis of the report, she approached this Hon'ble Tribunal by filing this application on the following grounds amongst other :-

5) G R O U N D S

- i) For that the action of the respondent Nos.3 and 4 is illegal, arbitrary and whimsical and hence is not sustainable in the eye of law.
- ii) For that as the earlier enquiry was held by following the due procedure as laid down under Rule 14 of C.C.S.(C.C.A) Rule, 1965, there is no scope for the Appellate authority to initiate a fresh/further/De-Novo enquiry, and the said authority is bound to act on the basis of the enquiry report submitted earlier.
- iii) For that as there was no allegation either from the prosecution side or from the applicant side about violation of any provision of Rule 14 of C.C.S.(C.C.A) Rule 1965, and as already the disciplinary authority accepted the earlier enquiry report and passed the final order imposing penalty of censure on the applicant, there is no scope for the appellate authority to initiate De-Novo proceeding from the stage of the charge-sheet and hence the same is not maintainable in the eye of law.

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iv) For that the appellate authority cannot hold the power of Provisional jurisdiction after lapse of the statutory period of six months as has been done in the instant case.

v) For that as the impugned order dated 27.5.2004 has been issued without affording any opportunity of being heard to the applicant the same is not sustainable in the eye of law.

vi) For that the appellate authority initiated the Fresh/De-Novo proceeding with malafide intention without following the due procedure and hence the same is liable to be set aside and quashed.

vii) For that as the appellate authority order dated 27.5.2004 is non-speaking order the same is liable to be set aside and quashed, moreso as there was no violation of provision of Rule 14 of CCS(CCA) Rule 1965.

viii) For that the action of the respondents is violative of provisions as laid down under Article 14 and 16 of the Constitution of India.

ix) For that the action of the respondent No.2 is whimsical, biased and motivated and herice is not tenable.

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viii) For that at any rate the action of the respondents is not sustainable in the eye of law and liable to be set aside and quashed.

6) **DETAIL OF REMEDIES EXHUSTED -**

The applicant states that she has availed all the remedies as stated in paragraphs 4 of this application but failed to get justice and hence there is no other alternative remedy available to her other than to approach this Hon'ble Tribunal by filing this application.

7) **MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.**

The applicant further declares that he has not filed any application or writ petition or suit regarding this matter before any Court or any other bench of this Hon'ble Tribunal nor any such petition or suit is pending before any of them.

8) **RELIEF SOUGHT FOR**

Under the facts and circumstances stated above the applicant prays for the following reliefs:-

- i) To set aside and quash the order dated 27.5.2004 (Annexure-G) alongwith further enquiry proceeding including the enquiry report as was furnished with Memorandum dated 20.7.2005 (Annexure-J).

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- ii) To direct the respondents to reinstate the applicant as per final order dated 27/10/2003 (Annexure-F).
- iii) To direct the respondents to pay all arrear salaries for the suspension period i.e. w.e.f. 9.4.2003 till date treating the said period as on duty for all purposes as per Annexure-F.
- iv) Cost of application.
- v) Any other relief of reliefs as your Lordships may deem fit and proper.

9) **INTERIM RELIEF PRAYED FOR -**

- i) Under the fact and circumstances stated above your Lordships may further be pleased to stay further proceeding/action on the basis of the impugned Memorandum dated 20.7.2005 (Annexure-J).
- ii) To direct the respondents to pay subsistence allowance at the rate of 75% till finalization of the case.

10)

11. **PARTICULARS OF I.P.O. :**

- a) IPO No. 280926742
- b) Date of Issue - 28.9.06
- c) Payable at - Aurahat

11) **LIST OF ENCLOSERS**

As stated in Index.

.....Verification.....

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VERIFICATION

I, Smt. Meera Kushwaha, wife of Sri Ajay Kumar Kushwaha, aged about 38 years, resident of Mob-II, Itanagar, P.O-Itanagar, Dist-Papum Pare, Arunachal Pradesh, at present working as 'AYA', in the Regional Research Institute (Ayurvede), do hereby verify that the statements made in paragraphs 1 to 12 of this application are true to my personal knowledge and the submission, I believe the same to be true as per legal advice and I have not suppressed any material fact of the case.

And I sign this Verification on this the 24th day of September, 2006 at Guwahati.

Date - 24.9.06

Meera Kushwaha
Signature

Place - Guwahati.

ANNEXURE - A

4-15-

F.No. 11-27/86-RR1/ITA/PF/51

Dated. 09/04/03

OFFICE ORDER No. 05/2003-04

Where a disciplinary proceeding
against Smt. Meera Kuchwaha, Aya
is contemplated/pending

Where a case against Smt.
Meera Kuchwaha, Aya in r/o
a criminal offence in under
investigation inquiry/trial

Now, therefore, the undersigned (the appointing Authority
are an authority to which it is subordinate or any other Authority
empowered by the Director, C.C.R.A.S., Min. of Health & F.W, Govt.
of India New Delhi under DYL-440 of Council's letter No. F.No.
32-33/88-CCRAS/Adm. dated 30-5-1987 in that behalf) in exercise
of powers conferred by sub-rule (1) of Rule 10 of the Central Civil
Services (Classification, Control and Appeal) Rules, 1955, hereby
place the said Smt. Meera Kuchwaha, Aya under suspension with
immediate effect.

It is further noted that during the period that this order
shall remain in force the Headquarters of Smt. Meera Kuchwaha, Aya
should be ITANAGAR and the said Smt. Meera Kuchwaha shall not leave
the Headquarters without obtaining the previous permission of the
undersigned.

(Dr. Rama Shankar)

Research Officer (Bot) In-Charge

Name and Designation of the Suspending
Authority

Copy to:-

1. Smt. Meera Kuchwaha, Aya, R.R.I. Itanagar.
Order regarding subsistence allowance admissible to her
during the period of her suspension will issue separately.
2. The Director, CCRAS, New Delhi -58 for information and
necessary action
3. Dr. Rama Shankar, Research Officer (Bot) In-Charge R.R.I.
Itanagar for information

P.T.O.

Attested by

25/1/06
Advocate.

*Suspension
Order*

15

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4. Non handling and physical assault, by her self as well as her son aged about 20 years,
5. P/F of incumbent.

Bansal

Research Officer, Incharge,
Police Station, (Nag)
Bansal, 701111

Attested by

[Signature]
25/9/66
Advocate.

- 17 - ANNEXURE

REGIONAL RESEARCH INSTITUTE (AYU)
ITANAGAR - 791 111,
ARUNACHAL PRADESH

No. RRI/ITA/VIG/1/2003-04/16

Dated: 8th July, 2003.

To

Smt. Meera Kushwaha,
Aya, (Under suspension),
R.R.I. (AYU),
ITANAGAR.

Madam,

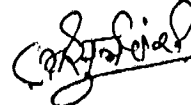
Sub: Issue of Charge Sheet - reg.

It is hereby inform that the undersigned is issued a charge sheet against you under Government of India Order No.4 (u) below Rule 12 of CCS (CCA) Rules, 1965 to conduct enquiry commission in the rank of Ad-hoc Disciplinary Authority of the Department. The charge sheet is herewith enclosed.

Therefore, the enquiry commission is given the opportunity to you defend the charge sheet within the period of 10 days from the date of receipt of this letter and submit your explanation to the undersigned.

Further, if it is failed to submit your explanation as per charge sheet within the stipulated period mentioned above, it is presumed that you have been accepted the charge sheet which is framed by the undersigned and the necessary proceedings will be initiated against you as per rule.

Yours faithfully,



(Dr. M.N. Suryawanshi)
Ad-hoc Disciplinary Authority
Regional Research Institute (AYU)
Itanagar-791 111.

Encl: As above

Charge sheet - 1 to 1

Documents - 1 to 1

Attested by


Advocate.

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W

REGIONAL RESEARCH INSTITUTE (AYURVEDA)
ITANAGAR - 791 111,
ARUNACHAL PRADESH

File No. RRI/ITA/VIG/1/2003-04/16,

Dated: 8th July, 2003.

MEMORANDUM

The undersigned proposes to hold an enquiry against Mrs. Meera Kushwaha, Aya (Under suspension) of Regional Research Institute (Ayu), Itanagar under Rule 14 of the Central Civil Service (Classification Control and Appeal) Rule 1965. The substance of the imputations of misconduct or misbehavior in respect of which the enquiry is proposed to be held is set out in the enclosed statement of Articles of charges (Annexure-I). A statement of the imputation of misconduct or misbehavior in support of each article of charge is enclosed (Annexure-II). A list of document by which and a list of witness by whom, the article of charge are proposed to be sustained are also enclosed (Annexure-III & IV).

2. Mrs. Meera Kushwaha, Aya (Under suspension) is directed to submit within 10 (Ten) days of the receipt of this Memorandum a written statement of her defense and also to state whether she desires to be heard in person.
3. She is informed that an inquiry will be held only in respect of those Article of charges as are not admitted. She should, therefore, specifically admit or deny each article of charges.
4. Mrs. Meera Kushwaha, Aya is further informed that if she does not submit her written statement of defense on or before the date specified in Para-2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provision of Rule 14 of the CCS (CCA) Rule, 1965 or the orders/directions issued in pursuance of the said Rule, the inquiring authority may held the inquiry against her Ex-parte.
5. Attention of Mrs. Meera Kushwaha, Aya (Under suspension) is invited to Rule 20 of the Central Civil Service (Conduct) Rule, 1964, under which no Government servant shall bring or attempt to bring any political on out side influence to bear upon any superior authority to further her interest in respect of matters pertaining to her service under the Government. If any representation is received on behalf of her from another person in respect of any matter dealt with in those proceeding it will be presumed that Mrs. Meera Kushwaha, Aya is aware of such a representation and that it has been made at her instance and action will be taken against her for violation of Rule 20 of the CCS (Conduct) Rules, 1964.

For Official

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ANNEXURE - II

ARTICLE - I

That Mrs. Meera Kushawaha, Aya (Ayu) constructed a Cow shed in first part of 2000 in the last boundary of Institute and occupy the land illegally of the Institute without permission of the Director of CCRAS or Research Officer In charge, Itanagar and make unhygienic to the Institute Campus and Mrs. Meera Kushawaha were tried to obtain permission from the Research Officer Incharge on 17.06.2000.

ARTICLE - II

That Mrs. Meera Kushawaha, Aya (Ayu) had damaged some valuable Medicinal Plant by accumulated huge quantity of fodder (Puwal) for your Cows and you are also damaged the boundary fencing of the Institute by erecting the poll of the fencing for construction of the cow shed and managing the direct road for the purpose of easy going on her own choice and you are also requested to replace the plants of actual species and repair the fencing within 5 days, such as Sarpagandha 6 Nos. and Vasaka 10 Nos, vide F.No.RRI/ITA/261/Admn/921, dated 05-03-2002.

ARTICLE - III

That said Mrs. Meera Kushawaha, Aya (Ayu), on 09-04-2003 at about 10 a.m. when Dr. Rama Shankar was arranged for repairing and replacement of Institute fencing by casual labour which was damaged by Mrs. Meera Kushawaha. Mrs. Meera Kushawaha was tried to obstruct the repairing works and also tried to removed the fencing for her easy coming and going to her house. After received complaint from labour, Dr. Rama Shankar visit the place and she began shouting loudly and used unparliamentarily language to Research Officer In charge and subsequently she herself along with her son (aged about 20 years) assaulted physically to Dr. Rama Shankar and go injured on his head (left side) and also blow highly on his upper side of head. Vide. No.11-27/36/RRI/17A/PF/49, dt.9-4-03 and copy of F.I.R. lodge on 9-4-2003 File No.11-27/36/RRI/ITA/P/47, by Dr. Rama Shankar.

ARTICLE - IV

That Mrs. Meera Kushawaha, Aya (Under suspension), Itanagar on 5-3-02 she entered into the office room of the Research Officer Incharge with angry mood and throw the letter vide No.RRI/ITA/261/Admn/921 on the table of Research Officer In charge and she shouted loudly by using unparliamentarily language to the Research Officer Incharge and a Memorandum also issued to you vide No.11-27/86-RRI/ITA/PF/936, dated 06-03-2002.

(Signature)

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- 4 -

ARTICLE - V

That Mrs. Meera Kushawaha, Aya, (Ayu), Itanagar on 6-3-2002 and your husband were involved in throwing broken glasses inside the office room of Dr. Rama Shankar, Research Officer, Incharge were he was not present in the room and might have been injured if he were in and you have also ask by office order No.11/7/86-RR/ITA/PF/936 dated 6.3.02 to reply before 15.3.02.

ANNEXURE - III

List of documents by which the articles of charge framed against Mrs. Meera Kushwaha, Aya (Ayu), RRI, Itanagar are proposed to be sustained.

1. Medical Certified/Report of Rama Krishna Mission Hospital, Itanagar. (Medical Certificate in forwarded to Court with charge sheet for further criminal proceedings).
2. Police Report/FIR lodge to Officer in charge, Police Station, Itanagar.
3. Proposal application by Mrs. Meera Kushawaha on 17.6.2000.
4. File No.RRI/ITA/261/ADMN/3093-94 dt. 15.02.2001.
5. File No.RRI/ITA/261/ADMN/921 dt. 05.03.2002.
6. File No. 11-27/RRI/ITA/PF/49, dt. 9.4.03 (Fax Message).
7. File No.11-27/36/RRI/ITA/P/47, dt. 9.4.2003 (FIR).
8. File No.11-27/86/RRI/ITA/PF/936, dt. 06-03-2002.
9. File No. RRI/ITA/261/ADM/87-88, dt. 21.5.2002.
10. File No. 40-2/99/CORAS/ESTD, Dt. 9-2-2001.
11. File No.RRI/ITA/261/ADM/87-88, Dt. 21.5.2001.

ANNEXURE - IV

List of witness by whom the Article of charge framed against Mrs. Meera Kushwaha, Aya (Ayu) are proposed to be sustained.

- ✓1. Shri. Shailendra Kumar Gupta (Chapراسي).
- ✓2. Shri. Shiv Shankar Rai (Ward boy)
- ✓3. Shri. Jogesh Baruah
- ✓4. Shri. Rudal Singh (Driver)
- ✓5. Shri. Satendra Mallik
- ✓6. Shri. Krishnina Chetry.

Attested by

25/9/06
Advocate.

C. S. S. S. S. S.

To

The Ad-hoc Disciplinary Authority
Regional Research Institute (AYU)
Itanagar-791111.

Sub : Written statement of Defence.

Ref : No.RRI/ITA/VIG/I/2003-04/16

Sir,

With due respect I humble submission I would like to refer letter No. cited above where by I have been issued certain charges with a view to give me opportunity to make my written statement if defence within prescribed period. I have carefully gone through the charges brought against me and my reply against each of article of charge it as under.

1. I have been charged that I constructed a cow shed in the last boundary of institute, occupy the land illegally of the institute without permission of the Director of Institute of Research Office In-charge, Itanagar and make unhygienic.

In this regard I have to say that no mention has been made in the charge about the date of construction of the cow shed which makes the charge lacking in precision and accuracy and not distinct. Construction of cow shed is not sufficient to indicate the actual place, distance and direction from the institute.

And in absence of these requirement the charge is void. It is incorrect to say that I had occupied the land of institution without permission of the Director of Institute, Itanagar and made unhygienic. Rather, the construction of cow shed was made adjacent in my government residential quarter with due verbal permission Director of Institute, which had already effected illegally. If the occupation of land was illegal a proceeding under public premises act 1971 could be started by a duly Estate officer which solely authorized authority to take action in public premises act by that was not done contrary to the mandate of public premises Act 1971.

It is also incorrect to say that I had made the campus of the Institution unhygienic. It may take the note of the fact that my old aged mother's health condition was deteriorating day by day and it was suggested that cow milk would bring improvement in her health. Hence, I kept a cow to arrange milk for my ailing mother. You may also take the note of the fact that the right to live with dignity emphasised in Art-21 of the Indian Constitution includes right to health and hence in order to save my mothers life it was absolutely necessary to keep a cow for fetching pure milk. There is nothing to show that I had ever made Institute campus unhygienic. Rather, I had kept the cowshed and surrounding neat & clean and hygienic to the public health and safety. There is no occasion to show that any person or property affected due to unhygienic surrounding arisen for keeping up a cow and in absence of any injury to public health and safety and can't be charged for keeping the ^{compos}compose unhygienic. In Hindu mythology cow is regarded as God and as such, I kept them with proper dignity and devotion. No question of unhygieniousness.

For the reasons given above I deny the charge framed against me by the authorities with mala fide intention of the authority to harass me.

2. I have been charged that I had damaged some valuable medicinal plant and accumulated here large quantity of fodder (Puwal) for our cow and also damaged the boundary fencing for construction of the cowshed and managing the direct road for the purpose of easy going at my own choice.

Attested by

[Signature]
25/9/06
Advocate.

ANNEXURE - C

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RECEIVED
26/9/06

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It is baseless to say that I had damaged some valuable medicinal plant by accumulating huge quantity of fodder (Puwal) for the simple reason that there is no mention in the charge about the species of medicinal plant that were alleged to have been damaged by me and also what quantity of medicinal plant were damaged are not mentioned in the charge. It is also not true that I had damaged the fencing for construction of cow shed. There is nothing as to what amount of boundary fencing had been damaged and what amount of pecuniary loss was sustained by the department for alleged damage of the boundary fencing. There is also nothing as to which direction I had managed the direct road by damaging the alleged boundary fencing. In absence of these mandates as requirement I can't be charged for the charges framed against me in this article of charge.

In view of the above ground reasons I deny the charge in toto and request for exoneration from the charge.

3. I have been charged that on 9-04-2003, at 10.00 A.M I have obstructed repairing and replacement of fencing of the Institute arranged by Dr. Rama Shankar, Research Officer (Bot) Incharge and also tried to remove the fencing as allegedly reported by a labourer. It has also been alleged that I shouted loudly and uses un-parliamentary words to Dr. Ram Shankar and my son assaulted physically to Dr. Ram Shankar as a result Dr. Ram Shankar sustained injury on his head (left side) and also blow highly on upper side of head.

In this regard it is to say that the charge is silent about the names of labourers who obstructed by me to repair the fencing. He is also not mentioned as to how I have obstructed them in repairing works of the fencing and tried to remove the fencing. It is beyond my comprehension as to what prompted me to obstruct the repairing works and what was the actual place of the incidents and without these facts of the charge it is not possible to submit my defence and to contest the charges and without specific and accuracy this charge is void and not sustainable in the eye of law.

The charge is vague in the sense that the actual implication of the charge use of un-parliamentary words to Dr. Ram Shankar is not mentioned in the charge that being so this charge is also not sustainable and denied. As regards to physical assaulted to Dr. Ram Shankar, in this regard I like to refer, I have to say that no specific mention has been made in the charge whether it was civil assault or criminal assault. The actual meaning of both the assault defined as Black's law dictionary is incorporated below to test the validity of charge of assault.

Civil Assault : An assault considered as a tort and not a criminal. Although the same assaultive conduct can be both as tort and a crime, thus for isolates the legal elements that give rise to civil liability.

Criminal Assault : An assault considered as a crime and not as a tort. The form isolates the legal elements that give rise in criminal liability even though the act request also have been tortures.

In such a situation we find that if the intention of the authority to frame charge of physical assault is civil assault then the charge can be framed or the other hand if the intention of the authority is towards criminal assault then no charge can be framed as there is criminal court to decide the issue. It may not be out of place to say that this charge of physical assault is meant for criminal assault for which a criminal case has already been investigation and in this situation two proceedings could not be started for same offence in two different areas as it amounts to double jeopardy attracting Article 20 of the Indian Constitution. Also, no prudent man could come to a definite conclusion

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that a low paid employee i.e 'Aya' could have even dared to misbehave and assault the in-charge under whose disciplinary central she is working.

In view of the above the charge of assault is patently wrong and framed with a view to harass me, which is injustice, illegal and actuated with a malafide intention. It may also take note if the fact that the opponent party i.e. Dr. Ramshankar who is a witness against me and victim of alleged assault has passed my suspension order which is quite contrary to the constitutional mandate and maxims that no man can be judge in his own-charge. In view of above charge framed against me is void and not sustainable and thus I deny the charge framed against me.

4. I have been charged that I on 5-3-02, I entered into the office room of the Research Officer in-charge with angree mood and throw the letter vide NoRRI/ITA/261/ADMIN/921 as the too be of the Research Officer in-charge and a memorandum also issued vide No.11-27/86-RRI/ITA/PF/936 dated 06-03-2002.

In this context I have to say that there is no substance in such computation of charge. I had entered in the office room of the officer in-charge and throw such letter. No reasonable and prudent man can come to such conclusion that a low paid employee i.e. Aya who is working under disciplinary control of the officer in-charge could dare to do such type of undisciplined activities. There is no eyewitness except Dr. Rama shankar, who is opponent party, whose statement can not be relied on to sustain the charge. The charge is also silent about the actual time when I entered into the office room of the officer-in-charge which it self is go to show that the charge is false, fabricated and framed with a view to harass me. I, deny the charge in toto.

5. That I have been charged that on 06—03-2002 self and my husband were in valued in throughing broken glasses inside the office room of Dr. Ramshankar Research-Officer-in-charge when he is not present in the room and might have been injured if he was in.

In this context it is worthwhile to mention here that actual time of throwing broken glasses in the office chamber of Dr. Ramshankar is not given which its go in show that the charge is framed at the instance of Dr. Ramshankar who is crinical to me who statements have no reduce. It is also not under stood that if Dr. Ramshankar was not present in the office chamber then what prompted us to through broken glasses in the office chamber. These is also not mention, that who saw us throwing such glasses. Take the note of the fact that during office working hours people came to RRI unit for their medical check-up and treatment and thus it can easily be considered that there might be gathering of the people in the RRI unit Itanagar and in presence of huge gathering of the people no one can dare to through glasses as alleged. No reasonable and prudent man can came such a conclusion. That being the charge is false, concocted and framed at the influence of Dr. Ramshankar to harass me.

In view of the above any reasonable and prudent man can came to this conclusion that all the charges are false concocted, baseless and brought at the distance of Dr. Ramshankar with a intention to harass me, which show malafide and arbitrary exercise of statutory discretion by disciplinary authority. This fact find support from the fact the fact that Dr. Ramshankar, who is opponent party has passed order suspending me. In his own cause, where as machine of law says that the man should be a judge in his own course. My objection raised yelled no fruits and the authority turned deaf ears. You may also take the note of the fact that the substances allowances as paid to a suspended employee for survival of himself / herself and family member which can not be denied because it forms a part of natural justice to the concerned employee. But, in miracle the authority will discharged all canons of justice and pay substance allowance after deducting substance part of the substance allowances on the pleas of recovery of loan which amounts to actual of reasonable opportunities to defend my self attracting article 311(2) of

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the Indian Constitution.. You may take the note of the fact that the reasonable opportunity is to fisted in the touch of one of Article 311(2) of the Indian Constitution. By not paying substances allowances meant for survival of me and my family member you are violating my precious right to live with dignity and enshrined in Article 21 of the Indian Constitution. No person can live with dignity in want of adequate substantial allowance. Further, take the note of the fact that this is a democratic country and welfare state and wherein discretionary powers mested by statute in the authority. Is controlled by rule of law. No person has absolute discretion in any matter. Doctrine of plea:sue ensluinde on Article 310 is contracted by Article 311 of the Indian Constitution you should also take the note of the fact that to central the fact that to central the arbitrary administrative discretion, Article-14 has evolved in to a very meaning full guarantees against any action of the administration which may be arbitrary, discriminatory and unequal. This principle manifest in the form of following propositions :

- (1) A law conferring unguided and unrestricted power on an authority is bad for arbitrary power is our criminery.
- (2) Article-14 illegalise discrimination in the actual exercise of any discriminatory power.
- (3) Article0-14 strikes arbitrariness in administrative action and ensure fairness and equality of treatment.

As Bhagawati's has observed : "The law always from on uncemalised and unfletored discretion conferred on any instrumentalities of the state.

That you may get yourself that this is a democratic country wherein rule of law prevails. No citizen can except and according to the procedure established by the law. The phrase procedure established by law is inpart from its constitution 'due process of law' which has broad meaning and its requirement is unlimited which I resist my self to explain each of them.

That being poorly educated and low paid employee I have no knowledge about the procedure in valued in departmental proceedings. As such, I may kindly be permitted to engage S.I M.Kaye of crime branch(SIT) PHQ Itanagar to help and assist me as defence assistance.

In view of facts stated above of the Ad-hoc disciplinary authority may be pleased to examined the matter as per the mandate of Article 14,16,20,21,310 and 311 of the Indian Constitution and passed orders dropping the charges framed against me and subsequently exonerating me from the charge for which I as duty bound shall ever pray.

Dated : 26th July'2003.

Yours faithfully

MUB

(Mera Kushwaha), Aya.
RRI (AY), Itanagar.

Attested by

15/9/06
Advocate.

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ANNEXURE - D

REGIONAL RESEARCH INSTITUTE (Ayu.) ITANAGAR
ARUNACHAL PRADESH.

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NO: RRI/ITA/VIG/1/2003-04/41

Dated : 13/10/03

To

Mrs Meera Kushwaha, Aya
RRI (Ayu)
Itanagar.

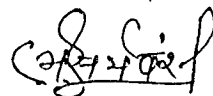
Madam,

Enclosed please find herewith a copy of enquiry report in connection with the Departmental enquiry conducted against you.

You are required to submit your representation against the findings made in the enquiry within 10 days from the receipt of the same.

If no representation is received within the stipulated time it will be presumed that you have nothing to submit against the findings and decision will be taken ex-parte on the merit of the case.

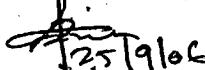
Yours faithfully,



(Dr. M.N. Suryawanshi)
Ad-hoc Disciplinary Authority
Cum
Enquiry Officer

Enc. As stated above (pages 1-22)

2.45 p.m.

Attested by

25/9/06
Advocate.

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REGIONAL RESEARCH INSTITUTE (AYU) ITANAGAR,
ARUNACHAL PRADESH.

NO:- RRI/ITA/VIG/1/2003-04/41

Dated : 13/10/03

Departmental Enquiry against Mrs. Meera Kushwaha, Aya (under suspension), RRI (Ayu) Itanagar.

ENQUIRY REPORT

I was appointed Ad-hoc Disciplinary Authority by the Director, C.C.R.A.S., New Delhi vide order No.2-1/2003/CCRAS/VIG/ dated 23/6/03 in respect of Mrs. Meera kushwaha who allegedly committed various misconduct : Misbehaviour during March-April, 2002 while serving as Aya, under RRI (Ayu), Itanagar. Accordingly I took up the matter for necessary action on my part. I examined all relevant documents pertaining to the case and issued charge memo to the delinquent official vide No.RRI/ITA/VIG/1/2003-04/16 dated 8/7/03 asking her to submit her written statement within 10 days from the date of receipt of charge memo. Accordingly with permission of extension of 15 days time she submitted her written statement on 26/7/03. I examined her written statement and felt that the matter deserve to be enquired thoroughly. Since most of the employees of R.R.I.(Ayu) Itanagar happened to be either witnesses to the misconduct of Mrs.Meera Kushwaha or having personal knowledge into the matter, I consider that it would be inconvenient for a lady delinquent, if an Inquiry Officer is appointed from another department, hence decided to enquire the matter by myself under sub rule 5(a) of Rule 14 of C.C.R.A. (CC and A) Rules 1965.

Following charges were framed against the delinquent Official:-

Article No.I:- That Mrs .Meera Kushwaha, Aya, constructed a cowshed in the last boundary of institute, occupied the land illegally of the institute without permission of the Director of Institute or Research officer-In-charge , Itanagar and made unhygienic to the Institute campus.

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Article No. II:- That Mrs. Meera kushwaha, Aya (Ayu) damaged some valuable medicinal plants by accumulating huge quantity of fodder (puwal) for her cows and also damaged the boundary fencing for construction of cowshed and managed direct road for the purpose of easy going at her own choice.

Article No. III :- That Mrs. Meera Kushwaha, Aya (Ayu) on 9/04/03 at 10.00 a.m when Dr. Ramashankar was arranging for repairing and replacement of Institute fencing by casual labourer which was damaged by Mrs. Meera Kushwaha. She tried to obstruct the repairing works and also tried to remove the fencing for her easy coming and going to her house. After receiving the complain from labourer Dr. RamaShankar visited the place and she began shouting loudly and used unparliamentary language to Research Officer-In-charge and subsequently she herself along with her son (age about 20 years) assaulted physically to Dr. Rama Shankar and injured on his head (left side) and also blow highly on his upper side of head.

Article No. IV :- That Mrs. Meera Kushwaha Aya (Ayu), Itanagar on 05/03/02 entered into the office room of the Research Officer In-charge with angry mood and threw the letter vide No. RRI/ITA/261/Admn/921 on the table of Research Officer In-charge and shouted loudly by using unparliamentary language to the Research Officer In-charge.

Article No. V :- That Mrs. Meera Kushwaha, Aya (Ayu) Itanagar on 6/3/02 along with her husband were involved in throwing broken glasses inside the office room of Dr. Rama Shankar when he was not present in the room and might have been injured if he was in.

The delinquent Official was summoned to appear before me in person on which she appeared. She was explained with substance of charges in Hindi which she fully understood and denied to have committed any misconduct. She was also asked to inspect all prosecution documents which she inspected and admitted to have obtained copy of the same. She was also given opportunity to engage Defence Assistant on her behalf on which she proposed name of one Shri Mohan Kaye, S.I. Police Head Quarters, Itanagar to represent her case before me during the course of enquiry. One Shri J.R. Borah, L.D.O. of R.R.I (Ayu), Itanagar was appointed Presenting Officer to represent the prosecution case, which he represented.

Prosecution Evidence

Following prosecution witness were examined during the course of enquiry :-

- | | |
|--|--------------|
| PW-1 : Shailendra Kumar Gupta (Peon), R.R.I (AY) Itanagar, | |
| PW-2 : Satendra Mallik (Peon) | -----do----- |
| PW-3 : Shivshankar Rai (ward boy) | -----do----- |
| PW-4 : Jogesh Baruah (Safaiwala) | -----do----- |
| PW-5 : Rama shankar R.O (Bot) | -----do----- |
| PW-6 : Rudal Singh (Driver) | -----do----- |
| PW-7 : Ashok Kumar (Driver) | -----do----- |
| PW-8 : B.P Singh (Chowkidar) | -----do----- |

Following documents were taken into evidence as state documents during the course of enquiry :-

- SD-1 :- Letter dated 17/06/2000 written by Mrs. Meera Kushwaha to R.O (Bot) Incharge, RRI(Ayu), Itanagar, requesting to continue with existence of cowshed.
- SD-2 :- Letter of Dy. Director, CCRAS addressed to R.O (Bot) Incharge, RRI(Ayu), Itanagar on 9/2/2001 for removal of cowshed.
- SD-3 :- Letter of R.O (BOT) In-charge RRI(Ayu), Itanagar addressed to Mrs. Meera Kushwaha on 15/02/2001 for removal of cowshed.
- SD-4 :- Letter of R.O (Bot) Incharge, RRI(Ayu), Itanagar addressed to Mrs. Meera Kushwaha on 21/5/2001 regarding eviction of cowshed.
- SD-5 :- Letter of R.O (BOT) In-charge, RRI (Ayu), Itanagar addressed to Deputy Commissioner, Papumpare district dated 21/3/2002 regarding eviction of unauthorized cowshed constructed in the Hospital campus.
- Sd-6: Letter of R.O (Bot) Incharge, RRI (Ayu), Itanagar addressed to Mrs. Meera kushwaha on 5/3/2002 regarding damage caused by her cowshed to medicinal plants etc. and removal of cowshed.
- Sd-7: F.I.R. lodged by Ramashankar to officer- In-charge police station Itanagar on 9/4/03 against Mrs. Meera kushwaha.
- Sd-8: Letter dated 9/4/03 addressed to Director, CCRAS, New Delhi regarding manhandling with officer- in-charge by Mrs. Meera kushwaha and her son. [fax message]

- Sd- 9: Memo issued to Mrs.Meera Kushwaha on 6/3/02 by R.O (Bot) Incharge, RRI (Ayu), Itanagar.
- Sd-10: Letter dated 6/3/02 addressed to Mrs. Meera Kushwaha by Shri Ramashankar.
- Sd-11: Letter dated 31/03/03 written by chowkidar to Incharge, R.R.I (AY), Itanagar regarding security of Govt. property.
- Sd-12 : Statement of Satendra Mallik Peon RRI (Ayu),Itanagar
- Sd-13 : Statement of Krishna Chetry, (casual Labour)
- Sd-14 : Statement of Shiva Shankar Rai (ward boy) RRI, Itanagar .
- Sd-15: Statement of Jogesh Baruah (safaiwala) -----do-----.
- Sd-16: Statement of Rudal Singh ,(Driver) -----do-----.
- Sd-17: Statement of Shailendra Kumar Gupta (peon) RRI, Itanagar
- Sd-18: Letter dated 4/7/03 issued to the Officer- In-charge, Police Station Itanagar requesting him for certain documents.
- Sd-19: O.P.D Registration Card of Ramakrishna Mission Hospital, Itanagar vide No. 140 13-03 dated 9/4/03.
- Sd-20 Notice issued by Shri Takir Nytor, E.A.C.to Mrs .Meera Kushwaha with a copy to Director, R.R.I. (Ayu)Itanagar, regarding eviction of cows shed and to avoid pollution in the Hospital premises.
- Sd-21: Medicinal Plants data for the Year 1999—2000(page no.65 of annual report).

The deposition of prosecution witnesses are under :-

PW1 : Mr Shailendar Kumar Gupta(Peon) R.R.I.(AY), Itanagar .

Examination in chief

On 9/04/03 , I had seen Ramashankar in blood stained clothes and came inside the office . Mrs Meera Kushwaha and her son rushed and went to the outside of the gate . After some time police came in the campus.

Cross examination by the Defence Assistant :

Question : Did you seen any body assaulted to Rama Shankar ?

Ans : No.

Re examination

Question : Did you listen any quarreling of Ramashankar ?

Ans : Yes .

Ques. by enquiry Officer

Ques : Did you see any assault to the Ramashankar ?

Ans. : No

PW-2:- Shri Satendra Mallik (Peon), RRI(Ayu), Itanagar

Examination in Chief :-

I came on my duty as usual . I was instructed by Incharge Dr. Ramashankar to put the wooden pole. I came along with Mrs. Meera Kushwaha, I started the fencing work for security purpose, near the flag-hoisting place. Objected and obstructed by the Mrs. Meera Kushwaha , then I informed to Dr. Rama Shankar. Then Dr. Ramashankar came along with me at that point near the flag hoisting place. Mrs Meera Kushwaha followed us. I again started fencing works and put the wooden pole at the site of museum corner. Then Mrs Meera Kushwaha and Ramashankar started argument and used unparliamentary words to each other. Mrs. Meera Kushwaha assaulted Dr. Rama Shankar by her hand. Mrs. Meera Kushwaha's son crossed the point and went somewhere and then came back and assaulted Dr. Ramashankar.

Cross Examination by Defence Assistant :

Ques. : Can you read , write and understand Hindi ?

Ans : Yes, I can .

Ques : The signature given on the statement on 09/04/03 which recorded by the police station . These signature belongs to you ?

Ans : Yes.

Ques : Why there are so many controversy between the statement recorded on 09/04/03 and the statement deposed on this date is on 23/09/03 ?

Ans : I don't know .

Question by Inquiry Officer

Ques : Were you present at that time ?

Ans : Yes, I was present.

W-3 :Shri Shivshankar Rai (ward boy),RRI(Ayu),Itanagar

Examination in chief :-

I was on duty in our Hospital O.P.D. I heard some argument and came out from O.P.D. I saw blood stained clothes and injured head of Dr. Rama Shankar. By that time I heard that Mrs. Meera Kushwaha and her son had assaulted Ramashankar.

Cross Examination by Defence Assistant :

Ques : Did you see anybody assaulting Dr. Rama Shankar ?

Ans : No.

Ques : Is it possible to sustains injury and bleeding by falling on the ground or is it necessary that one should sustain injury only by physically assaulted?

Ans : It is possible either way.

Question by Inquiry Officer .

Ques : Did you heard any hot argument between Mrs Kushwaha and Ramashankar?

Ans: Yes

PW-4 :Shri Jogesh Baruah, Safaiwala, RRI(Ayu),Itanagar

Examination in chief:-

I was on duty near the water tank for supplying of water to the Hospital . I came near the Hospital porch then I went towards the flag hosting place and saw the Incharge injured with blood stained clothes. I did not see exactly what was happened.

Cross Examination By Defence Assistant :

Nil

Re-examination by presenting Officer

Ques : What Incharge told to you?

Ans : Incharge told to call office staff.

PW-5 Shri Ramashankar R.O (Bot) Incharge, RRI (Ayu), Hanagar.

(Examination in Chief and cross Examination article wise)

Statement on Article No. 1

She had constructed cowshed without my permission in October 2000. Later on I did complain very frequently to the Deputy Commissioner. I issued several notices for eviction of cowshed because due to cowshed she made the campus un-hygienic.

Cross Examination by Defencoc Assistant

Ques : Do you have any standing order or any rule or regulation from the competent authority preventing the stall for rearing cow or cattle etc.?

Ans : There is no such order.

Ques : Is it within your knowledge that one Smt Hage Rimang residing with in campus also rearing pig right from 2001 to September 2003.?

Ans : Yes, it is in my knowledge

Ques : From hygienic point of view the cow is respected as a GO MATA in Hindu religion and pig is more hazards to the atmosphere?

Ans : If it is used properly and systematically nothing is hazard to us.

Ques : Are you well known about the pig of Hage Rimang?

Ans. : Yes.

Ques. : Since when you have been working as a Incharge of this institution?

Ans. : From January 1999.

Ques : Is it a fact that Mrs Meera Kushwaha constructed a cowshed with due verbal permission from you ?

Ans. : No, Never

Ques. : Is it a fact that you had taken cow milk from Mrs Meera Kushwaha some time?

Ans. : Yes, I took the milk from Mrs. Meera Kushwaha on payment basis.

Ques : When did you first officially object to the construction of cowshed of Mrs Meera Kushwaha?

Ans. : In October 2000.

Ques : It appears that Mrs Meera Kushwaha started rearing the cow from early January of 2000, and you objected to her only in October 2000, why did you not consider it necessary to object when she constructed the cowshed?

Ans : I was unknown about construction of cowshed, I was out of station during that period.

Question by Inquiry officer

Ques. : Are you well known about pig of Smt. Hage Remang?

Ans. : Yes.

Statement on Article No.2

She definitely broken the fencing boundary, destroyed the medicinal plants, vasaka and Rawlferia serpentina (sarpagandha) by keeping *pural* (Fodder) inside the campus. Those were valuable medicinal plants available in my campus but she damaged those plants.

Cross Examination by Defence Assistant.

Ques. : Do you have any official records of what exactly she had destroyed as alleged by you?

Ans : Exactly it is maintained.

Statement on Article No .3.

Before 9/04/03 I got a complain from chowkidar that some persons were using unauthorized road. Mrs.Meera Kushwaha's husband using the road. So I was making an arrangement for repairing the fencing by the casual labourers near the museum corner building. Mrs.Meera Kushwaha obstructed the fencing repairing and started argument and provoked her son uttering 'BETA MAR BETA', She and her son assaulted me. I lodged F.I.R in the Police Station, Itanagar and then I went to R.K. Mission Hospital for treatment.

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Cross Examination by Defence Assistant

Ques : Was there any employee who had practically seen the incident of assault committed by Mrs Meera Kushwaha and her son.?

Ans. : Mr Shatendra Mallik, Peon and one casual labourer were present there and are witnesses.

Ques : Is it within your knowledge that Mrs Meera Kushwaha's son was and is a mental patient and was under treatment at Ranchi ?

Ans : No.

Ques : Is it humanly possible on the part of a lady to assault a man who is superior to her without any provocation ?

Ans : why not, being a employee can do anything.

Ques : Do you mean to say that she is a dangerous lady and capable of doing anything ?

Ans. : who knows what can she do.

Question by I.O.

Ques : There was arguments from both side and did you use any un-parliamentary words?

Ans : Yes it was used.

Statement on Article No. 4

Examination in chief :-

She had thrown letter and used unparliamentary words so many times. She did not receive any letter so many times.

Question by Defence Assistant.

Ques. : Was there any other person present in your office chamber to witness this incidenece of throwing letter on your table?

Ans. : No.

Statement on Article No.5Examination in chief:-

Some broken glasses were thrown in my office by her husband in this regard I made internal enquiry. Report is also prepared.

Question by Defence Assistant

Ques. : Who is the witness to see that Mrs Meera Kushwaha and her husband threw glasses inside your office room?

Ans. : Mr Ashok Kumar, Driver had seen that act.

Ques. : What type of glasses?

Ans. : Bottle pieces.

Ques. : How many Drivers are employed in your office?

Ans. : Three Drivers.

Ques. : Since the incidence as alleged had occurred during office hour how it is possible that no other office staff, except your driver, had seen this incidence?

Ans. : Glass were thrown from the side window's which is towards the hut of Mrs.Meera Kushwaha and other staff were in their duty.

PW-6:-Shri Rudal Singh,Driver, RRI(Ayu), Itanagar

Examination in chief :-

When I heard quarreling from the out side of office I came out from the office chamber. I saw blood stained clothes of Dr.Ramashankar and bleeding from his head but exactly what was happened I did not understand.

PW-7:Shri Ashok Kumar, Driver,RRI(Ayu),Itanagar

Examination in chief :-

Research officer incharge was out from his chamber and went to the garden. I saw husband of Mrs. Meera kushwaha throwing the glass from outside the window and when I entered in the chamber of Dr.Ramashankar Mrs. Meera kushwana was only alongwith her husband and trying to obstruct her husband for this act.

Pw-8 Shri B.P. Singh, chowkidar, RRI (Ayu), Hanagar

Examination in chief :-

All people were coming and going from the back side of campus and due to security purpose I gave an application to the In-charge for repairing the fencing. Because the out side people coming in the campus unnecessarily and threatening me also.

Cross examination by Defence Assjstant.

Ques. Are you only the chowkidar in this Institution ?

Ans. No there are another two chowkidars in this Institution .

Ques. When there is no record about other chowkidar lodging any complain ,why did you think it necessary that you are only responsible chowkidar for lodging such complains against Ajay Kushwaha ?

Ans. That was my duty to inform to incharge regarding the security.

Ques. Was there any argument earlier between Ajay Kushwasha and his wife Mrs .Meera Kushwaha and you?

Ans . Yes during 2000.

Question by I.O

Ques. : Why you made the complain to the Incharge?

Ans. : Because Mr.Ajay Kushwaha was directly entering in the premises by his motor-cycle with his own choice of road after the eviction of cowshed.

Defence statement of charge official

On completion of prosecution evidence Delinquent Official deposed as under as her defence statement(article wise):-

Article No-1

I had constructed the cowshed after taking a verbal permission of Incharge Dr.Ramashankar. The Incharge used to visit my house and collect milk and also used to take food in my house. All family members of Incharge also used to have food in my house. Very frequently the Incharge used to ask me to provide tea, prepared by me. At that time there was cordial relationship between Dr.Ramashankar and my family members.

Once a time Dr.Ramashankar gave me permission to bring puwal(fodder) in the campus for my cow, in January & February 2001. That time Dr.Ramashankar did not object me.

I used to keep my cow and cowshed very clean. I was using water for cows from nallaha. I used to keep my cows so clean that once I received reward for keeping my cow healthy and clean. Photo copy of that certificate will be produced. It is important to note that one Smt.Hage Ramang was keeping pig in side the campus but it was never objected by the Incharge. Once Jogesh Baruah also kept cow inside the campus of the institute, but no body including the In-charge objected to it.

Article No.2

I did not damaged any fencing and destroyed any medicinal plant because at that spot there were no medicinal plants. I planted so many medicinal plants out of which some medicinal plants were taken for exhibition by Incharge Dr.Ramashankar.

Article No: 3

Since past so many years we have been using that path for going and coming to house. So I told a labourer why are you blocking our path by constructing fencing. This was on 09/04/03 at about 10.00 a.m. At that time I was on duty in my room and saw from the window, that Mallik and Dr. Rama Shankar were going towards the repairing side. Then I requested to Dr. Ramashankar that from so many years we are using this path. We will get our cowshed removed and also take away the C.G.I. sheet. So many people are using path at a different place but you never objected to them. Why you are creating problem and giving harassment to me and my family members alone. I requested him not to do so, but Dr. Ramashankar flourished and told me and scolded me by saying "TERE BAP KA ILAI KYA "SALI" TUM MANA KARNE WALI KON HOTA HAI" I am the In-charge of this Institute and I can do whatever I like, he started shouting loudly using unparliamentary language like "KUTTI" etc" and attempted to assault me by raising the hand towards me. By seeing this my son who was going towards the gate came back and interfered and said to remove the fencing. We never assaulted Dr. Rama shankar but tried to remove the fencing which was obstructing our path. Mr. Mallik interrupted and held both of us. The In-charge told us that matter will be reported to the police if you remove the fencing. I replied that I would go to police if you block our path by constructing the fencing after that we went to police station.

Article No:4.

As a matter of fact on 5/ 3/2002 I went to the office chamber of the Incharge along with that letter in which I alleged to have destroyed some medicinal plant. I simply told the In-charge in a polite manner that I had never destroyed any medicinal plant. why should I have been unnecessary harassed by issuing of such letter for an act which I had never done. I never use unparliamentary words, but In-charge was unnecessarily angry with me and directed me to get out very loudly.

Article No:5

We never threw glass pieces. The allegation is false. Once Dr. Rama shankar quarrelling with Dr. Brahama and hit the glasses and injured himself such a person can go to any extent.

Defence Evidence

After recording Defence statement of delinquent official, she was given opportunity to produce oral or document evidence in support of her defence. She examined the following witnesses.

D W -1 : Mrs. Akela Tante age about 28 Years residing at Gandhi Market, C
Scotor, Itanagar.

Examination in chief:-

I am the Secretary of Arunachal Pradesh Women welfare Society, Itanagar branch. I know Mrs. Meera Kushwaha and her family members since the past 5 to 6 years back. I used to visit her house. Once in a time I saw one gentleman taking a lunch at the house of Mrs. Meera Kushwaha. When I asked to Mrs. Meera Kushwaha as to who was the gentlemen she replied that he is the Incharge of Institution. In another occasion I saw the same gentleman having tea in the house of Mrs. Meera Kushwaha.

I used to purchase milk every time from her but it was stopped because the Incharge issued a notice for eviction of cowshed. When Mrs. Meera Kushwaha informed that the cowshed had been removed by the Incharge, I felt sorry for her. I thought there was no good relationship between the Incharge and Mrs. Meera Kushwaha. This should not have happened but in my opinion since it was a matter between the staff of same office I did not interfere.

Cross Examination by presenting Officer:

Ques. : Did you purchase the milk from Mrs. Meera Kushwaha on payment basis or free of cost ?

Ans. : I used to purchase the milk from Mrs. Meera Kushwaha on monthly payment basis.

Ques. : Did you ever take lunch on invitation of Mrs. Meera Kushwaha ?

Ans. : On few occasion I was invited by her husband.

DW -2 Mrs. Rigio Tutu age about 30 Years resident of 'C' Sector Gandhi Market, Itanagar.

Examination in chief:-

I know Mrs Meera Kushwaha personally since past 7 years and used to visit her house. Once I came to her house on being invited for lunch. That time I saw Mr. Pathak, who is the Incharge of the Institute also present in the house of Mrs. Meera Kushwaha and taking a lunch. I also used to purchase milk from Mrs. Meera Kushwaha. Once I visited her house for a tea at that time Mr. Pathak also was present where in the house of Mrs. Meera Kushwaha. I knew from Mrs. Meera Kushwaha that Mr. Pathak had given her the permission to construct the cowshed inside the campus. Then I heard that she was ordered to remove the cowshed. I felt sorry for her such incidence should not have occurred.

Cross Examination by P.O

Ques. : Mrs Meera Kushwaha offered to you every time for lunch or you visit her house casually ?

Ans. : On many times she offered me for lunch .

Ques. : Did you purchase milk from Mrs Meera Kushwaha ?

Ans. : Yes, I used to purchase milk from Mrs Meera Kushwaha on monthly payment basis because that was her business .

DW-3 : Mrs B. Soma age about 21 years, resident of Ganga, C/O Jamuna Enterprises, Bank Tinali, Itanagar

Examination in Chief:-

Since last 3 to 4 years back I know Mrs. Meera Kushwaha. I used to purchase milk from her house. I frequently used to visit her house. Due to this I was having good relation with her. Mr Pathak was frequently visiting her house. I observed that Mr. Pathak was having cordial relationship with Mrs. Meera Kushwaha and her family members.

Cross Examination by P.O

Ques : Did you know about the Pathak that he is Incharge of this Institute ?

Ans : Yes

DW-4 : Shri Simanto Mandal age about 23 years at Radha Krishna Mandir
at Zero Point Tinali, Itanagar.

Examination in Chief:-

Since last 5 years I had been residing as a family member of Mrs. Meera Kushwaha. I used to look after her cows. Once about one year back I was keeping *puwal* for drying purpose near the house of Mrs. Meera Kushwaha. Then I saw Mr. Pathak throwing broken pieces of glass on the *Puwal*. At the same time he was uttering something which did not appear proper. I used to serve tea to Mr. Pathak and other staff members very frequently during the year 2001 when Mr. Pathak had cordial relationship to Mrs. Meera Kushwaha. I stopped serving tea after the incidence of throwing broken glass on *puwal* by Mr. Pathak.

Cross Examination by Presenting Officer :

Ques : Did you serve Mrs. Meera Kushawaha free of cost or on payment basis?

Ans : I got payment from her.

Ques : What was your nature of duty ?

Ans : I mainly looking after the cows and also cooking food for sometime.

Ques : Did you see Mr. Pathak throwing the glasses on *puwal* ?

Ans : Yes, that I had seen.

Ques : That glasses thrown on the *puwal* from out side the chamber or inside the chamber ?

Ans : Mr. Pathak had thrown the glasses from inside his office chamber.

Ques : What was distance between the *puwal* and office chamber of Mr. Pathak?

Ans : Near about 4 to 5 feet.

Ques : What type of glasses were used at the time of throwing ?

Ans : Mr. Pathak had broken the bottle by hitting on the side wall of window and then threw on the *puwal*.

Delinquent Official submitted one documents in her defence which shows that her cow was awarded first prize during second Arunachal Pradesh Livestock, Poultry and Dog Show, 1998. This document was taken into evidence and marked as DD-1.

On Completion of evidence from both I directed presenting Officer and defence Assistant to submit there respective written brief. Accordingly they submitted their written brief.

Findings

Taking into consideration the evidence on record and all other aspects of the case I came to the following findings in respect of each and every charge framed against the delinquent official.

ARTICLE NO.1 :- That Mrs Meera Kushwaha constructed a cowshed in the last boundary of institute, occupy the land illegally of the institute without permission of the Director of Institute or Research Officer, In-charge, Itanagar and make unhygienic to the Institute campus.

There is only one witness on this issue who is PW-5 Shri Ramashankar who has stated that the cowshed was constructed by the delinquent official in the month of October 2000. The prosecution has brought several documents on records viz. SD-1, SD-2, SD-3, SD-4, SD-5, SD-6 and SD-20. which show that the cowshed of Mrs Meera Kushwaha was constructed within the premises of Research Institute (Ayu), Itanagar for which continuous efforts were made either by the incharge of R.R.I (Ayu), Itanagar or the District Administration to remove the cowshed, from the Hospital premises, which was ultimately removed in the month of February, 2003 by the District Administration forcefully. The Delinquent official has stated that cowshed was constructed in the month of January, 2000 with verbal permission of R.O I/C Itanagar Shri Rameshankar(PW-5). In this regard, I feel that (PW-5) Shri Ramashankar has stated lie while deposing during the enquiry. The prosecution documents SD-1 clearly shows that delinquent official Mrs. Meera Kushwaha filed an application dated 17.06.2000 to the Research Officer (Bot), Incharge Shri Ramashankar which was received in the office on 22nd June 2000 requesting him to allow her to continue with cowshed in the hospital premises on family ground. On this application Shri Ramashankar (PW-5) made his endorsement on the same day that we never allowed delinquent official to construct.

cowshed. This document clearly shows that the cowshed was in existence prior to June 2000. Thus the statement of delinquent official appears to be correct, that she constructed cowshed in the month of January 2000. On the other hand the statement of Shri Ramashankar appears to be incorrect by his own endorsement made on SD-1 that the cowshed was constructed in the month of October, 2000.

From perusal of statement of PW-5 while deposing during the course of cross examination it clearly appears that he was in full knowledge of the existence of cowshed within the Hospital premises from January, 2000 because as per his admission he used to purchase milk from the delinquent official. He has further admitted that there also exist pig shed within the hospital for which he never objected.

In view of the above it appears that the cowshed was actually constructed with the permission of Incharge, (PW-5) as claimed by the delinquent official. As per her statement there was in fact a cordial relation in between delinquent official and incharge of the institute from beginning, but when this relation taken a bad shape it was made an issue. This view takes support from the letter issued by the incharge firstly on 16/06/2000 (as referred by delinquent official in her letter dated 17/06/2000) that the cowshed was constructed in the month of January, 2000 and it was quite within the knowledge of R.O I/C, Shri Ramashankar (PW-5).

Except PW-5 no witness has stated that there was a pollution in the Hospital premises, due to the cowshed constructed by the delinquent official Mrs Meera Kushwaha. However such construction was unwarranted even if it was constructed with due permission of the R.O I/C and on this issue I am inclined to observe that the delinquent official Mrs. Meera Kushwaha has committed wrong while making such construction within the Hospital premises.

ARTICLE-II:- That Mrs. Meera Kushwaha Aya.(Ayu) had damaged some valuable medicinal plants by accumulating huge quantity of fodder (puwal) for your cows and you are also damage the boundary fencing of the institute by erecting poll of the fencing for construction of the cowshed and managing the direct road for purpose of easy going on her own choice and you are also requested to replace the plants of actual species and repair the fencing within 5 days ,Such a sarpagandha 6 No and vasaka 10 no vide File.no RR/TA/261/Advn dated 5-3-2002.

In this regard the prosecution has examine only one witness Shri Ramashankar (PW-5). Who has stated that the delinquent official had broken the fencing of the Hospital premises and also damage medicinal plants , that's vasaka and sarpagandha. The prosecution has also brought on record , two documents which have been taken in evidence as exhibits SD-6 and SD-21. SD-6 shows that the incharge of the institute Shri Ramashankar issued letter to the delinquent official for damage of medicinal plants and to replace the same. SD-21 is Annual report of 1999-2000 on which shows regarding existence of medicinal plants on the spot but this documents does not show which medicinal plants were damaged and by whom. So this document doesn't appears to be relevant to the charge frame against the delinquent official.

It appears quite surprising that the letter regarding damage of medicinal plant (SD-6) was issued to the delinquent official on 5/3/2002. That is after more than two years of the construction of cowshed. As per prosecution case the medicinal plants were damaged by the delinquent official while constructing cowshed which was constructed in month of January 2000, where as Dr. Ramashankar issued letter to delinquent official on 5/3/2002 . Such situation make charge no-2 as framed against the delinquent official quite doubtful. If the medicinal plant were destroyed in the month of January, 2000 or in the month of October, 2000 as a stated by the incharge of the institute ,why he kept mum for a period of two years and all of sudden issued letter to the delinquent official on 5/3/2002 & no other prosecution have stated even single word about damage of medicinal plants by the delinquent official. In this regard, I am inclined to observe that the allegation regarding damage of medicinal plants by the delinquent official appears to be doubtful. On the other hand the conduct of Incharge while keeping mum for years together on this issue appears to be unfair and unwarranted.

ARTICLE-III:- That said Mrs. Meera Kushwaha Aya(Ayu) on 9/4/2003 at about 10A.M when Dr. Ramashankar was arranged for repairing and replacement of institute fencing by casual labourer which was damaged by Mrs. Meera Kushawaha . Mrs Meera Kushawaha was tried to obstruct the repairing works and also tried to remove the fencing for her easy coming and going to her house. After received complaint from labourer Dr. Ramashankar visit the place and she began shouting loudly and used unparliamentary language to Research Officer-In-charge and subsequently She herself along with her son (aged about 20 years) assaulted physically to Dr. Ramashankar and injured on his head (left side) and also blow highly on his upper side of head.

This charge appears to be extreme result of relation in between delinquent official and Incharge (PW-5) which gradually taken a bad shape as per materials available on records , With a view to prove this point. The prosecution has examined as many as five witnesses including Incharge of the institute Shri Ramashankar (PW-5) . who is victim to the occurrence . The prosecution has also brought on record, three documents viz SD-7, SD-8 and SD-19. SD-7 is the FIR which was lodged to the Officer-In-charge police station Itanagar by Shri Ramashankar to the effect that 9/4/2003 at 10.00 a.m the delinquent official Mrs. Meera Kushwaha and her son physically assaulted him . After lodging FIR he also send a letter to Director CCRAS , New Delhi regarding Manhandling to him by the delinquent official (SD-8) . He got medical treatment in the Ramakrishna Mission Hospital , Itanagar for the injuries sustained by him. SD-19 is the OPD registration card of R.K Mission Hospital , Itanagar which shows that Shri Ramashankar was medically treated in said Hospital.

Shri Satendra Malik PW-2 who is eye witness to the occurrence has clearly stated that on the said date and time the delinquent official and her son had assaulted Shri Ramashankar. The other witnesses are not eye witness to the occurrence , but immediate after the occurrence they came to the spot and saw Dr. Ramashankar in an injured condition.

The delinquent official has taken a defence that She didn't assault Dr. Ramashankar but admitted the fact that there was exchange unparliamentary words in between her and Dr. Rama Shankar due to dispute regarding erection of fencing.

Considering all above aspects I am inclined to observe that the hot arguments in between Shri Ramashankar and Mrs. Meera Kushwaha were made, during the course of which Mrs. Meera Kushwaha and her son assaulted Shri Ramashankar.

ARTICLE -IV :- That Mrs. Meera Kushwaha Aya (Ayu) Itanagar on dated 5-3-2002. She entered into the office room of the Research Officer- In-charge with angry mood and thrown the letter vide no-RR/ITA/261 /Adm 921 on the table of Research Officer In-charge and she shouted loudly by using unparliamentary language to the research officer-In-charge.

From records it appears that letter which was allegedly thrown by the delinquent official to the table of Incharge Dr. Ramashankar memo dated 5/3/2002 (SD-9) by which delinquent official was informed about the damage of medicinal plants by her. As per evidence on record the medicinal plants were damaged in the month of January 2000 but memo was issue on the month of March 2002 hence it appear to be quite doubtful.

The question arises why the letter regarding damage of medicinal plants was issued to the delinquent official after lapse of more then 2 years. Such inordinate delay in taking step by the Incharge Dr. Ramashankar brings the allegation, as narrated under the charge No-IV far away from the truth. In such situation if the memo (letter dt. 5-3-2002) was thrown by the delinquent official to the table of Shri Rama Shankar it appears a natural conduct but quite against the office decorum while dealing with a superior officer . Moreover on this issue there is no independent eye witness and I find myself unable to rely solely on the statement of Shri Ramashankar in absence of supporting evidence , in view of the fact that Shri Ramashankar was and is not in good relation with delinquent official since long back.

ARTICLE NO-V:- That Mrs. Meera Kushwaha Aya (AYU) Itanagar on 6-3-2002 you and your husband were involved in throwing broken glasses inside the office room of Dr. Ramashankar, Research Officer-In-charge when he was not present in the room and might have been injured if he was in .

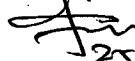
From evidence on record it appears to be proved that on 6/3/2002 the pieces of glass were thrown inside the office chamber of Dr. Ramashankar by the husband of delinquent official. On this issue prosecution has examined only one witness Shri Ashok Kumar (PW-7) who is eye witness to the occurrence and has deposed on this charge. At the time of occurrence Dr. Ramashankar was not present in his office chamber. SD-10 is the letter dated 6-3-2002 by which Dr. Ramashankar had called explanation from the delinquent official. Probably this letter was issued on by informed by the Shri Ashok Kumar (PW-7).

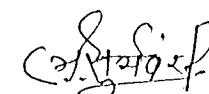
The said Shri Ashok Kumar in his further statement has stated that the delinquent official had restrained her husband from throwing pieces of glass inside the office chamber of Dr. Ramashankar. Thus with regard to this charge I am inclined to observe that the delinquent official Mrs. Meera Kushwaha had never pelted pieces of glass inside the office chamber of Dr. Ramashankar.

Conclusion

In view of the facts and circumstances stated above, I am in the opinion that charge NO -I is proved against Mrs. Meera Kushwaha to the extent that she constructed cowshed within the premises of the institute causing inconvenience to the Hospital administration and frequently disobeyed the instructions issued by the authorities to remove the cowshed from hospital premises. With regard to charge No. II, IV and V I am in the opinion that the charges could not be established due to insufficient evidence on record. Charge No. III is a criminal charge which attract offence under IPC for which police has taken cognizance into the matter and submitted charge sheet to the Court of judicial Magistrate vide charge sheet No. 16/2003 U/S 353/323/34 IPC (as it is evident from SD-18). Since the charge no III is identical to the criminal charge and matter is sub judicial in the competent court of law, I don't think it proper at this stage to give my finding on this charge.

Attested by


25/9/06
Advocate.


[Dr. M. N. Suryavanshi]
Ad-hoc Disciplinary authority
Cum
Inquiry Officer

To

48 11

The Ad-hoc Disciplinary Authority,
Regional Research Institute (AYU),
Arunachal Pradesh,
Itanagar.

SUB:- REPRESENTATION IN R/O MRS. MEERA KUSHWAHA

REF:- Memo No.RRI/ITA/VIG/1/2003-04/41
Dated Itanagar the 13th October, 2003

Sir,

In inviting a reference to the subject cited above, most respectfully I beg to submit my representation for favour of your kind perusal and sympathetic onward action please.

That, after having conducted a thorough enquiry in the most judicious manner, the learned Enquiry Officer has been pleased to drop three charges, i.e., Article of Charges No.II, IV & V for lack of evidence against me. The Article of Charge No.III being a sub-judicial matter and being under trial at the competent Court of Law and further, the merit of the charge being identical with criminal offence under relevant sections of IPC, the learned Enquiry Officer has most logically decided to withhold his view into this charge until the finalisation of the criminal case.

That, the only charge that is left out is Article of Charge No.I which the Enquiry Officer appears to have found proved albeit with some amount of confusion and hesitation for obvious reasons which are to be found in the findings of the Enquiry Officer himself.

That, in this regard I am to state that the original charge as envisaged in Article-I is as follows :-

" That Mrs. Meera Kushwaha constructed a cowshed in the last boundary of institute, occupy the land illegally of the institute without permission of the Director of Institute or Research Officer In-charge, Itanagar and make unhygienic to the Institute campus".

That, however, the learned Enquiry Officer has found Article of Charge No.I proved against me which reads as under :-

10/11/03
CMA
24/7/03

"Charge No.I is proved against Mrs. Meera Kushwaha to the extent that she constructed cowshed within the premises of the Institute causing inconveniences to the Hospital administration and frequently disobeyed the instructions issued by the authorities to remove the cowshed from hospital premises".

Attested by

25/10/06
Advocate.

That, the original Article of Charges vis-à-vis the conclusions arrived at by the learned Enquiry Officer run contradictory to each other in as much as "causing inconvenience to the Hospital Administration and frequently disobeying the instructions issued by the authorities to remove the cowshed" had NEVER been a part of the enquiry. As such I was denied the opportunity to cross-examine the prosecution witness in these specific charges which tantamount to violation of PRINCIPLE OF NATURAL JUSTICE and hence NOT SUSTAINABLE in the eye of LAW.

That, the point may also be noted that out of so many PWs, there is only one Prosecution Witness, viz., Dr. Rama Shankar who has been examined to prove this charge. It is needless to say that Dr. Rama Shankar is the complainant of the case who has lodged the complaint after a long and unjustifiable delay which had NEVER BEEN EXPLAINED NOR JUSTIFIED. Besides Dr. Rama Shankar being an interested party to the case is NOT an independent witness and hence his statement alone CANNOT be relied upon.

That, may I take the privilege of quoting some of the findings of the learned Enquiry Officer in his very own language for favour of your kind attention in the hope that your honour would be pleased to render JUSTICE to me.

- (i) "In this regard, I feel that (PW-5) Shri Rama Shankar has stated lie while deposing during the enquiry".

---- Please see at page No.17 of the Findings.

- (ii) "Thus the statement of delinquent official appears to be correct, that she constructed cowshed in the month of January, 2000. On the other hand the statement of Shri Rama Shankar appears to be incorrect by his own endorsement made on SD-1 that the cowshed was constructed in the month of October, 2000."

----- Please see 1st para at Page No.18 of the Findings.

- (iii) "From perusal of statement of PW-5 while deposing during the course of cross - examination it clearly appears that he was in full knowledge of the existence of cowshed within the hospital premises from January, 2000 because as per his admission he used to purchase milk from the delinquent official. He has further admitted that there also exist pig shed within the hospital for which he never objected."

----- Please see 2nd para at Page No.18 of the Findings.

- (iv) "In view of above it appears that the cowshed was actually constructed with the permission of In-charge, (PW-5) as claimed by the delinquent official."

----- Please see 3rd para at Page No.18 of the Findings.

- (v) "Except PW-5 no witness has stated that there was a pollution in the Hospital premises, due to the cowshed constructed by the delinquent official Mrs. Meera Kushwaha."

----- Please see the last para at Page No.18 of the Findings.

That, in view of the above findings of the learned Enquiry Officer that when "the cowshed was actually constructed with the permission of In-charge" (Please see the 3rd para at Page No.18 of the Findings), there is ABSOLUTELY NO JUSTIFICATION of the charge at Article-I about illegal construction of cowshed. The above findings of the learned Enquiry Officer renders the entire charge under Article-I redundant.

That, it is absolutely obvious from the findings of the learned Enquiry Officer that I have all along been a POOR VICTIM of unwarranted atrocities perpetrated upon me at my work place by my In-charge in total violation of Articles 14, 15 and 21 of the Constitution of India.

That, in view of all the facts and circumstances as furnished above, it is most humbly submitted that your honour may be pleased to embellish the hands of JUSTICE by setting aside the false charges and exonerate me from the same. It is further prayed that your honour may be pleased to re-instate me at the earliest and be further pleased to treat my suspension period as spent on duty for all intent and purposes in the interest of JUSTICE & FAIRPLAY.

And for which act of your kindness I as duty bound shall ever pray.

Dated Itanagar the 22nd October, 2003

Yours faithfully,

MPUS
22-10-2003

(MRS. MEERA KUSHWAHA) AYA
REGIONAL RESEARCH INSTITUTE (AYU)
ITANAGAR

Attested by

25/10/06
Advocate.

REGIONAL RESEARCH INSTITUTE (Ayu) ITANAGAR
ARUNACHAL PRADESH

No-R.R.I/ITA/VIG/1/2003-04/43


Dated. 27/10/03

ORDER

This order pertains to the departmental enquiry conducted against Mrs. Meera Kushwaha, (Aya) of R.R.I (Ayu) Itanagar on the strength of order bearing No- 2-1/2003/CCRAS/VIG/ dated 23/06/03 issued by the Director, CCRAS, New Delhi by which I was appointed as Ad-hoc Disciplinary Authority. The Delinquent Official was brought under various charges viz- in the month of January 2000 she illegally constructed cowshed within the premises of R.R.I (Ayu) ,Itanagar and made the campus unhygienic, while constructing cowshed she damaged valuable medicinal plants as well as fencing of the institute, on 9/04/03 at about 10 a.m. she made obstruction in the work of labourer of the institute and while interfering by the Incharge Dr. Ramashankar she physically assaulted him along with her son, on 5/03/2002 she entered into the office chamber of the Incharge Dr. Ramashankar in angry mood and threw letter on his table using unparliamentary language and lastly on 6/03/02 she threw broken glasses in the office chamber of the Dr. Ramashankar along with her husband.

Detailed charge memo was serve to the Delinquent Official asking her to submit her written statement within 10 days from the receipt of the same. Accordingly she submitted her written statement denying all the charges levelled against her. Since most of the employees of R.R.I (Ayu) ,Itanagar happened to be either witnesses to the misconduct of Mrs. Meera Kushwaha or having personal knowledge into the matter, I considered that it would be inconvenient for a lady Delinquent, in case an Inquiry Officer is appointed from another Department, hence decided to inquire the matter by myself under sub rule 5 (a) of Rule 14 of CCS (CC and A) Rules 1965.

Attested by


25/10/06
Advocate.

The Delinquent Official was sent with notice to appear before me for hearing of the case and onward enquiry. On her first appearance she was explained with the charges in Hindi which she understood and denied to have committed any misconduct. She was also provided with an opportunity to inspect all documents pertaining to the enquiry, the copy of which had already been supplied to her. She duly inspected the documents. She was also provided with an opportunity to engage defence assistant on her behalf. She engaged one Shri. Mohan Kaye, S.I of Arunachal Pradesh Police as her defence assistant. Shri J.R. Bora, LDC, R.R.I (Ayu), Itanagar was appointed as Presenting Officer to present the prosecution case.

During enquiry as many as eight witnesses were examined and 21 documents were taken into evidence from prosecution side. The Delinquent Official examined four witnesses and adduced into evidence one document in her defence.

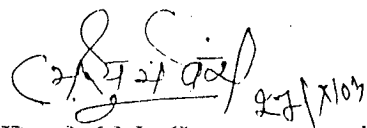
I have thoroughly gone through the statement of witnesses and documents of both side and all other materials available on records. I have also taken into consideration the defence statement given by the Delinquent Official during the course of enquiry and written briefs submitted by the presenting officer as well as defence assistant.

From perusal of case records and analysis of evidences available thereon I am in the considered opinion that charge No. II, IV and V are not at all proved against the Delinquent Official. There is no evidence of record to prove that Delinquent Official ever damaged any medicinal plant. Likewise there is no independent witness to prove that the Delinquent Official ever threw any letter on the table of Officer-In-charge Dr. Ramashankar in angry mood and used unparliamentary language. However in support of this charge Dr. Ramashankar has deposed something but his statement can not be relied upon in view of the fact that he was not in cordial relation with the delinquent official since long back. Similarly there is no evidence of records to prove that the delinquent official ever threw glass pieces inside the office chamber of Dr. Ramashankar (Charge No-V) Interestingly one prosecution

witness (PW-7) has stated that it was Mr. Ajoy Kushwaha who threw broken glasses inside the office chamber of Dr. Ramashankar and Mrs. Meera Kushwaha was preventing him from doing so. Thus charge No - V is also not at all proved against the Delinquent Official. Regarding charge No -III I am inclined to observe that this charge is identical to the charge of criminal case which is pending against the Delinquent Official in the competent court of law. As per evidence available on record it is clearly evident that for the assault caused by the Delinquent Official to Dr. Ramashankar Incharge, a criminal case was lodged to the police station, Itanagar and after investigation the police has already submitted chargesheet in the court vide charge sheet No.-16/2003 U/S 353/323/34 IPC and case is subjudice before the Judicial Magistrate, IInd class, Yupia. Situated so and as per verdict given by the supreme court in such matter. That in case the charge in the Departmental inquiry and criminal case is identical, it is desirable that the D.E should be stop. (Ref:- Civil Appeal No-1906/99 captain M.Paul Anthony vrs Bharat Gold Mines Ltd and Anothers, AISLJ, X-1999(3)152). I don't think it proper at this stage to give any observation/finding on this charge. The only charge which appears to be proved against the Delinquent Official is charge No-1 i.e. she constructed the cowshed within the premises of institute and as per evidence on records she disobeyed several notices, orders issued by the authorities to vacant the cowshed. Lastly the Department was compelled to take help of district administration for forceful eviction. However the illegal construction of cowshed has already been vacated and there exists no any obstruction or illegal construction on the spot. At the same time I would like to observe that illegal construction of cowshed was fully within the knowledge of Incharge, Dr Ramashankar who happened to purchase milk from the Delinquent Official as per his statement and used to visit her residence for taking tea and food. Had Dr.Ramashankar prevented Delinquent Official from constructing cowshed at early stage, it could not had been constructed. He objected about construction of cowshed at very late stage, that is after lapse of about six month from the date of construction of the same and only when his relation with Delinquent Official became

sour. Hence, in this regard I would like to observe that the Incharge Dr. Ramashankar is equally responsible for the construction of cowshed within the premises of institution.

Considering all above aspects of the case I find that the Delinquent Official is guilty of the charge No. I, but inclined to take lenient view against her and award her penalty of recordable censure with further warning that she must keep away herself from any illegal construction in future within the premises of the institute. She is reinstated in service with immediate effect. Her period of suspension from 09/04/2003 to date of this order is treated as spent on duty for all intent and purposes.



(Dr. M.N. Suryawanshi)

Ad-hoc-Disciplinary Authority

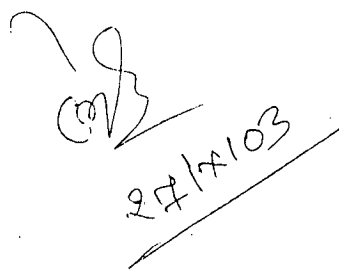
R.R.I (Ayu) Itanagar

Copy to :-

- 1) The Director , CCRAS , New Delhi for information please.
- 2) The Incharge , R.R.I (Ayu),Itanagar for information and necessary action please.
- ✓ 3) Mrs. Meera Kushwaha, Delinquent Official
- 4) File

Attested by


Advocate.


27/11/03

CENTRAL COUNCIL FOR RESEARCH IN
AYURVEDA AND SIDDHA

JAWAHARLAL NEHRU BHARTIYA CHIKISA AYUM HOMOEOPATHY ANUSANDHAN
BHAWAN, No.61-65, INSTITUTIONAL AREA, OPP'D BLOCK, JANAKPURI, NEW DELHI-
110058.

F.No. 2-1/2003-CCRAS/VIG

26h May, 2004.

27 MAY 2004

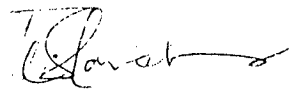
ORDER

WHEREAS, Dr.M.N.Suryawanshi has been appointed ad-hoc disciplinary authority vide Council's order of even number dated 23.6.2003 to initiate the disciplinary proceedings against Smt. Meera Kushwaha, Aya(under suspension) of Regional Research Institute(Ay), Itanagar for her gross misconduct of assaulting the In-charge of the Institute physically and injured him

AND WHEREAS, Dr.M.N.Suryawanshi has served a charge sheet on Smt.Kushwaha on 8.7.2003 and conducted an inquiry in the matter. He has awarded a penalty of "CENSURE" and also revoked her suspension.

AND WHEREAS, the Council observed that Dr.M.N.Suryawanshi, ad-hoc disciplinary authority has taken the decision without completing the entire proceeding and without being impartial. Therefore, the undersigned is not agreed with the final order passed by him vide No. RRI/ITA/VI/1/2003-04/43 dated 27.10.2003.

Now, therefore, the undersigned being the Appellate Authority, is setting aside the order passed by Dr.M.N.Suryawanshi as referred above, and at the same time not accepting the incomplete Inquiry Report in the case. It is also proposed that further inquiry in the case be conducted by appointing a responsible officer from State Government against the delinquent official on the same charges already framed against her. The Council's earlier order of even number dated 23.6.2003 appointing Dr.Suryawanshi as ad-hoc disciplinary authority is also hereby superseded.



(G.S.LAVEKAR)

Appellate Authority &
Director.

To,

Smt.Meera Khsuwaha,
Aya(under suspension),
RRI(Ay),Itanagar.

Copy to:-

1. Dr.M.N.Suryawanshi, RO(Ay), Itanagar.
2. Dr.Ramashankar, RO(Bot), RRI(Ay), Itanagar

Appellate Authority &
Director.

Attested by


Advocate.

To,

Shri P.Makhija,
The Enquiry Officer,
Camp RRI(AYU)
Itanagar.

Sub:- UNFAIR ENQUIRY PROCEEDINGS
Ref:- Enquiry against Smti. Meera Kushwaha, Aya, RRI(AYU), Itanagar.

Sir,

I am to state that, I have functioned as defense Assistant in the above referred enquiry proceedings which has been conducted w.e.f. 21/4/05 to 27/4/05. During this period I have been made to feel that inspite of my repeated objections which are already available on records, you have failed to perform your obligation as enquiry officer and did not act as an impartial and open minded enquiry officer. Rather, you have acted as prosecutor. In this situation. I can not expect justice in your hands if the proceedings of enquiry is continued further.

It is regretted to inform you that I as Defense Assistant deeply feel that proceedings conducted so far is unfair, biased and one sided in total violation of **Principal of Natural Justice**. Hence, I am unable to continue as a defence assistant in this proceedings and withdraw myself on the grounds as mentioned above.

The frequent and unjustified interference of the presenting Officer in the proceedings by leading the P.Ws and his condemnatory words to the people of Arunachal Pradesh " ARUNACHAL KE LOG EISHE HOTEN HEIN " and your inability to prevent such uncalled for act is regretted.

For information please.

Yours faithfully,

28/04/05
(MOHAN KAYE) SI
C.B. PS SIT,
PHQ Itanagar.

Enclo:-

1) Copy of statement of 9(nine) witness and a copy of requisition for furnishing of letter of Ministry of Health and Family Welfare, Govt. of India, New Delhi vide No.DYE-LAW 46 of concils letter No.F.No.32-33/88-CC RAS/ADMN dated 30/5/97 and reply of Doctor Rama Shankar dated 22/4/05.

2) A copy of list of witnesses.

Copy to :-

The Director, CCRRAS, New Delhi for information please.

Attested by

25/4/05
Advocate.

(MOHAN KAYE)SI

C.B. PS SIT,
PHQ Itanagar.

Encl. & not
received along
with this application
28/4/05

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To

Dated 6th May 2005

Shri P. Makhija,
The Enquiry Officer
Camp RRI(AYU)
Gangtok, Sikkim.

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Sub :- Inability to participate the proceedings of Enquiry in absence of my defense assistance SI M. Kaye

Sir,

I have the honour to enclose herewith a copy of the letter dated 28/04/05, submitted by S.I. M. Kaye informing his withdrawal from the proceeding of enquiry conducted against me due to conduct of unfair proceedings. Further I am to state that, I have already informed you verbally on 28/04/05 that I am unable to participate in the proceeding of enquiry in absence of SI M. Kaye who was compelled to withdraw himself from unfair, unwanted, uncalled for, one sided and arbitrary proceeding conducted by you. It is surprising that inspite of my intimation of my inability to participate in the proceeding of enquiry you have sent several notices to me calling me to participate in the proceedings of enquiry. It appears that you are in haste to complete the proceeding of enquiry without giving due regard to the rules of neutral justice which is required to be adhered to by every enquiry officer. It is to note that you have examined several witnesses who were not incorporated in the list of prosecution witness in the charge nor the list of these new witnesses were furnished to me prior to their recovering statements. This also proves your bias attitude to prove the charges against me.

In this situation, no justice can be expected at your hand if I had to participate in the proceedings of enquiry further. You should bear in mind that maximum justice should not only be done but it must manifestly appears to be done. The enquiry proceedings is not just a formalities. But furnish stringent procedures to be adhered to by each and every enquiry officer while conducting enquiry officer.

In view of the above, I am to inform you that I am not in a position to participate in the process of enquiry till my defence assistant S.I. M. Kaye or any other new defence pleader of my choice is allowed to pursue my case. It may be noted that since no new defence pleader of my choice was found till date, hence, I could not attend the proceedings of enquiry after 27th April 2005.

Yours faithfully,

(MEERA KUSHWAHA)
Aya, RRI (AYU), Itanagar,
Arunachal Pradesh.

Copy to :-

1. The Director, CCRRAS, New Delhi for information please.
2. The Officer-In-charge DDI (AYU) Itanagar for information please.

ITANAGAR RRI (AYU)
M. E. 9452
Counter No. 11-11-11-11-11
To: SHRI P. M. Makhija, R.R.I.
GANGTOK - SIKKIM PIN: 737101
M: 1107225
Att: 02.00, 11/05/2005, 12:27
E-Post: Next Day Post.

Code: MB
CCRRAS, JAMNAPURI
IN: 110058
25/2005, 12:28
Post.

Attested by

24/19/06
Advocate.



(MEERA KUSHWAHA)
Aya, RRI (AYU), Itanagar,
Arunachal Pradesh.

CENTRAL COUNCIL FOR RESEARCH IN AYURVEDA AND SIDDHA
 (An autonomous organization under Ministry of Health & Family Welfare, Govt. of India)
 Jawaharlal Lal Nehru Bhartiya Chikitsa Avum Homoeopathy Anusandhan Bhawan
 No.61-65; Institutional Area, Opp.'D' Block, Janakpuri, New Delhi-110058

F.No.2-1/2003-CCRAS/Vig./Vol.II

Dated: July, 2005

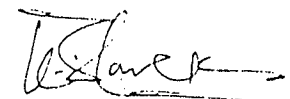
20 JUL 2005

MEMORANDUM

Whereas an inquiry was ordered against Mrs. Meera Kushwaha, Aya of RRI(Ay.) Itanagar (under suspension) under rule 14 of CCS(CCA) Rules 1965 for contravention of Rule 3(1) of CCS (Conduct) Rules 1964 after denying the charges leveled against her vide charge sheet dated 8.7.2003.

And whereas, Dr.P.Makhija, R.O.Incharge, RRI, Sikkim was appointed as Inquiry Authority by the undersigned to enquire that whether the charge leveled against Mrs. Meera Kushwaha, Aya, is stand proved or not. The Inquiry Authority has submitted his report and which is acceptable to the undersigned.

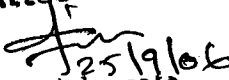
A copy of the said report is hereby provided to Mrs. Meera Kushwaha, Aya, the charged officer for making a representation if she desires so against the finding of the inquiry report within 15 days from the date of receipt of the same to the undersigned failing which it will be presumed that she has nothing to comment on the report and accordingly the final decision will be taken in the matter.


 (G.S.LAVEKAR)
 DIRECTOR

To,
 Smt Meera Kushwaha
 Aya (Under Suspension)
 RRI(Ay), Itanagar

through - In-charge

Attested by


 25/9/06
 Advocate.

Office Order/ik



क्षेत्रीय आयुर्वेद अनुसंधान संस्थान

तादोङ्ग, गंगटोक - 737102 (सिक्किम)

REGIONAL RESEARCH INSTITUTE (Ay.)

Tadong, Gangtok - 737102 (Sikkim)

(Central Council For Research in Ayurveda and Siddha. An autonomous organisation under Ministry of Health & Family Welfare, Govt. of India)

F.No. 3-1(1)/2002/RR1-GTK/Vlg/141

Date 29. 16. 2005.

To,

Dr. G.S. Lavakar,
Disciplinary Authority,
Director, CCRMS,
New Delhi- 58.

Sub: Submission of departmental inquiry report against Mrs. Meera Kushawaha, Aya, Regional Research Institute (Ay), Itanagar.

Sir,

With reference to your letter No.2-1/2003-CCMS/Vlg. Order No. nil dated 7.4.2005, I am herewith submitting the departmental inquiry report against Mrs. Meera Kushawaha, Aya, RRI(Ay), Itanagar.

This is for your kind information and necessary action please.

Thanking you,

Yours faithfully,

Encl:

(DR. P. MUKHIA)
Inquiry Officer.

1. Inquiry report from 1 to 15 pages.
2. Written Brief of charged official.
3. Written brief of Presenting Officer.
4. Daily order sheet from 21.4.05 to 30.4.05.
5. Letters/ Orders received/ issued during inquiry from letter 1 to 46.05
6. Photo copy of charge sheet.
7. Photo copy of Exhibits from 1 to 21.

(Signature)
21/5/05

INQUIRY REPORT

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(92)

IN THE CASE AGAINST Mrs. MEERA KUSHWAHA, AYA?
REGIONAL RESEARCH INSTITUTE (AY), ITANAGAR (A.P.).

1. Under sub-rule (2) Read with Sub-Rule (22) of Rule 14 of the CCS (CA) Rules, 1965. I was appointed by the Director, CCRAS, New Delhi as the Inquiring Authority to enquire into the charges framed against Mrs. Meera Kushwaha vide his letter No. 2-1/2003-CCRAS/Vig. XX order no. nil dated 7.4.2005. I have since completed the Inquiry, and on the basis of the documentary and oral evidences adduced before me prepared my Inquiry report as under :-
2. The Charged Official participated in the Inquiry from 21.4.05 to 27.4.05, engaged Mr. Mohan Kaye, S.I., Police Head Quarter, Itanagar (A.P.) as a Defence Assistant. After withdrawal ^{of} her Defence Assistant from Departmental Inquiry against Mrs. Meera Kushwaha ^{she} did not attend Departmental Inquiry even after several instructions. Before the withdrawal of Defence Assistant from departmental enquiry written statements of remaining two witnesses duly signed by Inquiry Officer, Presenting Officer, Charged Officer and Defence Assistant were already been recorded. As Mrs. Meera Kushwaha refused to accept the official letters of Inquiry Officer and not informed even verbally to Inquiry Officer about her inability to attend departmental inquiry, the Inquiry Officer was bound to treat this proceeding as ex-parte.
3. Dr. Shri Prakash, Research Officer (Ay), Regional Research Institute (Ay), Itanagar appointed as a Presenting Officer by Director, CCRAS, New Delhi.

ARTICLE - I.

That Mrs. Meera Kushawaha, Aye (Ay) constructed a Cow shed in first part of 2000 in the last boundary of Institute and occupy the land illegally of the Institute without permission of the Director, of CCnS or Research Officer Incharge, Itanagar and make unhygienic of the Institute Campus and Mrs. Meera Kushawaha were tried to obtain permission from the Research Officer Incharge on 17.06.2000.

ARTICLE - II.

That Mrs. Meera Kushawaha, Aye, (Ay) had damaged some valuable medicinal plant by accumulated huge quantity of fodder (Pawal) for your Cows and you are also damaged the boundary fencing of the Institute by ~~cutting~~ the poll of the fencing for construction of the cow shed and managing the direct road for the purpose of easy going on her own choice and you are also requested to replace the plants of actual species and repair the fencing within 5 days, such as Sarpagandha 6 Nos. and Vasaka 10 Nos. vide F.No. RRI/ITA/261/Admn/921 dated 05.03.2002.

ARTICLE - III.

That ~~as is~~ Mrs. Meera Kushawaha, Aye (Ay) on 9.4.2003 at about 10 a.m. when Dr. Rama Shankar was arranged for repairing and replacement of Institute fencing by casual labour which was damaged by Mrs. Meera Kushawaha, Mrs. Meera Kushawaha was tried to obstruct the repairing works and also tried to remove the fencing for her easy coming and going to her house. After received complaint from labour, Dr. Rama Shankar visit the place and she began shouting loudly and used unparliamentarily language to Research Officer Incharge and subsequently she herself along with her son (aged about 20 years) assaulted physically to Dr. Rama Shankar and go injured on his head (left side) and also blow highly on his upper side of head vide No. 11-27/36/RRI/17A/PF/19 dated 9.4.03 and copy of F.I.R. lodge on 9.4.03 File No. 11-27/36/RRI/ITA/P47 by Dr. Rama Shankar.

ARTICLE - IV.

That Mrs. Meera Kushawaha, Aye (Under suspension), Itanagar on 5.3.02 she entered into the office room of the Research Officer Incharge with angry mood and throw the letter vide No. RRI/ITA/261/Admn/921 on the table of Research Officer Incharge and she shouted loudly by using unparliamentarily language to the Research Officer Incharge and a Memorandum also issued to you vide No. 11-27/86-RRI/ITA/PF/936 dated 06.03.2002.

ARTICLE - V.

That Mrs. Meera Kushawaha, Aye (Ay) Itanagar on 6.3.2002 and your husband were involved in throwing broken glasses inside the office room of Dr. Rama Shankar, Research Officer, Incharge were he was not present in the room and might have been injured if he were in and you have also ask by office order No. No. 11/7/86-RRI/ITA/PF/936 dated 6.3.02 to reply before 15.3.02.

P.W.-1. Sri Satendra Mallik, Peon, R.R.I.(Ay), Itanagar.
 P.W.-2. Sri Krishna Chettri, Casual Labour,
 P.W.-3. Sri Jogesh Baruah, Safaiwala, R.R.I.(Ay), Itanagar.
 P.W.-4. Sri Rudal Singh, Driver, -do-
 P.W.-5. Sri S.S.Rai, Ward Boy, -do-
 P.W.-6. Sri S.K.Gupta, Peon, -do-
 P.W.-7. Sri R.B.Pradhan, Kitchen Servant -do-
 P.W.-8. Sri Ashok Kumar, Driver, -do-
 P.W.-9. Sri B.Chowdhary, Ward Boy, -do-
 P.W.-10. Sri Umesh Chandra Kending, Lab.Attat. -do-
 P.W.-11. Sri B.P.Singh, Chowkidar, -do-
 P.W.-12. Dr.Rama Shankar Pathak,
 R.O.(Bot). -do-

LIST OF DEFENCE WITNESSES.

D.W.- Nil.

XXB DAILY ORDER SHEET FROM 21st April to 30th April, 2005.

XXB

INQUIRY REPORT ON THE DEPARTMENTAL ENQUIRY HELD
AGAINST Mrs. MEERA KUSHWAHA, AYA, REGIONAL RESEARCH
INSTITUTE (AY), ITANAGAR (A.P.) SUBMITTED BY THE
INQUIRY OFFICER VIDE LETTER NO. _____
DATED: _____

LIST OF EXHIBITED DOCUMENTS

- S.D.-1. Xerox copy of letter dated 17.6.2000 written by Mrs. Meera Kushwaha to R.O.(Bot) Incharge, RRI(Ay), Itanagar, requesting to continue with existence of cowshed.
- S.D.-2. Xerox copy of letter of Dy. Director, CORAS addressed to R.O. (Bot) Incharge, RRI(Ay), Itanagar on 9.2.2001 for removal of cowshed.
- S.D.-3. Xerox copy of letter of R.O.(Bot) Incharge, RRI(Ay), Itanagar addressed to Mrs. Meera Kushwaha on 15.2.2001 for removal of Cowshed.
- S.D.-4. Xerox copy of letter of R.O.(Bot) Incharge, RRI(Ay), Itanagar addressed to Mrs. Meera Kushwaha on 21.5.2001 regarding violation of Cowshed.
- S.D.-5. Xerox copy of letter of R.O.(Bot) Incharge, RRI(Ay), Itanagar addressed to Deputy Commissioner, Papumpore District dated 21.3.2002 regarding violation of unauthorized cowshed constructed in the Hospital campus.
- S.D.-6. Xerox copy of letter of R.O.(Bot) Incharge, RRI(Ay), Itanagar addressed to Mrs. Meera Kushwaha on 5.3.2002 regarding damage caused by her cowshed to medicinal plants etc. and removal of Cowshed.
- S.D.-7. Xerox copy of E.R. lodged by Ramashankar to Officer-in-Charge Police Station, Itanagar on 9.4.03 against Mrs. Meera Kushwaha.
- S.D.-8. Xerox copy of letter dated 9.4.03 addressed to Director, CORAS, New Delhi regarding manhandling with Officer-in-charge by Mrs. Meera Kushwaha and her son (Fax message).
- S.D.-9. Memo issued to Mrs. Meera Kushwaha on 6.3.02 by R.O.(Bot) Incharge RRI(Ay), Itanagar.
- S.D.-10. Xerox copy of letter dated 6.3.02 addressed to Mrs. Meera Kushwaha by Shri M Ramashankar.
- S.D.-11. Xerox copy of letter dated 31.3.03 written by chowkidar to Incharge, RRI(Ay), Itanagar regarding security of Govt. Property.
- S.D.-12. Statement of Satendra Mallik, Peon, RRI(Ay), Itanagar. (Xerox copy)
- S.D.-13. Xerox copy of Statement of Krishna Chetry, (Casual Labour).
- S.D.-14. Xerox copy of Statement of Shree Shankar Rai (Ward Boy), RRI(Ay), Itanagar.

- S.D.-15. Xerox copy of Statement of Jogesh Baruah (Safalwala) RRI(Ay), Itanagar.
- S.D.-16. Xerox copy of Statement of Rudal Singh, Driver, RRI(Ay) Itanagar.
- S.D.-17. Xerox copy of Statement of Shailendra Kumar Gupta, Peon, RRI(Ay), Itanagar.
- S.D.-18. Xerox copy of letter dated 4.7.03 issued to the Officer-in-charge, Police Station, Itanagar requesting him for certain documents.
- S.D.-19. Xerox copy of U.P.D. Registration Card of Ramakrishna Mission Hospital, Itanagar vide No.140 13-03 dated 9.4.03.
- S.D.-20. Xerox copy of Notice issued by Shri Takir Nytor, E.A.C. to Mrs. Meera Kushwaha with a copy to Director, R.R.I.(Ay), Itanagar, regarding evasion of cowshed and to avoid pollution in the Hospital premises.
- S.D.-21. Xerox copy of Medicinal Plants data for the Year 1999-2000 (page No.65 of annual report).

LIST OF EXHIBITS PRODUCED BY THE CHARGED OFFICIAL

D.-1 Nil.

Mrs. Meera Kushwaha, Aya, Charged Official, was summoned to appear before Inquiry board for hearing of the case and onward inquiry. Read the charges against Mrs. Meera Kushwaha which she under-stood, Mrs. Meera Kushwaha admitted that all the prosecution documents pertaining to the inquiry had already been given to her along with charge sheet.

Statements of witnesses alongwith their re-examination and cross examination are enclosed as a daily order sheet from 21.4.05 to 30.4.05.

On completion of evidence, I directed Presenting Officer to submit his brief. Brief submitted by Presenting Officer (Copy enclosed) on dated 12.5.05 was sent to Mrs. Meera Kushwaha on dated 13.5.05. Mrs. Meera Kushwaha was asked to submit her brief within 10 days from the date of receipt of written brief of Presenting Officer. Mrs. Meera Kushwaha requested Inquiry Officer by letter (Copy enclosed) to extend the time limit by 15 days. Her brief was received by Inquiry Officer on dated 17.6.2005.

.....

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(6) 28

(97)

ORDER/ LETTER RECEIVED or ISSUED DURING
THE DEPARTMENTAL INQUIRY AGAINST MRS. MEERA
KUSHWAHA, AYA, R.R.I.(AY), ITANAGAR (A.P.).

1. Order of Director, C.C.R.A.S. dated 7.4.05 addressed to ~~XXXXXX~~ Dr. P.Makhija, R.O. Incharge, RRI(Ay), Gangtok.
2. Letter dated 8.4.05 letter of Dr. P.Makhija, R.O.(Ay) Incharge, RRI(Ay), Gangtok addressed to R.O. Incharge, RRI(Ay), Itanagar.
3. Letter of Inquiry Authority dated 11.4.05 addressed to R.O. Incharge, R.R.I.(Ay), Itanagar for hand over the letters addressed to Mrs. Meera Kushwaha, Aya, RRI(Ay), Itanagar.
4. Letter of Inquiry Authority dated 8.4.05 addressed to Mrs. Meera Kushwaha, Aya, RRI(Ay), Itanagar regarding Departmental Inquiry under rule 14 of the CCS(COA) rules 1965 against Mrs. Meera Kushwaha, Aya of RRI(Ay), Itanagar.
5. Fax Message of R.O. Incharge, RRI(Ay), Itanagar addressed to R.O. Incharge cum Inquiry Officer, RRI(Ay), Gangtok dated 16.4.05 regarding refusal Notice.
6. Circular of Dr. Sri. Prakash, R.O.(Ay), RRI(Ay), Itanagar Presenting Officer dated 28.4.05 addressed to Mrs. Meera Kushwaha, Aya, RRI(Ay), Itanagar.
7. Letter of Dr. P.Makhija, Inquiry Officer dated 20.4.05 addressed to Mrs. Meera Kushwaha, Aya, RRI(Ay), Itanagar regarding Departmental Inquiry under rule 14 of CCS (COA) rules 1965 against Mrs. Meera Kushwaha, Aya, RRI(Ay), Itanagar.
8. Letter of Inquiry Officer, dated 21.4.05 addressed to R.O. Incharge, RRI(Ay), Itanagar regarding Evidence in the proceeding against Mrs. Meera Kushwaha dated 21.4.05.
9. Letter of Sri Mohan Kaya, S.I. Crime Branch, Police Station(SIT) Police Head Quarter, Itanagar dated 21.4.05 addressed to Inquiry Officer for willingness to act as Defence assistant.
10. Letter of Inquiry Authority dated 21.4.05 addressed to Sri Mohan Kaya S.I. C/o S.P. Crime (S.I.T.) Police Head Quarter, Itanagar regarding Departmental Inquiry against Mrs. Meera Kushwaha.
11. Letter of Mrs. Meera Kushwaha, Aya dated 21.4.05 addressed to Inquiry Officer regarding request for furnishing of letter of Ministry of Health & F.W., Govt. of India, New Delhi under O.V.L. LAW of council's letter No.F.No.32-33/88-CORAS/admn. dated 30.5.1997.
12. Letter of Mrs. Meera Kushwaha, Aya, RRI(Ay), Itanagar dated 21.4.05 addressed to the Inquiry Officer, RRI(Ay), regarding request for fixing the date of Hearing on 27.4.05.



presently working in R.R.I.(Ay), Guwahati.

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15. Letter of R.O.Incharge, RRI(Ay), Itanagar dated 22.4.05 addressed to Inquiry Officer.
16. Memorandum dated 22.4.05 addressed to Dr. Sri Prakash, Presenting Officer, Mrs.Meera Kushwaha, Copy of R.O.Incharge, regarding hearing of Departmental Inquiry.
17. Letter of Sri S.Mallik, Peon, RRI(Ay), Guwahati dated 23.4.05 addressed to Inquiry Officer regarding reporting for witness.
18. Office Order No.9/2005-06 of R.O.Incharge, RRI(Ay), Guwahati dated 22.4.05 copy to Inquiry Officer.
19. Letter of Smt. Meera Kushwaha, Aya, RRI(Ay), Itanagar dated 23.4.05 regarding addressed to Inquiry Officer reg. Adjournment of Proceeding Inquiry.
20. Letter of Presenting Officer dated 23.4.05 addressed to Inquiry Officer reg. permission to produce witnesses related to the charges framed against Mrs.Meera Kushwaha, RRI(Ay), Itanagar.
21. Letter of Inquiry Officer dated 23.4.05 addressed to Mrs.Meera Kushwaha, reg. Adjournment of proceeding enquiry.
22. Letter of Inquiry Officer dated 23.4.05 addressed to Mrs.Meera Kushwaha regarding Adjournment of proceeding enquiry.
23. Letter of Mrs.Meera Kushwaha, Aya dated 23.4.05 addressed to Inquiry Officer regarding submission of details of the paper exercises regarding the case.
24. Letter of Mrs.Meera Kushwaha, Aya dated 23.4.05 addressed to Inquiry Officer.
25. Letter of Inquiry Officer dated 23.4.05 addressed to R.O.Incharge, RRI(Ay), Guwahati regarding witness of Sh.S.Mallik, Peon.
26. Letter of Inquiry Officer dated 23.4.05 addressed to Mrs.Meera Kushwaha, Aya regarding Adjournment of proceeding enquiry.
27. Letter of Sh.Mohan Kays, S.I. Defence Assistance dated 25.4.05 addressed to Inquiry Officer regarding Approval of controlling Officer.
28. Letter of Mrs.Meera Kushwaha, Aya copy dated 25.4.05 addressed to Inquiry Officer regarding her defence assistance.
29. Letter of Sh. Mohan Kays, S.I. Defence Assistance of Mrs.Meera Kushwaha dated 25.4.05.
30. Letter of Mrs.Meera Kushwaha Aya dated 25.4.05 addressed to Inquiry Officer regarding fixation of date of hearing.

Conte.....3

31. Letter of Inquiry Officer dated 26.4.05 addressed to Dy. Superintendent of Police (SIT) Crime Branch, P.S.(SIT) regarding particulars of Mr. M.Kaye, S.I.. 90
32. Letter of Sri C.B.Chattri, APPS Dy. Superintendent of Police (SIT) Crime Branch P.S.(SIT) dated 26.4.05 regarding particulars of Sh. M.Kaye, S.I..
33. Letter of Sri Mohan Kaye, S.I., Crime Branch, P.S.(SIT) Itanagar dated 28.4.05 addressed to Inquiry Officer regarding unfair enquiry proceedings.
34. Letter of Inquiry Officer dated 28.4.05 addressed to Mrs. Meera Kushwaha, Aya regarding withdrawal to work as Defence Assistance ~~XXXXXXXXXXXXXXX~~ by Mr. Mohan Kaye, S.I..
35. Letter of Dr. Rama Shankar, R.O.(Bot) Incharge dated 28.4.05 addressed to Inquiry Officer re: refusal to except the letter.
36. Letter of Inquiry Officer dated 29.4.05 addressed to Mrs. Meera Kushwaha, Aya regarding withdrawal to work as defence assistant by Smt.Meera Kushwaha Defence assistant Mr. M.Kaye, S.I..
37. Letter of R.O.Incharge, RRI(Ay), Itanagar dated 29.4.05 addressed to Inquiry Officer regarding refusal to except the letters.
38. Letter of Inquiry Officer dated 30.4.05 addressed to Mrs.Meera Kushwaha regarding withdrawal to work as Defence assistant by Mrs. Meera Kushwaha's Defence assistant Sh.M.Kaye, S.I..
39. Letter of R.O.Incharge, RRI(Ay), Itanagar dated 30.4.05 addressed to Inquiry Officer regarding refusal of received the letter dated 30.4.05.
40. Letter of Inquiry Officer dated 30.4.05 addressed to Mrs. Meera Kushwaha regarding submission of documents.
41. Letter of R.O.Incharge, RRI(Ay), Itanagar dated 30.4.05 addressed to Inquiry Officer regarding refusal of to accept the documents by Mrs. Meera Kushwaha, Aya under suspension.
42. Letter of Inquiry Officer dated 13.5.05 addressed to R.O.Incharge, RRI(Ay), Itanagar regarding Hand over the closed envelop to Mrs. Meera Kushwaha, Aya, RRI(Ay), Itanagar.
43. Letter of Inquiry Officer dated 13.5.05 addressed to Mrs.Meera Kushwaha, Aya, RRI(Ay), Itanagar regarding written Brief in r/o the Departmental Inquiry against Mrs.Meera Kushwaha Aya, RRI(Ay), Itanagar (A.P.).
44. Letter of Mrs. Meera Kushwaha, Aya, RRI(Ay), Itanagar dated 0.5.05 addressed to Inquiry Officer regarding Inability to participate the proceedings of enquiry in absence of my defence assistance S.M.Kaye.

45. Letter of R.O. Incharge, RRI(Ay), Itanagar dated 1.6.05 addressed to Inquiry Officer regarding Inquiry against Mrs. Meera Kushwaha.

46. Letter of Mrs. Meera Kushwaha, Aya R.R.I.(Ay), Itanagar dated 1.6.05 addressed to Inquiry Officer regarding extension of 15 days time for submitting written Brief.

WRITTEN BRIEF OF BOTH SIDES.

1. Presenting Officer
2. Mrs. Meera Kushwaha, Charged Official.

A. Letter of Dr. Sri Prakash, Presenting Officer dated 6.5.05 addressed to Inquiry Officer regarding submission of Brief in respect of Inquiry held against Mrs. Meera Kushwaha, Aya, R.R.I.(Ay), Itanagar (A.P.).

B. Letter of Mrs. Meera Kushwaha dated 7.6.05 addressed to Inquiry Officer regarding submission of written argument.

.....

That Mrs. Meera Kushawaha, Aya (Ay) constructed a Cow shed in first part of 2000 in the last boundary of Institute and occupy the land illegally of the Institute without permission of the Director, of CCRA5 or Research Officer Incharge, Itanagar and make unhygienic to the institute Campus and Mrs. Meera Kushawaha were tried to obtain permission from the Research Officer Incharge on 17.06.2000. a2

In support of this article S.O-20, S.O-2, S.O-3, S.O-4, S.O-5 were exhibit. These exhibits are the official orders regarding eviction of Cowshed from the premises of the institute. Exhibit 01 shows that Mrs. Meera Kushawaha requested R.O. J/K to continue with cowshed in the hospital premises on family ground. But the council had not agreed and gave the instruction to remove cowshed (S.O-4) (S.O-2). Sri Rama Shankar, Research Officer Incharge, P.W-12 mentioned in his statement that Mrs. Meera Kushawaha had constructed her cowshed during March-April, 2000 without obtaining permission from Incharge of the Institute. For the eviction of cowshed numerous efforts were made from the side of the office of the Incharge as well as employees also. Finally after various efforts the cowshed was evicted during Jan-Feb, 2003 by Dy. Commissioner, Distt. Pimpri-Chinchwad. Further on duty there is no rearing of cow, Pig etc. by any one else.

Witnesses Shri Rudal Singh, PW-4; Shri S.S. Rai, PW-5; Shri S.K. Gupta, PW-6; Shri R.B. Pradhan, PW-7; Shri Ashok Kumar PW-8; Shri Binay Chowdhary, PW-9; Shri U.C. Kardung, PW-10; Shri B.P. Singh, PW-11 in their statements mentioned that cowshed was constructed by Mrs. Meera Kushawaha and staff of the institute submitted a presentation to Dy. Commissioner for the removal of cow and cowshed due to its unhygienic pollution. R.P.P. 201

The charged official, Mrs. Meera Kushawaha has stated in her written argument that Dr. Rama Shankar, Research Officer Incharge had very good relation with her before half of 2000. Research Officer Incharge was purchasing milk from her and Research Officer Incharge had given her verbal permission to construct a cowshed. After decrease in the production of milk she expressed her inability to continue providing milk to Research Officer Incharge. After that Research Officer Incharge started issuing notices to her to remove cow and cowshed but Research Officer Incharge did not object Mrs. Hage Romang for rearing of Pigs.

On cross examination by Defence Assistance, Sri S.S. Rai, PW-5, Shri S.K. Gupta, PW-6, ^{Sh. Ashok Kumar PW-8} replied that Mrs. Hage Romang sometimes brought Pig for their traditional Puja, which was sacrificed after 16 days according to the

ARTICLE -II.

That Mrs. Meera Kushawaha, Aya, (Ay) had damaged some valuable medicinal plant by accumulated huge quantity of fodder (Puwai) for your Cows and you are also damaged the boundary fencing of the Institute by creating the poll of the fencing for construction of the cow shed and managing the direct road for the purpose of easy going on her own choice and you are also requested to replace the plants of actual species and repair the fencing within 5 days, such as Sarpagandha 6 Nos. and Veevaka 10 Nos. vide F.No. RRI/ITA/261/Admn/921, dated 05.03.2002.

In support of this article S.O.-6 and S.O.-9 were exhibits. The exhibit S.O.-6 shows that Dr. Rama Shanker, Research Officer Incharge issued letter to charged official, Mrs. Meera Kushawaha on dated 5.3.2002 that on dated 3.3.02 Mrs. Meera Kushawaha and her family has accumulated huge quantity of fodder (Puwel) which caused damage to six numbers of Sarpagandha plants and 10 numbers of Vasaka plants and hence Mrs. Meera Kushawaha was requested to replace the same.

The exhibit S.O.-9 is a Memorandum issued to delinquent official, Mrs. Meera Kushawaha, regarding damage of medicinal plants due to fodder and misbehaviour of charged official with Research Officer Incharge.

On re-examination by Presenting Officer Shri R.B. Pradhan, PW-7, replied that Mrs. Meera Kushawaha had stored puwel due to which medicinal plants got damaged but the names of medicinal plants he doesn't know.

Shri U.C. Kardung, PW-10, mentioned in his statement and re-examination by Presenting Officer that Sarpagandha Plants were damaged due to dumping of Puwel (Puwel) by Mrs. Kushawaha.

Shri B.P. Singh, PW-11, has mentioned in his statement and re-examination that Mrs. Meera Kushawaha dumped the Puwel due to which medicinal plants got damaged. Shri B.P. Singh also stated that he had seen by his own eyes that Mrs. Meera Kushawaha damaged the fencing for her coming and going to office and the said fencing was repaired by him and other two chowkidars but the next day Mrs. Meera Kushawaha had again damaged the fencing in another place but he hadn't seen by his own eyes.

Shri Satendra Mallik, PW-1, Shri B. Chowdhary, PW-9, Shri U.C. Kardung, PW-10 stated about damage of fencing and Mrs. Meera Kushawaha was using the new path developed by damaging the fencing. But PW-1, PW-9 and PW-10 haven't seen with their own eyes who had damaged the fencing.

Shri Rama Shanker P.W-12 stated about damage of medicinal plants by accumulated huge fodder during the process of rear of cows and also on 4.3.02. He also mentioned damage of fencing by Mrs. Meera Kushawaha.

The Charged Official has stated in her written argument that the prosecution has failed to produce the records in details and that this incident relates to the year 2000 and charge is framed after lapse of two years.

ARTICLE-III.

That said Mrs. Meera Kushawaha, Aya (Ay) on 9.4.03 at about 10 am. when Dr. Rama Shanker was arranged for repairing and replacement of institute fencing by casual labour which was damaged by Mrs. Meera Kushawaha, Mrs. Meera Kushawaha was tried to obstruct the repairing works and also tried to remove the fencing for her easy coming and going to her house. After received complaint from labour. Dr. Rama Shanker visit the place and she began shouting loudly and used unparliamentarily language to Research Officer Incharge and subsequently she herself alongwith her son (aged about 20 years) assaulted physically to Dr. Rama Shanker and got injured on his head (left side) and also blow highly on

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his upper side of head vide No.11-27/36/RR/ITA/PF/19 dated 9.4.03 and copy of F.I.R. lodge on 9.4.03 file No.11-27/36/RR/ITA/P47 d by Dr. Rama Shankar.

This incidence was occurred in the presence of Shri Satendra Mallik, P.W-1, In support of this article S.O.-7, S.O.-8, S.O.-19, S.O.-11, S.O.-12, S.O.-13, S.O.-14, S.O.-15, S.O.-16 and S.O.-17 were exhibits.

The exhibit S.O.-7 is the F.I.R. which was lodged at Police Station, Itanagar by Sri Rama Shankar to the effect that 9.4.2003 at 10 a.m., Mrs. Meera Kushawaha and her son physically assaulted him. S.O.-8 exhibit is a letter of Dr. Rama Shankar, Research Officer Incharge to Director, C.C.R.A.S., New Delhi regarding manhandling to him by Mrs. Meera Kushawaha alongwith her son. The exhibit S.O.-19 is the O.P.D. registration card of R.K.Mishan Hospital, Itanagar which shows that Shri Rama Shankar was medically treated in said hospital. Exhibits S.O.-11, S.O.-12, S.O.-13, S.O.-14, S.O.-15, S.O.-16 and S.O.-17 are the statements of witnesses of the incidence.

P.W-1, Shri Satendra Mallik, the eye witness of the incidence, has stated that Mrs. Meera Kushawaha and her son has assaulted Shri Rama Shankar on 9.4.2003 at 10.00 a.m.

Shri Joyesh Barua, P.W-3, Shri Ruesel Singh, P.W-4, Sri S.D.Kel, P.W-5, Shri S.K.Gupta, P.W-6, Shri R.B.Pradhan, P.W-7, Shri Ashok Kumar, P.W-8, Shri U.C.Kardung, P.W-10 stated that they came to the spot immediate after the incidence and saw bleeding on the head of Research Officer Incharge.

Shri Rama Shankar, P.W-12 stated in his written statement that on 9.4.03 at 10.00 a.m. Mrs. Meera Kushawaha shouted loudly on him regarding repairing and replacement of fencing, she used unparliamentary language and physically assaulted him with her son.

The Charged Official refused to accept the charge and states in her written argument that direction of Research Officer Incharge to block her passage of going from her house to office was illegal so she requested labourer and Research Officer Incharge not to block her passage by erecting fencing on which R.O. Incharge became very furious, used unparliamentary language and sustained injury himself.

ARTICLE-IV.

That Mrs. Meera Kushawaha, Ayn (Under suspension), Itanagar on 5.3.2002 she entered into the office room of the Research Officer Incharge with angry mood and throw the letter vide No. RR/ITA/261/Adm/921 on the table of Research Officer Incharge and she shouted loudly by using unparliamentarily language to the Research Officer Incharge and Memorandum also issued to you vide No.11-27/86-RR/ITA/PF/936 dated 06.03.2002.

The exhibit S.O.-9 is a memorandum issued by Research Officer Incharge on dated 6.3.02 to Mrs. Meera Kushawaha regarding damage of medicinal plants and misconduct of Mrs. Meera Kushawaha with senior authority (R.O.I/c.).

Shri S.S.Rai (PW-5), Shri R.B.Prasad (PW-7) Shri Ashok Kumar (PW-8) stated that Mrs. Meera Kushawaha was shouting loudly on R.O. Incharge using unparliamentary language on 5.3.02. But they haven't seen throwing of letter on the table of R.O. Incharge.

Shri U.C.Kardong (PW-10) in his statement mentioned that Mrs. Meera Kushawaha was shouting loudly on R.O. Incharge on dated 5.3.02. He requested Mrs. Meera Kushawaha not to shout.

Shri B.P.Singh (PW-11) stated that Meera Kushawaha got very angry when she received a letter from R.O. Incharge regarding damage of medicinal plants and Mrs. Meera Kushawaha went to the room of R.O. Incharge & using unparliamentary language.

Shri Rama Shankar (PW-12) mentioned that he issued a letter to Mrs. Meera Kushawaha on dated 5.3.02 regarding damage of medicinal plants. On that Mrs. Meera Kushawaha entered into his chamber, thrown the letter on his table and shouted loudly using unparliamentary language.

Charged Official has said in her written argument that there is no material evidence to prove this charge.

ARTICLE - V.

That Mrs. Meera Kushawaha, Aya (Ay), Itanagar on 6.3.2002 and your husband were involved in throwing broken glasses inside the office room of Dr. Rama Shankar, Research Officer Incharge were he was not present in the room and might have been injured if he were in and you have also ask by office order No.11/A/88-RR/ITA/PF/936 dated 6.3.02 to reply before 15.3.02.

Exhibit SD-10 is a office order regarding throwing of broken glasses inside the room of R.O. Incharge by Mrs. Meera Kushawaha and her husband.

Shri Ashok Kumar (PW-8), Shri B.P.Singh (PW-11), the eye witnesses stated that they saw Mrs. Kushawaha with husband throwing broken glasses through the window of office room of R.O. Incharge and Mrs. & Mr. Kushawaha were using unparliamentary language of R.O. Incharge.

Shri Satendra Mallik (PW-1), Shri S.R.Rai (PW-5) stated that they saw pieces of broken glasses lying in the room of R.O. Incharge.

Shri Umesh Kardong (PW-10) mentioned that he heard the shouting voices of Mrs. & Mr. Kushawaha while he was in the library, then he heard the sound of broken glasses. He came to the Room of R.O. Incharge, saw the pieces of broken glasses and Mr. Ajay Kushawaha was there outside the office chamber.

Shri Rudal Singh (PW-4), Shri S.K.Gupta (PW-6), Shri R.B.Prasad (PW-7) mentioned in their statement that they were in the medicinal plant Garden alongwith R.O. Incharge on 6.3.02. After some time Shri Ashok Kumar (PW-8) came and reported to the R.O. Incharge that Smt. Kushawaha alongwith her husband throwing pieces of broken glasses in R.O. Incharge chamber. PW-4, P.W-6 & P.W-7 came back to the office and saw pieces of broken glasses lying in the office room of R.O. Incharge.

Charged Official has said in her written argument that there is no material to prove this charge.

FINDINGS:

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ARTICLE-I.

On the basis of documentary and oral evidences ~~was used~~ before me, it is observed that construction of Cowshed within the Hospital Premises ^{it was constructed with full permission} was illegal, cowshed made institute unhygienic, and delinquent official didnot remove her cowshed even after several instructions from senior authorities.

ARTICLE-II.

After going through all P.W. and exhibits, I am inclined to state that Mrs. Meera Kushawaha had damaged some valuable medicinal Plants by accumulated huge quantity of fodder and damaged the fencing for her easy going.

ARTICLE-III.

On the basis of documentary and oral evidences, it is observed that Mrs. Meera Kushawaha tried to obstruct the repairing work of fencing and assaulted physically to Dr. Rama Shankar with her son.

ARTICLE-IV.

After going through statements of all P.W., I am inclined to observe XX that Mrs. Meera Kushawaha misbehaved with R.O. Incharge shouted loudly on R.O. Incharge using unparliamentary language.

ARTICLE-V.

From the evidences, I am inclined to observe that Mrs. Meera Kushawaha was involved in throwing broken glasses inside the office room of Dr. Rama Shankar, R.O. Incharge with her husband.

C O N C L U S I O N :

ARTICLE-I.

On the basis of the facts and circumstances, I am in the opinion that Mrs. Meera Kushawaha constructed her cowshed in the premises of the Hospital which was illegal. During the process of rearing cows it is XX natural that the smell of cowdung, urine, etc. will cause pollution to the Hospital administration. Further she frequently disobeyed the instructions of higher/ senior authorities regarding removal of cow and cowshed. Hence the charge no.-1 is proved against Mrs. Meera Kushawaha.

ARTICLE-II.

Mrs. Meera Kushawaha constructed a cowshed and reared cows for which fodder (Puwal) was required. Due to dumping of huge quantity of fodder (Puwal) for cows naturally caused damage to some medicinal plants. Mrs. Meera Kushawaha damaged fencing of the Institute and created new path for easy going. The created new path was only used by Mrs. Meera Kushawaha and her family members. So charge no.-II is proved against Mrs. Meera Kushawaha.

ARTICLE-III.

Repairing and replacement of fencing was inconvenient for Mrs. Meera Kushawaha and her family. So Mrs Meera Kushawaha tried to obstruct the repairing work and she became so furious that she assaulted physically to Dr. Rama Shankar, R.O. Incharge with her son due to which Dr. Rama Shankar was injured. Hence charge No. III is proved against Mrs. Meera Kushawaha.

Contd.....

ARTICLE - IV.

Mrs. Meera Kushawaha dumped the fodder for her cows inspite of verbal instruction from R.O. Incharge which caused damage to medicinal plants on that R.O. Incharge issues a letter to Mrs. Meera Kushawaha regarding damage of valuable medicinal plants and its replacement on which Mrs. Meera Kushawaha got angry and misbehaved with R.O. Incharge, shouted loudly at R.O. Incharge and used unparliamentary language. It is a practice for Mrs. Meera Kushawaha to use unparliamentary language to R.O. Incharge. Hence the charge No. IV is proved against Mrs. Meera Kushawaha. 97

ARTICLE - V.

On above said (Article No. IV) misconduct of Mrs. Meera Kushawaha with R.O. Incharge, R.O. Incharge issued a memorandum to Mrs. Meera Kushawaha regarding damage of medicinal plants and misconduct with senior authority (R.O. I/c.) on which Mrs. Meera Kushawaha became so furious that she threw pieces of broken glasses into the room of R.O. Incharge with her husband. Therefore the charge No. V is proved against Mrs. Meera Kushawaha.

Attested by

Advocate.

25/9/06

(DR. P. WAKHIDA)
Inquiry Officer.
CHSEARM OFFICER INCHARGE
Regional Research Institute
Tezpur, Gangtok (Sikkim)
File Code - 737102

13.09.06 — 14.09.06

Annexure - K

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S.L.No-1001

THE GAUHATI HIGH COURT
(The High Court of Assam, Nagaland, Meghalaya,
Manipur, Tripura, Mizoram and Arunachal Pradesh)
ITANAGAR BENCH

WRIT PETITION(C) 513 (AP) 2005

Smt Meera Kushwaha,
W/o Sri Ajay Kumar Kushwaha,
Present resident of Mob-II, Itanagar,
PO: Itanagar, Dist-Papum Pare,
Arunachal Pradesh.

.....Petitioner

- Versus-

1. The Union of India to be represented by
The Secretary, Health & Family Welfare,
Govt. of India, New Delhi,
2. The Director,
Central Council for Research in Ayurveda and
Sidha, 61-65, Institutional area
Opposite D-Block, Janak Puri,
New Delhi-58
3. Dr. M.N. Surjyabanshi,
(Adhoc Disciplinary Authority cum Inquiry Officer)
Regional Research Institute (Ayur),
Itanagar.
4. Dr. P. Makhija (Inquiry Officer)
Research Officer, Regional Research Institute (AYU),
Tadgong, Gangtok,
Sikkim, Pin-731102

..... Respondents.

Attested by
25/9/06
Advocate

Certified to be a
true copy
14/9/06
Agent Registrar (Joint)
Gauhati High Court, Itanagar Bench
Itanagar
Authorized U/S 78 of Act I of 1872

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For the Petitioner: Mr. R.Deka,
Mr. R.B.Yadav,
Advocates

Date of Hearing and order: 13.09.2006

Heard Mr. R. Deka, learned counsel and Mr. R.B. Yadav, learned counsel for the petitioner and Mr. Muk Pertin, learned CGC appearing on behalf of the Respondents/Union of India.

2. In the present writ petition, the petitioner has challenged a memorandum dated 20.07.2005 (Annexure-P/7 to the writ petition) whereby the response of the petitioner was expected in respect of second inquiry report submitted by inquiry officer appointed second time for the same charges for which an earlier inquiry for the same charges have already been conducted by the earlier inquiry officer, Dr. M.N. Surjyabanshi, and also in the capacity of Adhoc Disciplinary Authority, Regional Research Institute (Ayur), Itanagar has already considered the first inquiry report and has earlier taken decision finally by awarding sensor against the writ

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[Handwritten date:] 18/7/66

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petitioner in respect of the same charges of Articles - I, II, IV & V of charge sheet.

3. The counter affidavit has been filed on behalf of the Union of India.

4. During the course of inquiry, certain points were to be clarified namely;

- (i) the maintainability of the writ petition;
- (ii) the relevant rule applicable in respect of the service conditions of the writ petitioner;
- (iii) structure of the establishment of Central Council for Research in Ayurveda;
- (iv) the officers in hierarchy, their status & role as well as the relevant officer who is appointing authority of the writ petitioner;
- (v) the disciplinary authority/ the authority having power of punishing including terminating/removing the petitioner from service, the name of appellate authority, reviewing authority;
- (vi) Any rule in respect of starting second inquiry on the same charges for the same offence when the charges were already inquired into by the duly appointed inquiry officer and after submission of inquiry report and participation of the petitioner, the duly

Verified to be a
true copy

[Signature]
14/9/06
Cauhati High Court, Jammu & Kashmir
Nahargarh
Authd. and U/S 73 of Act I of 1872

appointed disciplinary authority while working as ad hoc disciplinary authority has taken a decision on careful consideration of the enquiry report and has also awarded punishment of 'sensor' under the provisions of relevant rules;

- (vii) Why the writ petitioner was not reinstated into service with immediate effect treating the period of suspension as spent on duty for all intent and purposes in view of the decision of earlier Disciplinary Authority;
- (viii) Any relevant rule or provision under Union of India for starting 'De Novo' disciplinary inquiry when the disciplinary inquiry has already been concluded for all purposes for same charges and the decision in that respect has already been taken by the competent authority;
- (ix) under what circumstances, the writ petitioner has still been kept under suspension?
- (x) Any relevant provision, or applicable rule where the writ petitioner/aggrieved party would file appeal or State/Union of India/employer shall prefer appeal.
- (xi) Before which officer/Authority the appeal shall lie;
- (xii) Who would give entries and what are the ^{CA}role of research officer in-charge of Regional Research

Carried to page 79

[Signature]
 14/9/02
 Asst. Registrar (Jr)
 Court of High Court, Nagar Bench
 L. Changan
 Authorised U/S 76 of Act I of 1972

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Institute (Ayur), Itanagar/ the Assistant Director/ Deputy Director/Director in respect of awarding character roll to the employees/staff are also to be specified;

- (xiii) Circumstances under which the second 'De Novo' inquiry is being initiated against the writ petitioner?
- (xiv) Whether superior officers are under purview of malafide and lack bonafide or acting with ulterior motive for extraneous consideration?

4. The above writ petition was heard on 11.9.2006 as well as 13.9.2006 and even the local officer in charge was also asked to come to the Court for giving proper instructions to the learned counsel for the respondents/Union of India. However, after hearing the respondents were to give response.

5. Since the writ petitioner is by an employee of the Regional Research Institute (Ayu), Itanagar which is under 'Central Council for Research in Ayurveda and Sindha', which itself is under the Ministry of Health and Family Welfare, Government of India, as such, in view of Section 3(q) of 'The Administrative Tribunals Act, 1985' the petitioner was to approach before 'CAT' for redressal of her grievance. Section 14 of Chapter III of the said 'Act 1985' also provides the scope

14/9/06

14/9/06
 J. S. Chandra (Jr)
 Additional Judge, Itanagar Bench
 Authorized Signatory of Act 1 of 1972

of redressal of grievance of the writ petitioner. Therefore, without making any comments on the merits of the case, the writ petition is relegated to be placed before the concerned Central Administrative Tribunal within a period of 2 weeks from today and if such presentation is moved, the concerned Tribunal shall entertain the petition/application of the writ petitioner presented in the prescribed proforma, acceptable to the learned Tribunal and which shall entertain such petition/application of Smti Meera Kushwaha and shall adjudicate (not ^{through} away) on the ground of delay or laches. The concerned learned Tribunal shall also allow the parties to produce other relevant documents and points/pleadings with amended prayer before it and the applicant/petitioner/ Smti Meera Kushwaha shall also be at liberty to challenge the order dated 26.5.2004 passed by G.S. Lavekar (annexure C-3 to the writ petition) along with any other document which she is advised to challenge. After providing opportunity of adducing the replies by the Union of India/Opposite party; the concerned learned Tribunal shall make an endeavour to expedite the case/petition/application preferably within a period of three months, thereafter, and no adjournment shall be usually granted to the respondents/Union of India unless under compelling circumstances or for justifiable reasons.

Certified to be a
true copy

[Signature]
Asst. Registrar (Adm)
Central High Court, New Delhi Bench
Nashik
Authorised U/s 74 of Act I of 1912

6. With the aforesaid observations, this writ petition is disposed of.

Sd/- R. B. MISRA
JUDGE

sd

Verified to be a
true copy

[Signature]
Asst. Registrar (Adm)
Orissah High Court, Itanagar Bench
Maharajgun
Authorized U/S 78 of Act I of 1872
14/9/02

Attested by
[Signature]
Advocate.

File in Court on.....

Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

O.A. No.246 OF 2006

Meera Kushwaha

...Applicant

-Versus-

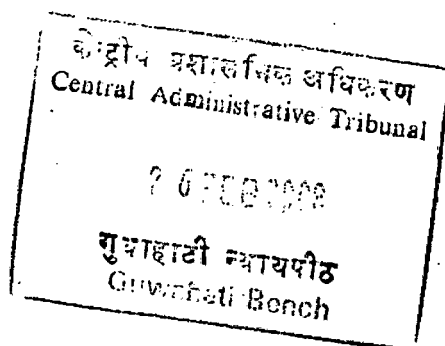
Union of India & Ors.

....Respondents

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5.	Annexure-C-3 (Memorandum dtd. 12.8.05)	14

Received copy
22/02/08



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. NO. 246 OF 2006

Smt Meera Kushwaha,

...Applicant

-Versus-

Union of India & Ors.

....Respondents

The written statement on behalf of
the Respondents above named-

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

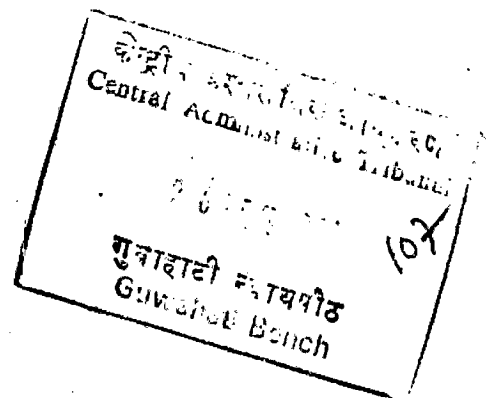
1. That I have gone through the contents of the above mentioned application and have been duly authorised to file this affidavit on behalf of the respondents. The statement which are not specifically admitted are deemed to be denied.

2. That the respondents beg to submit the preliminary objection that the petitioner at the relevant time was working as Aya who was served with a charge sheet on 8th July, 2003 which has already been marked as Annexure P-2 to the application by the applicant.

Although the charge sheet contained five articles of charges, the enquiry authority refused to give any finding on articles 3 of the misconduct. He

Contd...P/-

Anurag Greenaway Nayak
Sr Counsel



[2]

also passed the final order without completing the entire proceedings. As a result vide order dated 26.5.2004, the respondent No.2, being appellate authority in exercise of his revisional powers, ordered for a denovo enquiry.

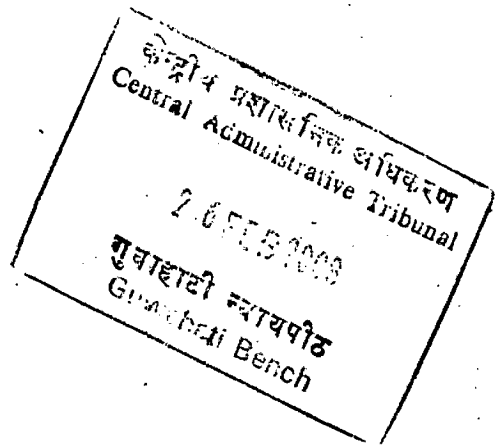
A copy of the same is annexed herewith as Annexure - C-1.

3. That the respondent further begs to submit a preliminary objection that a perusal of Article 3 of the charge sheet (Annexure - P-2) being would show that this was a serious charge in nature being alleged gross misbehaviour of her with the Research Officer Incharge Dr. Rama Shankar who was allegedly also physically assaulted and got head injury in this process. The earlier enquiry which completely ignored this article 3 of the charge sheet was not a complete one and hence it called for a fresh enquiry. It also reflected the bias of the enquiry Officer. It may not be out of place to mention that subsequently she has been convicted for the same charge by a criminal court vide its judgment dated 10.6.2005.

A copy of the judgment dtd. 10.6.05 passed by the criminal court is annexed herewith as Annexure - C-2.

Contd...P/-

for Asstt. Director (Ay)
Regional Research Institute (Ay)
Borsojui, (Deltola), Guwahati-28



4. That the respondent further begs to submit as preliminary objection that the denovo enquiry which was ordered on 27.5.04 was concluded by Dr. P. Makhija vide his report dtd. 29.6.05 which is already on record of this Hon'ble Court as Annexure - P-8 to the application.

A perusal of the enquiry report would show that the applicant participated in the enquiry from 21.4.2005 to 27.7.2005 and engaged one Mr. Mohan Kumar, S.I. Itanagar Headquarter as a defense assistant. However, she subsequently did not participate in the enquiry even after several instructions. As a result the subsequent proceedings were proceeded ex-parte and all the charges were held to be proved against her.

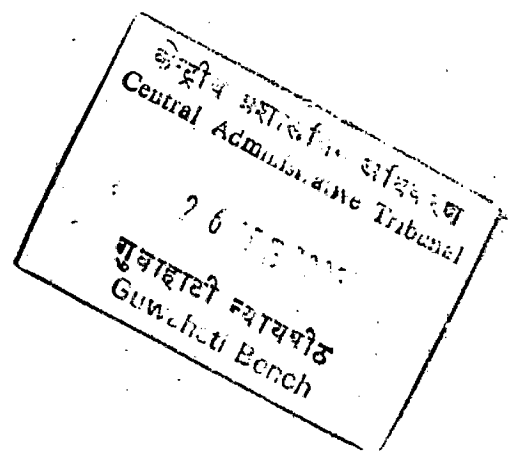
In compliance of the principles of natural justice the respondent No.2 issued a show cause notice on 20th July, 2005 hereby seeking her comments on the enquiry report so that further action can be taken which is apparent from Annexure P-7 at page 54 of the paper book.

The petitioner has suppressed the fact that vide her letter dated 12.8.2005, she sought 15 days time to file her reply to the show cause notice.

A copy of the same is being attached herewith and marked as Annexure C-3. The answering respondents gave her time till 31.8.05 to file reply

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[Signature]
12/02/08
Asstt. Director (Ay)
Regional Research Institute (Ay)
Bors: J. L. (Ay), Guwahati-28



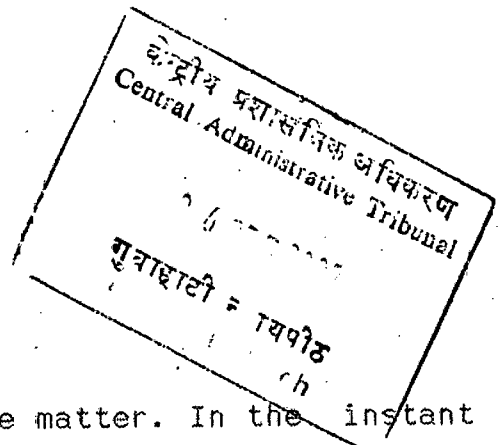
[4]

5. That the respondent further begs to submit as preliminary objection that instead of replying to the said show cause notice dated 20th July, 2005 she has chosen to approach Hon'ble High Court at an interlocutory stage by suppressing the above mentioned facts. Thus the applicant is guilty of suppression veri and suggestion falsi. She has suppressed the material fact that a fresh enquiry had been ordered dtd. 27th May, 2005 (Annexure C-1) which was never challenged by her although the same was marked to her. Not only that she also participated in the proceedings subsequently and had dropped out from the same belated only to sabotage the disciplinary proceedings. She also sought time to file reply to the show cause. These are vital facts which ought to have been brought to the notice of this Hon'ble Court, the failure of which makes the writ petition liable to be dismissed with heavy costs on her.

The applicant has come against a show cause notice which is still at an interlocutory stage and therefore this Hon'ble Court would not exercise its extraordinary jurisdiction to interfere with the on going disciplinary proceedings. In order to substantiate the same the answering respondents seek the liberty to reply upon Air India Ltd. Vs. N. Yogeshwar Raj, reported as 2000 (5) SCC 467 and UOI Vs. A.N. Saxena, reported as 1992 (3) SCC 124. Both the judgments are indicative of the legal position that the courts would normally not interfere at the interlocutory stage when the discipli-

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Dr. Anand
12/02/08
Asst. Director (Ay)
Regional Research Institute (Ay)
H-10, Guwahati-28

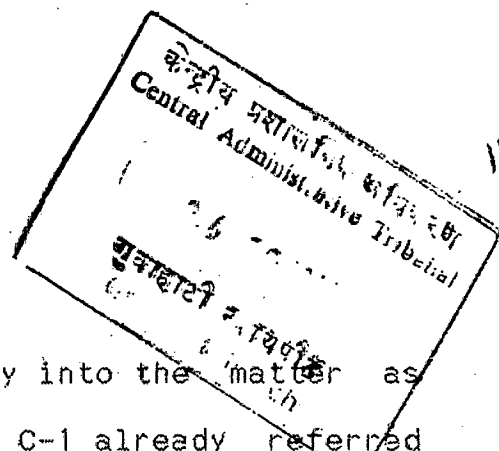


nary authority is seized of the matter. In the instant case, the petitioner has been given the opportunity to give her say on the findings of the enquiry officer including on Article 2 of the charge sheet. It would be open for her to say that the charges are not proved or they have been wrongly proved. In view of the same the application is not maintainable at this stage.

6. That with regards to the statements made in paragraphs 1 to 3 the respondents beg to state that those are within specific knowledge of the applicant and the respondents can not admit or deny the same.

7. That with regards to the statements made in paragraphs 4.I to VII the respondents beg to state that those are matters of record and the respondents do not admit anything which is not borne out of records.

8. That with regards to the statements made in paragraphs 4.VIII and IX the respondents beg to reiterate the statement made in paragraph 5 of this written statement. Further states that the enquiry was not in accordance with law as the enquiry officer had not dealt with the charges in totality and the perusal of the record showed apparent bias of the respondent No.3 in conducting the proceedings and without being impartial and therefore, the respondent No.2 being the appellate authority and Director issued the order dated 27th



May, 2004 ordering a fresh enquiry into the matter as would as be apparent from Annexure C-1 already referred above.

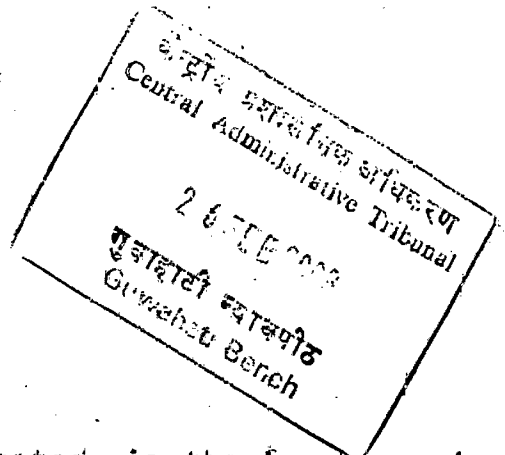
The reinstatement of the petitioner vide the order dated 27.10.2003 was illegal and hence was recalled vide the order dated 27.5.2004 which was also endorsed to the petitioner and accepted by her. Since, the order dated 27.10.2003 was recalled by the competent authority i.e. respondent No.2 and accepted by the petitioner there was no question of giving effect to the said order dated 27.10.2003.

9. That with regards to the statements made in paragraphs 4.X, XI and XII the respondents beg to state that the same are misleading and concocted. The respondents further state that the petitioner has deliberately suppressed the vital facts which have been narrated in the preliminary submissions above. The order dated 28th July, 2005 is nothing but a culmination of earlier proceedings which started subsequently on 27th May, 2004 vide Annexure C-1. The dishonesty of the applicant is apparent from the fact that if she had any right accruing from the order dated 27.10.2003 she ought to have agitated the issue in 2003 itself before the Hon'ble Court which she has chosen not to do. This was done obviously in acceptance of the order dated 27.5.04 (Annexure C-1). She has pretended as if the order dated 28th July, 2005 has come to her as a surprise and without

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12/02/08
 Asst. Director (Ay)
 Regional District Institute (Ay)
 Borsaj (B. Itan), Guwahati-28

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[7.]

her knowledge. Having participated in the fresh enquiry pursuant to earlier order dated 27.7.04 it was not open to her feign ignorance about the show cause notice date 28th July, 2005.

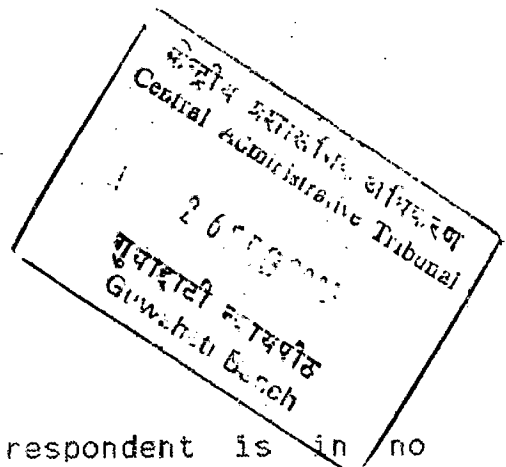
10. That with regards to the statements made in paragraphs 4.XIII to XIV the respondents beg to state that the same are misleading and concocted and the respondent denied the same. The respondents further state that the respondent No.2 was very much within his right to take action upon the fresh enquiry report dealing with Article 3 of the charges as well after getting the representation of the petitioner.

The contents of this para are denied as incorrect. The departmental proceeding never came to a conclusion. Even the earlier enquiry officer had not given any finding on Article 3 of the charges which now stands tentatively proved both in the departmental proceedings and in a criminal court. That the answering respondent had to issue the show cause notice on the enquiry report where she has every right to give say which would taken into consideration before passing any order.

While making any conclusion to the content Hon'ble High Court instead of passing any order at its own level, passed the matter to Hon'ble Tribunal on 13.9.2006, though being an autonomous body the matter was under the jurisdiction of Hon'ble High Court.

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for Asstt. Director (Ay)
Regional Research Institute (Ay)
Borajuli, D-I, Guwahati-28



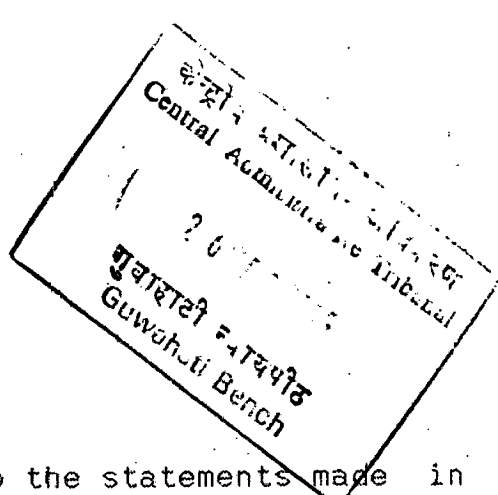
While the answering respondent is in no quarrel with the proposition that a person can not be punished twice for the same offence, in the instant case no such situation has arisen. Not only the earlier enquiry proceedings were set aside, even the earlier punishment order was not given effect to.

11. That with regards to the statements made in paragraph XV the respondents beg to state that those are incorrect and untrue and the respondent denied the same. The respondents further state that a denovo enquiry can be ordered in various circumstances including when enquiry had not been held in accordance with law and that it had been without reference to all the charges. The respondent No.2 not only found the enquiry incomplete but he also found the role of the enquiry officer partisan which resulted in the passing of the order dated 27.5.2004 and duly accepted by the petitioner.

The contents of this para are denied as incorrect. The decision of the penalty would be taken only after taking the representation of the applicant into consideration and the disciplinary authority has not made up his mind about either the guilt of the petitioner or of the penalty that would be imposed upon the petitioner. The said stage is yet to come.

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for Asstt. Director (Ay)
Regional Institute (Ay)
Borajal, (), Guwahati-28

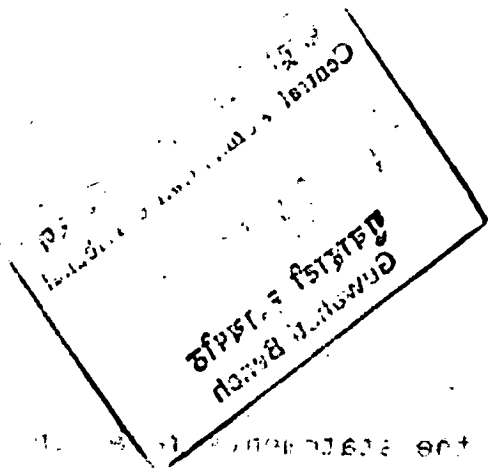


12. That with regards to the statements made in paragraphs 5 i to viii the respondents beg to state that the applicant suppressed and twisted the facts which amounts to misleading this Hon'ble Court. Further the respondents beg to state that the grounds set forth in the original application are not good grounds and are not tenable in law, as well as, on facts and for which the application is liable to be dismissed.

13. That with regards to the statements made in paragraphs 6 and 7 the respondents beg to offer no comment.

14. That with regards to the statements made in paragraphs 8 and 9 of the application the respondents beg to state that in view of the above the applicant's not entitle to get any relief and the application is liable to be rejected.

Signature
12/10/02
Sr. Asst. Director (Ay)
Regional Institute (Ay)
Dis. Jd. (Ay), Guwahati-28



12

That with regard to the statement made in paragraph 1 to the effect that the applicant has been suppressed and denied the facts which amounts to misleading this Hon.ble Court. Further the respondents had to state that the grounds for taking the original application are not good grounds and are not tenable in law, as well as on facts and for which the application is liable to be dismissed.

That with regard to the statement made in paragraphs 6 and 7 the respondents had no other comment.

That with regard to the statement made in paragraphs 8 and 9 of the application the respondents had to state that in view of the above the applicant is not entitled to get any relief and the application is liable to be rejected.

Respectfully,
Region 11 - West Midlands (AY)
General Director (AY)
12/12/72

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Central Administrative Tribunal
Guwahati Bench

VERIFICATION

I, DR. Parnod Kumar Bhunia S/o... *Sgt. Dr. Sen General*
aged about 46 years, R/o *Beldaha, Guwahati - 28*
District *Kamrup*... and competent officer of the
answering respondents, do hereby verify that the state-
ment made in paras 1, 5 - 14 are true
to my knowledge and those made in paras 2, 3, & 4
being matters of record are true to my information
derived therefrom which I believe to be true and the
rests are my humble submission before this Hon'ble
Tribunal. *and I have not suppressed any material*
fact
And I sign this verification on this 12th day
of February 2008 at Guwahati.

M. B. Bork
12/02/08
Signature

Asst. Director (Ay)
Regional Rehabil. Institute (Ay)
Dorsajai, (1100), Guwahati 28

- 11 -
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ANNEXURE - C - 1
115
CENTRAL COUNCIL FOR RESEARCH IN
AYURVEDA AND SIDDHA

JAWAHARLAL NEHRU BHARTIYA CHIKISA AVUM HOMOEOPATHY ANUSANDHAN
BHAWAN, No.61-65, INSITUTIONAL AREA, OPP'D'BLOCK, JANAKPURI, NEW DELHI
110058.

F.No. 2-1/2003-CCRAS/VIG

26h May, 2004.

ORDER

WHEREAS, Dr.M.N.Suryawanshi has been appointed ad-hoc disciplinary authority vide Council's order of even number dated 23.6.2003 to initiate the disciplinary proceedings against Smt. Meera Kushwaha., Aya(under suspension) of Regional Research Institute(Ay), Itanagar for her gross misconduct of assaulting the In-charge of the Institute physically and injured him.

AND WHEREAS, Dr.M.N.Suryawanshi has served a charge sheet on Smt.Kushwaha on 8.7.2003 and conducted an inquiry in the matter. He has awarded a penalty of "CENSURE" and also revoked her suspension.

AND WHEREAS, the Council observed that Dr.M.N.Suryawanshi, ad-hoc disciplinary authority has taken the decision without completing the entire proceeding and without being impartial. Therefore, the undersigned is not agreed with the final order passed by him vide No. RRI/ITA/VI/1/2003-04/43 dated 27.10.2003.

Now, therefore, the undersigned being the Appellate Authority, is setting aside the order passed by Dr.M.N.Suryawanshi as referred above, and at the same time not accepting the incomplete Inquiry Report in the case. It is also proposed that further inquiry in the case be conducted by appointing a responsible officer from State Government against the delinquent official on the same charges already framed against her. The Council's earlier order of even number dated 23.6.2003 appointing Dr.Suryawanshi as ad-hoc disciplinary authority is also hereby supersedes.

(G.S.LAVEKAR)
Appellate Authority &
Director.

To,

Smt.Meera Khsuwaha,
Aya(under suspension),
RRI(Ay),Itanagar.

Copy to:-

1. Dr.M.N.Suryawanshi, RO(Ay), Itanagar.
2. Dr.Ramashankar , RO(Bot), RRI(Ay), Itanagar.

Appellate Authority &
Director.

*Attended
Bm.
D. Mehta*

27/5/04

-12-
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ANNEXURE - 2

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS YUPIA
PAPUM PARE DISTRICT ARUNACHAL PRADESH

Case No- GR-41/2003
State Vrs. Meera Kushwaha & others
U/S 353/323/34 IPC

JUDGEMENT

1. Dr. Rama Shankar had lodged a complaint to OC PS Itanagar on 9-4-2003 for assaulting and using unparliamentary language against him by Smti Meera Kushwaha and her elder son Pankaj Kushwaha while he was on Govt duty. And the OC PS Itanagar registered a case against both the accused viz. Smti Meera Kushwaha and Pankaj Kushwaha vide ITA PS Case No 41/2003 U/S 353/323/34 IPC.

2. The Case was endorsed to Mrs C.N Bui SI of Itanagar Police Station for investigation. And Mrs C.N Bui SI as and I.O of this case, found a prima-facie case against both the accused Mrs Meera Kushwaha and Pankaj Kushwaha and found them guilty and submitted chargesheet U/S 353/323/34 IPC.

3. Later on after submission of charge-sheet by I.O. of this case, the said case was made over to me by Shri Sudhir Kumar, the then Deputy Commissioner, Papum Pare for trial and disposal of the case on 10th March 2003.

4. During the course of trial of this, I had examined 5 (five) Nos of prosecution witnesses.

Krishna Bir Chetry PW-1 on oath stated that on the date of occurrence he was working as labour and some scuffle took place and my sahib was bitten by Meera and her son.

On cross-examination by the defence counsel Mr. Tony Pertin Krishna Chetry stated that in that scuffle my sahib fall down and sustain injury on his hand. Also he said as he was busy, he did not see the incident clearly. On being asked who is his sahib, he said Pathak Sahab. Krishna Chetry was brought to Yupia by Dr. Rama Shankar Pathak to give witness in this case.

5. Satyendra Mallick PW-2 on oath stated that he was erecting fencing with the help of labourer on the day of occurrence. Accused Meera Kushwaha give objection to erecting of fencing, because it was her way and approach road to her quarter. During that time, hot argument took place, between Meera Didi and Dr. Rama Shankar. Meera did and her son assaulted with fist and blow to Dr Rama Shankar and medically treated by Suryanbanshi. PW-2 was brought to court by Dr. Rama Shankar.

On being cross examined by defence counsel Satyendra Mallick admitted that Meera Didi is regular staff of RRI centre Itanagar working as Aya. She was not given Govt Quarter although she entitled. Therefore, she constructed a temporary shed to herself to stay behind the centre. She used to attend the Office by using a passage between her hut and the centre. And this passage was directed to closed by erecting fencing by their incharge Dr. Pathak, that was caused of their quarrelling.

6. Dr Rama Shankar PW-3 on oath, said that occurrence took place on 9/4/2003 at 10 AM. Repairing of fencing was being done by Krishna Chetry, labourer and Satyendra Mallick, Peon. In the meantime, Mrs Meera Kushwaha intervened in work of labourers to stopped them since it was her way, way approaching to her hut.

Contd---2

On being investigated by Smt. Meera Kushwaha and her son assaulting me with fist and blow and tore my shirt. I sustain cut injury on my left side of forehead, and consequently I lodged complaint to OC PS, Itanagar and from where I was sent to R.K. Mission Hospital and treated by Dr. Mitra.

No quarter was provided to Meera Kushwaha.

8. Mrs C.N.Bui I.O and PW-4 on oath stated that I am I.O. of this case. Exhibit 'T' is FIR of this case lodged by Dr. Rama Shankar Pathak and Exhibit 'T'(A) endorsement made to me by OC PS, Itanagar with his signature and seal. I visited the place of occurrence and collected injury report and Exhibit 2 is the injury report and Exhibit 3 is the charge sheet submitted by me containing four page and Exhibit 3A bears my hand writing and signature

On cross examination she said, I have found no material, there was blood stain worn by the complainant. The cloth was not torn.

9. Dr Ashok Mitra PW-5 I found injury on left frontal region and left wrist of the patient and the injury was simple injury. Exhibit '2' is the injury report submitted by me and Exhibit -2A my signature on the injury report. I was emergency medical Officer on that day.

10. Statement of both the accused was taken as given U/S 313 Cr.P.C Mr. Pankaj Kumar Kushwaha is 19 years student of 2nd year Diploma NERIST (North Eastern Regional institute of Science and Technology) Nirjuli. He has denied assaulting Dr. Rama Shankar Pathak.

Mrs. Meera Pathak stated that he is harassing him because in the Department injury I was witness against Dr. Pathak. I was placed under suspension because of this case and still under suspension. We suffer mental and physical agony because of this case. I was well respected every body used to called me didi, but now I have lost my image. I am paid only 50% of suspension allowance which should have been 75 % as rule.

11. After examination of 5 (five) Nos of prosecution witness, there is no iota of doubt, Dr. Rama Shankar was physically assaulted by both the accused namely Mrs. Meera Kushwaha and her son Pankaj Kushwaha. But the circumstances under which both the accused assaulting Dr. Rama Shankar was an incident created /provoked by him, because he order erecting of fencing and stopped their passage to their quarter/hut, when it was already allowed/permitted by his predecessor Dr. V.K. Singh to them.

ORDER

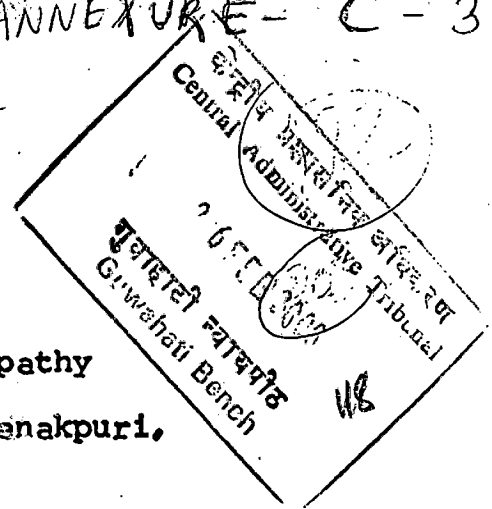
Accused Pankaj Kumar Kushwaha is 19 years old student at NERIST (North Eastern Regional Institute of Science and Technology) Nirjuli, and Mrs. Meera Kushwaha, woman in Govt. Service at Regional Research Institute, Ayurvedic Itanagar as AYA. Their emotional outburst and anger against Dr. Rama Shankar they physically assaulted him and hence they deserve punishment in the form of warning/admonition as given U/S 360 Cr.PC. At the same time both the accused persons are required to execute good behaviour bond of Rs. 500/- each for maintaining peace for a term of one year.

Pronounced in open court and given under my seal and signature this 10th day of June 2005.

[Signature]
10/06/2005
JUDGE (TAYLOR) 1st Class
District Panchayat, Panch
Tadipatri (A.P.)

[Stamp: General, 20/06/2005, 11/2]

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The Director,
Central Council for Research in
Ayurveda and Siddha, Jawaharlal
Nehru Bhartiya Chikisa Avum Homoeopathy
Anusandhan Bhawan, No 61-65,
Institutional Area, Oop'DD block, Janakpuri,
New Delhi-110058.

(~~For 2003 2004 2005 2006 2007~~)

Dated..12.08.2005

Sub:- MEMORANDUM.
Ref:- F.No.2-1/2003-CCRAS/Vid/Vol-II, Dated 20th July 2005.

2187C

Sir,

With reference to the Memoranda under reference
I have the honour to request you to grant me another 15 days
time for submitting my reply against the enquiry report as
because I am a layman and find difficult to prepare my reply
~~within~~ ^{within} the given time as 15 days.

Yours faithfully

(MEERA KUSHWAHA)
Aya
R.R.I (Aya)
Itanagar.

Handwritten note:
D. K. S. in
Ben
Amend