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S
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 24)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. 302/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Aboul Kalam

Respondent(s) H.O.T. 90M

Advocate for the Applicant(s) S.S. Dey, M. Naith

D.P. Baruah.....

Advocate for the Respondent(s) F.C.A.S.E......

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed C.F. No. 302/06 and passed vide P.D. No. 286/93/2060.</p> <p>Dated <u>21.11.06</u></p> <p><i>Abu</i> Dy. Registrar</p> <p><i>Abu</i> <u>20/12/06</u></p>	<u>13.12.06</u>	<p>When the matter came up for hearing the learned counsel for the applicant has submitted that the applicant has been suspended vide order dated 25.7.05. Against the said order the applicant sub- mitted his statutory appeal to the Assistant Postmaster General, Staff, Assam Circle praying for revocation of the suspension order. But no steps was taken by the respondents to the aforesaid appeal, the applicant approached this Tribunal by filing the O.A. No. 89 of 06. On 26.4.2006 the Tribunal respondents are directed to grant subsistence allowance to the applicant. The counsel has further submitted that the applicant has been placed under suspension i.e. on 25.7.2005 and till today neither any departmental proceeding has been initia- ted nor any charges have been framed against the applicant by the respondents. He also submitted that the applicant has already been paid the 50% subsistence allowance vide order dated 15.5.2006.</p>

contd/-

Pl. comply order
dated 13.12.06.

N.S.

14.12.06

13.12.06. Mr. G. Baishya, learned P.r.C.G.S.C. w~~u~~l like
to get instructions from the respondents.
Let it be done.

Maxima Issue notice on the Respondents.
Post the matter on 17.1.07.

Vice-Chairman

lm

Notice & order Sent
to D/Section for
issuing to resp.
nos. 1 ~~105~~ by regel.
A/10 post and other
R-2 to 5 sent to ^{1m}
received by hand

17.1.07.

1.3.07.

lm.

Counsel for the respondents prays for
further four weeks time to file written state-
ment. Let it be done. Post the matter on
20.2.07.

Vice-Chairman

ce
Member

Vice-Chairman

30.3.07.

Counsel for the applicant prays
for time to file rejoinder. Let it be done.
Post the matter on 3.5.07.

Vice-Chairman

1m

23
16.1.07.
no W.S filed.

3.5.2007

Let the case be posted on
09.05.2007. In the meantime, Respondents
are directed to take instruction as to
whether further suspension period of the
Applicant is over by 16.02.2007 or not.

Vice-Chairman

3.4.07
W.S filed by
Respondents - page
1 to 12

1/bb/

found abn. by
S.C. cause
25.5.07

1-5-07

No rejoinder filed

4.5.07
Rejoinder filed by ^{1m}
Applicant. ^{1m}

WVs and rejoinder
has been filed.

9.5.07. It is reported that the written statement has already been file. Post the matter on 1.6.07. Liberty is given to the applicant to file rejoinder.

23/5
8.5.07.

1m

Vice-Chairman

WVs and rejoinder
has been filed.

1.6.2007

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

submitted that he wanted to take instruction on the rejoinder filed by the Applicant. Let it be done within three weeks.

Post the case on 25.06.2007.

20
31.5.07.

The case is ready.

22
22.6.07.

Vice-Chairman

/bb/

WVs and rejoinder
filed by the parties.

25.6.07. Counsel for the respondents has submitted that pleadings are completed. Let the case be listed on 18.7.07 for hearing.

23
1.8.07.

1m

Vice-Chairman

18.7.2007

Post on 2.8.2007.

/bb/
2.8.07

O.A. is admitted.

Let this case be posted before the next Division Bench. Respondents are directed to keep in readiness for submission of records on the next date of hearing.

The case is ready
for hearing.

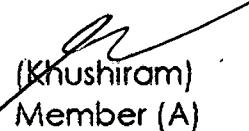
22
6.12.07.

Vice-Chairman

07.12.2007

Heard learned counsel for the parties. Judgment delivered in open court, kept in separate sheets.

The O.A. is dismissed as withdrawn in terms of the order. No costs.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

31.12.07

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.302 of 2006

DATE OF DECISION: 07.12.2007

Sri Abul Kalam

.....Applicant/s

Mr.D.P.Borah

Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

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

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

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 ✓

Judgment delivered by V.C.

Vice-Chairman/Member (A)

2

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 302 of 2006

Date of Order: This, the 07th Day of December, 2007

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Abul Kalam
Son of Late Mutahir Ali
Resident of Matgharia
P.O: & P.S: Noonmati
District: Kamrup, Assam.

..... Applicant.

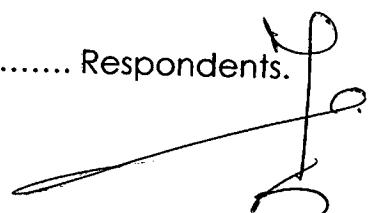
By Advocates Mr.S.S.Dey, Mr.M.Nath & Mr.D.P.Borah.

- Versus -

1. The Union of India
Represented by the Secretary (P)
Department of Post
Dak Bhawan, New Delhi – 110 001.
2. The Chief Post Master General
(Assam Circle), Meghdoot Bhawan
Guwahati-1.
3. The Assistant Post Master General (Staff)
Meghdoot Bhavan, Guwahati-1.
4. The Deputy Divisional Manager (PLI)
Office of the Chief Post Master General
(Assam Circle), Meghdoot Bhavan
Guwahati-1.
5. Director or Postal Services
Meghdoot Bhavan, Guwahati-781 001.

..... Respondents.

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



8

ORDER (ORAL)

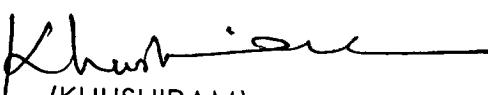
MANORANJAN MOHANTY, V.C.:

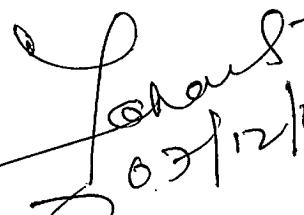
Mr.D.P.Borah, learned counsel appearing for the Applicant, is present. Mr.G.Baishya, learned Sr. Standing counsel for the Union of India, is also present.

2. The Applicant, a Postal Assistant, was placed under suspension by an order dated 25.07.2005. By filing this present Original Application under Section 19 of the Administrative Tribunals Act, 1985, the Applicant has challenged the said suspension order. During pendency of this case, Respondents have revoked the said suspension order vide order dated 13.08.2007. A copy of the said revocation order is placed on record by Mr.D.P.Borah, learned counsel for the Applicant. Mr. Borah also prays not to press this Original Application on the face of the fact that the impugned suspension order has already been revoked.

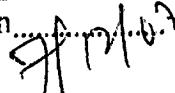
3. In the aforesaid premises, this Original Application is dismissed being not pressed. No costs.

Send copies of this order to the Applicant and to all the Respondents in the addresses given in the Original Application. Free copies of this order be also supplied to the learned counsel appearing for both the parties.


(KHUSHIRAM)
ADMINISTRATIVE MEMBER


03/12/07
(MANORANJAN MOHANTY)
VICE CHAIRMAN

2
File in Court on.....

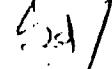

Court Officer.

Government of India
Ministry of Communications & I. T.,
Department of Posts,
Office of the Chief Postmaster General, Assam Circle,
GUWAHATI - 781001.

No.DDM(PLI)/Staff/2005.
Dated Guwahati, 13.08.2007.

WHERAS an order placing Shri Abul Kalam, PA, PLI Section, Office of the Chief Postmaster General, Assam Circle, Guwahati under suspension was made vide this office Memo. of even No. dated 25.07.2005.

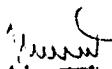
NOW, therefore, the undersigned in exercise of the powers conferred by Clause (c) of Sub-Rule (5) of Rule 10 of the Central Civil Services(Classification, Control and Appeal) Rules, 1965, hereby revokes the said order of suspension with immediate effect.


(K. Ahmed),

Deputy Divisional Manager(PLI),
Office of the Chief Postmaster General,
Assam Circle, Guwahati-781001.

Copy to

1. Shri Abul Kalam, PA PLI Section, office of the Chief Postmaster General, Assam Circle, Guwahati-781001 residing at No.2 Mathgharia, Noonmati, Guwahati-781020.
2. The ADPS(Accounts), Office of the Chief Postmaster General, Assam Circle, Guwahati.
3. The APMG(Staff), Office of the Chief Postmaster General, Assam Circle, Guwahati-781001.
4. The APMG(Vig), Office of the Chief Postmaster General, Assam Circle, Guwahati.


(K. Ahmed),

Deputy Divisional Manager(PLI),
Office of the Chief Postmaster General,
Assam Circle, Guwahati-781001.

D.A. No: 302/2006

10

Sri Abdul Kalam

--- Applicant

-V8-

Union of India & Ors.

--- Opposite Parties

M&M
03/07/12

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORIGINAL APPLICATION NO. 302/06

1. a) Name of the Applicat:- A. Kalam

b) Respondants:- Union of India & Ors

c) No. of Applicant(S) :-

2. Is the application in the proper form:- Yes/No.

3. Whether name & description and address of the all papers been furnished in cause title :- Yes/ No.

4. Has the application been duly signed and verified :- Yes/ No.

5. Have the Copies duly signed :- Yes / No.

6. Have sufficient number of copies of the application been filed:- Yes/ No.

7. Whether all the annexure parties are impleaded :-Yes/ No.

8. Whether English translation of documents in the Language : Yes/ No.

9. Is the application in time :- Yes/ No.

10. Has the Vakalatnama/Memo of appearance/Authorisation is filed:-Yes/ No.

11. Is the application by IFO/DD/For Rs: 5/-280932660

12. Has the application is maitanable :- Yes/ No.

13. Has the Impugned order original duly attested been filed :- Yes/ No.

14. Has the legible copies of the annexures duly attested filed:-Yes/ No.

15. Has the Index of documents been filed all available:- Yes/ No.

16. Has the required number of enveloped bearing full address of the respondents been filed:- Yes/ No.

17. Has the declaration as required by item 17 of the form:- Yes/ No.

18. Whether the relief sought for arises out of the single :- Yes/ No.

19. Whether the interim relief is prayed for :- Yes/ No.

20. In case of condonation of delay is filed is it supported :-Yes/ No.

21. Whether this Case can be heard by Single Bench/Division Bench:

22. Any other point:-

23. Result of the Scrutiny with initial of the Scrutiny clerk the application is in order:-

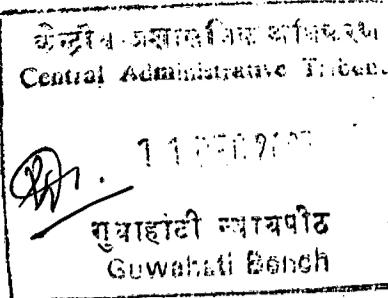
The application is in order

SECTION OFFICER (J)

12/11/06

5/1. 9/11

2/11/06
13/11/06
DEPUTY REGISTRAR



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 302 /2006

BETWEEN

SRI ABUL KALAMAPPLICANT

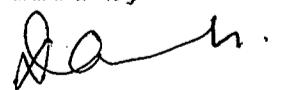
-AND-

UNION OF INDIA & ORS.RESPONDENTS

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Filed by


(Dipankar Pd. Borah)

Advocate

-A-

-17-

Before the Central Administrative Tribunal,

Guwahati Bench

O.A. No. 202 /06

Shri Abul KalamAPPLICANT

VERSUS

Union of India & othersRESPONDENTS.

SYNOPSIS

Your applicant was serving as Postal Assistant in Postal Life Insurance section in the office of the Chief Post Master General, Assam Circle, Meghdoot Bhawan. The Deputy Divisional Manager (PLI section) issued an order dated 25.7.05 vide No. DDM(PLI)/Staff/2005 under Rule 10(1) of COS(CCA) Rules, 1965 placed your applicant under suspension contemplating/pending departmental proceeding. Against the said order the applicant submitted his statutory appeal to the Assistant Post Master General Staff, Assam Circle, Meghdoot Bhawan, Guwahati-1 praying for revocation of the suspension order dated 25.7.2005 on the ground that the suspension order issued by the authority who is below the rank of the appointing authority.

When no steps was taken by the Respondents in response to the aforesaid appeal, the applicant approached this Hon'ble Tribunal by filing an application vide O.A. No. 89/2006. On 26.4.2006, after hearing both the parties, this Hon'ble Tribunal was pleased to direct the Respondent authorities to consider the aforesaid appeal dated 15.9.2006 filed by the applicant and dispose of the same as per rules as expeditiously as possible at any rate preferably within a period one month from the date of receipt of this order. Further the Respondents are directed to grant subsistence allowance to the applicant as per rules and pass appropriate

53(11) 2

- B -

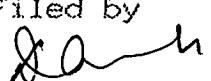
-48-

order if he is eligible to receive the same and communicate the order to the applicant thereof. Thereafter, vide order dated 2.6.2006 the Respondent authorities have dismissed the said appeal filed by the applicant. However, the applicant was granted subsistence allowance.

By now, more than 16 (sixteen) months have elapsed that your applicant has been placed under suspension, i.e., on 25.7.2005 and till today neither any departmental proceeding has been initiated nor any charges have been framed against the applicant by the respondent authorities. Even the order of suspension has not been reviewed by the authorities till date after its expiry on 17.8.2006 for continuance of your applicant under suspension. Further, under FR - 53(1)(ii)(a) proviso (i), on the completion of the three months of suspension, the subsistence allowance of a Government servant may be increased by suitable amount, not exceeding 50% of the subsistence allowance admissible during the period of first three months. In this regard on 11.9.2006 the applicant filed another appeal to the Director of Postal Service (HQ & M), Office of the Chief Postmaster General, Assam Circle, Meghdoct Bhawan, Guwahati inter alia praying for increasing his subsistence allowance upto 50% of the subsistence allowance already granted to him in addition to the subsistence allowances being paid to him vide order dated 15.5.2006 totaling to 75% of his salary and allowance, which was denied by the Respondent authorities.

Hence this application.

Filed by


(Dipankar Pd. Borah),
Advocate

- C -
-19-

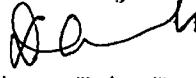
LIST OF DATES

Para-4.1 Page-2	30.4.84	Applicant was appointed as Group D staff and posted in the Office of the Post Master General, Shillong and subsequently he was appointed as L.D.C.
	5.10.93	The post of the applicant as L.D.C. was converted to the post of Time Scale Postal Assistant w.e.f. 26.6.93. ANNEXURE - 1, PAGE : 16-18
	4.2.94	Services of the applicant was confirmed in the Scale of Pay of Rs. 975-1660/-. ANNEXURE - 1A, PAGE : 19
Para-4.2 Page-3	31.3.99	Applicant was appointed as Development Officer (PLI), Circle Officer, Guwahati. ANNEXURE - 2, PAGE : 20
Para-4.3 Page-3		Applicant was awarded Silver Certificate by the Respondents as recognition of his meritorious service. ANNEXURE - 3, PAGE : 21-23
Para-4.4 Page-3	3.6.05	Res No. 3 allowed the applicant to collect PLI business as per target fixed against his name.
Para-4.6 Page-4	19.7.05	Applicant deposited an amount of Rs. 14,356/- on behalf of Sri B.C. Nath for revival of his policy.
	31.8.05	Applicant deposited an amount of Rs. 3842 & Rs. 2072/- on behalf of Sri Dilip Das & Sri Biren Das respectively for revival of their policies. ANNEXURE - 4 SERIES, PAGE : 24
Para-4.7 Page -5	21.7.05	Respondent No. 4 issued letter to the applicant stating that it was found that the applicant has fraudulently taken money being the arrear premiums for revival of the policies of the insureds to the tune of Rs. 71,042.00/- in respect of 14 PLI/RPLI policies and the applicant was requested to deposit the aforesaid amount immediately. ANNEXURE - 5, PAGE : 25

- 1 -
- 2 -

	25.7.05	Applicant was placed under suspension. ANNEXURE - 6, PAGE : 26
Para-4.9 Page-7	15.9.05	Applicant filed statutory appeal before the Respondent authorities, which was not considered by the Respondents. ANNEXURE - 7, PAGE : 27-32
Para-4.10 Page-8	26.4.06	Applicant filed O.A. No. 89/2006. The Hon'ble Tribunal passed order inter alia directing the Respondents to consider the appeal of the applicant and to pay subsistence allowance. ANNEXURE - 8, PAGE : 33-35
Para-4.11 Page-8	2.6.06	Respondents after considering the appeal of the applicant dismissed the appeal. ANNEXURE - 9, PAGE : 36-40
Para-4.12 Page-9	15.5.06	Applicant was granted subsistence allowance.
Para-4.13 Page-10	11.9.06	Applicant filed another appeal ANNEXURE - 10, PAGE : 41-43
Para-4.14 Page-10	29.9.06	Applicant's appeal was dismissed ANNEXURE - 11, PAGE : 44

Filed by


(Dipankar Pd. Borah)
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH

(An application under section 19 of the Central Administrative Tribunal Act, 1985)

O.A. No. 302 /06

BETWEEN

SHRI ABUL KALAM

Son of Late Mutahir Ali,

Resident of Matgharia, P.O. & P.S. : Noonmati

District - Kamrup, Assam.

APPLICANT

AND

1. The Union of India

represented by the Secretary (P)

Department of Post, Dak Bhavan, New Delhi - 110001

2. The Chief Post Master General,

(Assam circle) Meghdoot Bhavan, Guwahati - 1

3. The Assistant Post Master General, (Staff)

Meghdoot Bhavan, Guwahati - 1.

4. The Deputy Divisional Manager, (PLI)

Office of the Chief Post Master General,

(Assam Circle), Meghdoot Bhavan, Guwahati - 1.

5. Director of Postal Services,

Meghdoot Bhawan, Guwahati - 781001.

RESPONDENTS

File No. 7
The applicant through
J. Bipankar B. Basak
Advocate

Abul Kalam

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE :-

This application is preferred against the order No. DDM (PLI)/Staff/2005 dated Guwahati, 25.07.2005 issued by the Deputy Divisional Manager, (PLI), Respondent No. 4 placing the Applicant under suspension contemplating/pending departmental proceedings.

2. LIMITATION:-

The applicant declares that this application has been preferred within the period of limitation prescribed under the Central Administrative Tribunal Act, 1985.

3. JURISDICTION:-

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

4. FACTS OF THE CASE:-

4.1 That your humble applicant is a permanent resident of District Kamrup in the State of Assam. On 30.4.1984, the applicant was appointed as Group D staff and posted in the Office of the Post Master General, Shillong. On 13.12.1988, he was temporarily appointed as Lower Division Clerk by the Respondents and posted at Meghdoot Bhavan, Guwahati. On 4.2.1994, the services of the applicant was confirmed in the scale of pay of Rs. 975-1660 under an order issued by the Respondent No. 3. Subsequently on 5.10.1993, the post of your applicant as L.D.C. was converted to the post of Time Scale Postal Assistant w.e.f. 26.6.1993 along with other

Abul Kalam

persons. The said order was issued under Memo No. Staff/2-30/93 dated 5.10.1993 by the Respondent No. 3.

Copies of the order dated 5.10.1993 and 4.2.1994 are annexed herewith and marked as ANNEXURE - 1 & 1A respectively.

4.2 That on 31.3.1999, the applicant was appointed as Development Officer (PLI), Circle Office, Guwahati for a period of three years w.e.f. 1.4.1999 in the scale of Pay of Rs. 4500-7000. The said period was extended upto 31.3.04 by the Assistant Post Master General Staff vide order dated 7.3.2003.

A copy of the order dated 31.3.99 is annexed herewith and marked as ANNEXURE - 2.

4.3 That during the appointment as Development Officer (PLI), your applicant rendered his services with outmost honesty and sincerity and as recognition of his meritorious services he was awarded Silver Certificate by the Respondent No. 2 for consecutive four years w.e.f. 1999 to 2004.

Copies of the silver certificates are annexed herewith and marked as ANNEXURE - 3 SERIES.

4.4 That after completion of the aforesaid period, your applicant was transferred to PLI section as Postal Assistant vide order dated 28.4.2004 under No. Staff/27/98/Pt-1 issued by the respondent No. 3. Thereafter, vide order dated 3.6.05, under No. LI/AM/1-5/88/Ch-II the respondent No. 3 allowed your applicant to collect PLI business as per target fixed against his name. Accordingly your applicant joined in the said post and was rendering his

Abul Kalam

services with utmost sincerity. However, on 20.7.05, the respondent No. 4 canceled the aforesaid order dated 3.6.05.

4.5 That your applicant states that while he was serving in the aforesaid post, he was entrusted mainly with the duties of receipt of all kinds of Dak, revival of PLI/RPLI, issuance of duplicate PR book and policies, change of nominations and corrections of PLI policies and PLI books. Further he was also allotted a computer terminal connected with the main server to work in the updating of the existing policies, duplicate policy documents and revival of policies.

4.6 That your applicant states that while he was entrusted with the aforesaid duties, he had to deal with various policy holders who come to his office for revival of the policies and other works as mentioned above. On 26.6.05, one Shri B.C. Nath from Udaguri came to the applicant's office for revival of his policy No. AM-YS-56782-CS and requested your applicant to complete the necessary formalities for revival of his lapsed policy. The premium with interest accrued to Rs. 14,356.00 to be paid by Shri B.C. Nath. Since Shri B.C. Nath had to return to Udaguri on the same day, he requested and handed over the aforesaid amount to your applicant to be deposited for revival of his policy. As the official formalities takes some time, your applicant deposited the same amount on behalf of Shri B.C. Nath on 19.7.05 vide receipt No. 074 dated 19.7.05, Book No. 145831 after completing of all the formalities.

On similar situation, one Shri Dilip Das, holder

Abul Kalam

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of PLI policy No. AM 34936-CS and Shri Biren Das of Khetri, Holder of RPLI policy No. R-AS-HQ-GY-15121 dated 30.3.01 requested your applicant to deposit Rs. 3842/- and Rs. 2072/- in the Post Office respectively for revival of their policies. Unfortunately, your petitioner had fallen sick as he was suffering from nerve disorder since long back, as a result he had to take leave for a period of a month w.e.f. 22.7.05. Consequently, he could not deposit the aforesaid amounts in time in the Post Office. However on 31.8.05, when your applicant recovered partially from nerve disorder, he immediately deposited the aforesaid amount in the Post Office vide Book no. CA 234398, Receipt no. 033 and Book no. 234398, Receipt No.032.

Copies of the above mentioned receipts are annexed herewith and marked as ANNEXURE - 4 SERIES

4.7. That it may be stated that on 21.7.05, a letter was issued by the respondent No. 4 to your applicant inter alia stating that on preliminary enquiry it was found that your applicant has fraudulently taken money being the arrear premiums for revival of the policies of the insurants to the tune of Rs. 71,042.00 (Rupees Seventy One thousand and Forty Two) in respect of 14 PLI/RPLI policies and your humble applicant was requested to deposit the aforesaid amount on the Guwahati GPO under UCR in ACG-67 immediately so that the revival could be settled. However, before answering to the aforesaid letter dated 21.7.05, an order dated 25.7.05 vide No. DDM(PLI)/Staff/2005 issued by the respondent No. 4 was served on the wife of the applicant on 6.8.05 by which your applicant was placed under suspension under Rule 10 of Central Civil Services(CCA) Rules, 1965,

Absul Kalam

contemplating/pending disciplinary proceeding.

A copy of the aforesaid letter dated 21.7.2005 is annexed herewith and marked as **ANNEXURE - 5**

A copy of the aforesaid order of suspension dated 25.7.2005 is annexed herewith and marked as **ANNEXURE - 6**.

4.8 That your applicant was surprised to receive the aforesaid order dated 25.7.2005 as throughout his service career he had served the department with outmost honesty and sincerity. Even while he was serving as Development Officer (PLI), he was awarded with Silver Certificates for four consecutive years due to his meritorious service. Your applicant categorically states that while he was serving in the aforesaid post, all along he had maintained an upto date File bearing No. LI/DPRB/ISSUE/05 in the Office wherein he has recorded all the works/duties carried out in respect of revival of lapsed policies as well as other duties allotted to him by the authorities. Your applicant denies that he had fraudulently taken money from 14 insurants for revival of their policies and it was only on 3 occasions whenever insurants handed over their money to the applicant for revival of their policies, your applicant had deposited the same in the office on their behalf as stated above. However, the respondent No. 4 without any justifiable and valid reasons placed your applicant under suspension without any materials on record against your applicant. This Hon'ble Tribunal may be pleased to call for the aforesaid File No. LI/DPRB/ISSUE/05 which your applicant maintained while serving in the aforesaid post for kind perusal and on perusal of the aforesaid File, this Hon'ble Tribunal will find that there was no lapses on the part of your applicant.

Abul Kalam

in any manner while he was serving as Postal Assistant in PLI section. The record will also reflect that your applicant has deposited the amount handed over to him by the aforesaid persons on their behalf in the office. Similarly, the entire past service records of your applicant reflects the sincerity and honesty of your applicant.

4.9 That your applicant states that after receiving the order of suspension dated 25.7.2005, he has filed a statutory appeal before the Respondent No. 3 on 15.9.2005 praying for revocation of his suspension order dated 25.7.2005 and also praying for grant of subsistence allowances to him. The said appeal was received by the Respondent No. 3 on 16.9.2005. The applicant has also submitted non-employment certificates dated 25.1.2006, 22.2.2006 and 6.3.2006 to the Respondents inter alia stating that he has not been engaged in any other employment/profession/business w.e.f. the date of suspension till date followed by another application dated 9.1.2006 praying for payment of subsistence allowances. When no action was taken in this regard the wife your applicant under compelling circumstances submitted another application on 27.1.2006 before the Chief Post Master General, Assam Circle, the Respondent No. 2 herein, praying for payment of subsistence allowances w.e.f. 25.7.2005, duty pay for the month of July, 2005 and also bonus for the year 2003-2004 on the ground that due to non-payment of the subsistence allowances to her husband the family is facing starvation and the said application was received by the Respondent No. 2 on 27.1.2006.

A copy of the aforesaid appeal dated 15.9.2005

Afzal Kalam

submitted by your applicant is annexed herewith and marked as ANNEXURE - 7.

4.10 That when no steps was taken by the Respondents in response to the aforesaid appeal, the applicant approached this Hon'ble Tribunal by filing an application vide O.A. No. 89/2006. On 26.4.2006, after hearing both the parties, this Hon'ble Tribunal was pleased to direct the Respondent authorities to consider the aforesaid appeal dated 15.9.2006 filed by the applicant and dispose of the same as per rules as expeditiously as possible at any rate preferably within a period one month from the date of receipt of this order. Further the Respondents are directed to grant subsistence allowance to the applicant as per rules and pass appropriate order if he is eligible to receive the same and communicate the order to the applicant thereof.

A. copy of the aforesaid order dated 26.4.2006 is annexed herewith and marked as ANNEXURE - 8.

4.11 That, on 2.6.2006, the Director of Postal Service (HQ & M), Office of the Chief Postmaster General, Assam Circle, Meghdoot Bhawan, Guwahati in consideration of the applicant's appeal dated 15.9.2006 passed an Appellate Order under No. Staff/9-64/2005 inter alia rejecting the appeal dated 19.5.2005 submitted by the applicant and upheld the suspension order dated 25.7.2005.

Further, in the said appellate order it was mentioned that regarding revocation/continuation of the suspension of the applicant, the Review Committee constituted for the purpose, had reviewed the matter on 17.2.2006 and the last review was done on 16.5.2006 wherein

Abul Kalam

it was recommended for continuation of suspension for a further period of 90 (ninety) days from 18.5.2006. However, the said period of 90 (ninety) days as mentioned above have already been expired on 17.8.2006.

A copy of the aforesaid appellate order dated 2.6.2006 is annexed herewith and marked as ANNEXURE - 9.

4.12 That, on 15.5.2006 the Divisional General Manager (PLI) issued an order under Memo. No. DDM(PLI)/Staff/2005 inter alia allowing subsistence allowance to the petitioner at an amount equal to the leave salary which the applicant would have been drawn if he had been on leave on half pay and in addition, dearness allowance, if admissible on the basis of such leave salary and any other compensatory allowance admissible on the basis of pay of which the applicant in receipt on the date of suspension. In pursuance of the said order the applicant is receiving his subsistence allowance @ 50%.

4.13 That the applicant begs to state that by now the applicant's period of suspension has already exceeded 16 (sixteen) months and till date no order has been issued by the authority nor any step has been taken for initiation of any Departmental Proceeding. The reasons for delay for completion of the Departmental Proceeding cannot be attributed to the applicant in any manner. Further, the enhancement of subsistence allowances @ 75% entitled to the applicant as per FR - 53(1)(ii)(a) proviso (i) have not been paid to the applicant although all along the applicant have been submitting his certificates regularly to the Respondent authorities to the effect that he has not been engaged in

Ahul Kalam

any employment, business, profession or vocation during the period of his suspension. When no action was taken by the Respondents in this regard on 11.9.2006 the applicant filed another appeal to the Director of Postal Service (HQ & M), Office of the Chief Postmaster General, Assam Circle, Meghdoot Bhawan, Guwahati inter alia praying for increasing his subsistence allowance upto 50% of the subsistence allowance already granted to him in addition to the subsistence allowances being paid to him vide order dated 15.5.2006 totaling to 75% of his salary and allowance.

A copy of the aforesaid appeal dated 11.9.2006 submitted by your applicant is annexed herewith and marked as ANNEXURE - 10.

4.14 That in reply to the aforesaid appeal, on 29.9.2006, the Director of Postal Services, Assam Circle wrote a letter to the applicant under No. DDM(PLI)/Staff/2005 inter alia stating that no reason was found to increase the subsistence allowance of the applicant.

A copy of the aforesaid order dated 29.9.2006 is annexed herewith and marked as ANNEXURE - 11.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the Respondent No. 4 has issued the impugned order dated 25.7.05 in clear violation of the provisions of Rule 10 of the Central Civil Services (C.C.S.) Rules, 1965.

5.2 For that the respondent No. 4 who is much below the rank of the Appointing Authority of your applicant

Abul Kalam

issued the order dated 25.7.2005 without being empowered under law to pass such order of suspension against your applicant. As such, the same is liable to be set aside and quashed.

5.3 For that the order dated 25.7.2005 issued by the respondent No. 4 is totally on non-existent ground inflicting punishment on the applicant for no fault of his own. As such, the order dated 25.7.2005 being illegal, arbitrary and unreasonable is violative of Article 14 of the Constitution of India. Hence the order dated 25.7.05 is liable to be set aside and quashed.

5.4 For that it is now more than 16 (sixteen) months have elapsed that your applicant has been placed under suspension, i.e., on 25.7.2005 and till today neither any departmental proceeding has been initiated nor any charges have been framed against the applicant by the respondent authorities. Even the order of suspension has not been reviewed by the authorities till date after its expiry on 17.8.2006 for continuance of your applicant under suspension. Hence, on the aforesaid grounds the order dated 25.7.2005 is liable to be set aside and quashed.

5.5 For that the non-initiation of the Departmental Proceeding by the Respondents even after expiry of long 16 (sixteen) months from the date of suspension is totally violative of the provisions of Central Civil Services (C.C.A.) Rules, 1965.

5.6 For that under FR - 53(1)(ii)(a) proviso (i), on

Afzal Kalam

the completion of the three months of suspension, the subsistence allowance of a Government servant may be increased by suitable amount, not exceeding 50% of the subsistence allowance admissible during the period of first three months, if in the opinion of the authority the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Government servant.

5.7 For that at any rate, the aforesaid order dated 25.07.2005 (Annexure - 6) being arbitrary, illegal and unreasonable as well as the same having been passed by an authority not empowered under law, is liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED:-

Now it is more than 16(sixteen) months have elapsed that the applicant had been placed under suspension and till today nor any Disciplinary Proceeding has been initiated nor any charges have been framed against the applicant and the applicant is suffering both mentally and financially without any fault on his part. Hence, your applicant is approaching this Hon'ble Tribunal vide the present application *inter alia* praying for his reinstatement in his service.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT :-

The applicant declares that there is not any application, writ petition or suit pending in respect of the order dated 25.7.2005 issued by the Respondent No. 4 before

Abul Kalam

any other Court/Tribunal or any other Forum of Law.

8. RELIEF SOUGHT FOR :-

Your applicant prays that this Hon'ble Tribunal may be pleased to admit this application, call for the records of the case including file No. LI/DPRB/ISSUE/05 and on perusal of the records and hearing the parties be pleased to grant the following reliefs to the applicant:-

8.1 To set aside and quash the suspension order dated 25.7.2005 (Annexure - 6) issued by the respondent No. 4 vide No. DDM(PLI)/Staff/2005 and direct the respondent authorities to treat the period of suspension of your applicant as on duty and also to grant him all the consequential benefits.

8.2 Cost of the application.

8.3 Any other relief/reliefs as this Hon'ble Tribunal may deem fit and proper.

9. INTERIM ORDER PRAYED FOR :-

Considering the aforesaid facts and circumstances of the case, this Tribunal may be pleased to:-

(a) to stay the suspension order dated 25.7.2005 issued by the respondent No. 4 (Annexure - 6) and to allow the applicant to join in his duties with immediate effect;

(b) direct the respondents to increase the applicant's subsistence allowance upto 50% of the subsistence allowance already granted to him in addition to the subsistence allowances being paid to him vide order dated 15.5.2006 totaling to 75% of his salary and allowance.

Abul Kalam

10. PARTICULARS OF THE I.P.O. :-

(i) I.P.O. No. : 28 G 932760
(ii) Date : 21. 11. 06
(iii) Payable at : *Gurukul*

11. LIST OF ENCLOSURES :-

As stated in the index...

Abul Kalam

VERIFICATION

I, SHRI ABUL KALAM, Son of Late Mutahir Ali, aged about 47 years, Resident of Matgharia, P.O. & P.S. Noonmati, District - Kamrup, Assam do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4.5, 4.8, 6, 7, 10 & 11 are true to my knowledge and those made in paragraphs 4.1, 4.2, 4.3, 4.4, 4.6, 4.7, 4.9 being matters of record of the case are true to my knowledge and information derived therefrom which I believe to be true and the rest are my humble submission before the Hon'ble Tribunal.

And in proof I sign this verification on this the 8th day of December, 2006.


SIGNATURE

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE:GUWAHATI.

Ref. No. Staff/2-30/93

Dated at Guwahati the 05-10-93.

The following UDCs/LDCs of CO/RO Guwahati who have opted for TBOP & BCR Scheme are converted to the post of Time Scale Postal Assistants, CO/RO Guwahati carrying the scale of Rs.975-25-1150-EB-30-1660/- with effect from 26-6-93.

Name of officials

<u>Name of officials</u>	<u>Converted to</u>
1. Sri T.C.Das, UDC/CO	PA/CO
2. " O.P.Tewary, UDC/CO	PA/CO
3. " B.N.Sarma, UDC/CO	PA/CO
4. " J.N.Deka, UDC/CO	PA/CO
5. " C.P.Das, UDC/CO	PA/CO
6. " K.K.Mazumdar, UDC(Cashier)/CO	PA/CO
7. " A.K.Roy, UDC(Cashier)/RO	PA/RO
8. " E.B.Das, UDC/CO(Postadas DO PLI)	PA/CO
9. " G.M.Sarma, UDC/CO	PA/CO
10. " J.Bhuyan, UDC/CO	PA/CO
11. " O.W.Rynjah, UDC/RO(On deptn to NVS)	PA/RO
12. " H.C.Saloi, UDC/CO	PA/CO
13. " H.G.Choudhury, UDC/CO(PostedadDOPLI)	PA/CO
14. " T.Deka, UDC/CO	PA/CO
15. " M.Rahman, UDC/CO	PA/CO
16. " D. M. Ali, UDC/CO	PA/CO
17. " J.Biswas, UDC/RO	PA/RO
18. " B.N.Ojha, UDC/CO	PA/CO
19. " U.K.Dey, UDC/CO	PA/CO
20. " S.K.Sarkar, UDC/RO	PA/RO
21. " J. Baruah, UDC/CO	PA/CO
22. " P.K.Athpuria, UDC/RO	PA/RO
23. " N.K.Choudhury, UDC/CO	PA/CO
24. " B.C.Deka, UDC/CO	PA/CO
25. " B.C.Das, UDC/CO	PA/CO
26. " K.Kalita, UDC/CO	PA/CO
27. " D. Baruah, UDC/RO	PA/RO
28. " A. Ahmed, UDC/RO	PA/RO
29. " P.K.Das, UDC/CO	PA/CO
30. Smt. Shova Guha, UDC/RO	PA/RO
31. Sri Chakradhar Das, UDC/ RO	PA/RO
32. " N.Ahmed, UDC/CO	PA/CO

Contd...2/

CERTIFIED TO BE TRUE COPY

Advocate

33. Sri M.M.Sarma, UDC/RO	PA/RO
34. " A.Kuddus, UDC/CO	PA/CO
35. " L.N.Khataniar, UDC/CO	PA/CO
36. " K.K.Baidya, UDC/RO	PA/RO
37. " K.K.Deka, Offg. UDC/RO	PA/CO
38. " B.Chose, Offg. UDC/CO	PA/RO
39. " M.R.Kar, Offg. UDC/RO	PA/RO
40. " G.K.Milakar, Offg. UDC/RO	PA/RO
41. " B.B.Dey, LDC/RO	PA/CO
42. " Bimalendu Bhattacharjee, LDC/CO	PA/CO
43. " Abul Kalam, LDC/CO	PA/RO
44. " D.Mazumdar, LDC/RO	PA/RO
45. " D.K.Sarkar, LDC/RO	PA/RO
46. " D.Swargiary, LDC/RO	PA/RO
47. " A.Bhattacharjee, LDC/RO	PA/CO
48. " K.Roy, LDC/CO	PA/CO
49. " G.Prasad, LDC(Hindi typist)/CO	PA/CO
50. " M.Baro, LDC/CO	PA/RO
51. Smt. Siwadi Dewri, LDC/RO	PA/CO
52. Sri A.K.Das, LDC/CO	PA/CO
53. " J.Haloi, LDC/CO	PA/CO
54. " Rainadhar Das, LDC/CO	PA/CO
55. " P.K.Barman, LDC/CO	PA/CO
56. " D.P.Swargiary, LDC/CO	PA/CO
57. " T.C.Basumatary, LDC/CO	PA/RO
58. " Ram Ch. Das, LDC/RO	PA/CO
59. " J.K.Deka, LDC/CO	PA/CO
60. Smt. Rohini Devi, LDC/CO	PA/RO
61. " Goma Thapa, LDC/RO	PA/CO
62. Miss B.Kurkalong, LDC/CO	

Sai

(P. NATH)
A.P.M.G.(Staff)
For Chief Postmaster General,
Assam Circle, Guwahati-781001.

Contd....3/

-: 3 :-

Copy for information and necessary action to :-

- (1) The AD(Estt.), CO/RO; Guwahati.
- (2) The AD(A/Cs), CO/RO: Guwahati.
- (3) The AO(Bgt), CO/RO: Guwahati.
- (4) The DA(P), Calcutta (through A&P SEC.).
- (5) The Office Supdt., CO/RO: Guwahati.
- (6) All Group Officer, CO/RO: Guwahati.
- (7) All Section Supervisors, CO/RO: Guwahati.
- (8) The Sr.PA/PA, CPMG/PMG/DPS: Guwahati.
- (9) The Staff Section; RO/Guwahati.
- (10) The G/L File No. Staff/19-1/88.
- (11) The officials concerned.
- (12) The P/F of officials.
- (13) Office copy.
- (14) Spare.

90

(P. NATH)
A.P.M.G.(Staff)
For Chief Postmaster General,
Assam Circle, Guwahati.

-:-

Baro/61093.

-19-
-15-

Annexure -1 A.

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL,
ASSAM CIRCLE : MEGHDOOT BHAWAN,
GUWAHATI-781 001.

Memo No. Staff/5-3/90

Dated at Guwahati, the 4th Feb. 1994.

The Director of Postal Services, Office of the Chief Postmaster General, Assam Circle, Guwahati is pleased to confirm the following approved officials in the cadre of PA, CO/RO in the scale of pay Rs. 975-25-1150-EB-30-1660/- with effect from the dates shown against each.

<u>Name of officials</u>	<u>Date of confirmation</u>	<u>Post against which confirmed</u>
1. Sri Abul Kalam	1-2-1994	PA, Circle Office, Guwahati.
2. Sri Dharmeswar Swargiary	1-2-1994	DO
3. Sri Abhijit Bhattacharjee	1-2-1994	PA, Regional Office, Guwahati.

(I.C. SARMA)
A.P.M.G. (Staff)
For Chief Postmaster General,
Assam Circle, Guwahati-781 001.

Copy to:-

1. The P.M.G., Assam Region, Guwahati.
2. The A.D.P.S. (A/Cs), CC/RO, Guwahati.
3. The A.A.O. (BGT), CO/RO, Guwahati.
4. The Office Supdt., CO/RO, Guwahati.
5. The Officials concerned.
6. The P/F of officials.
7. The Circle Office G/L file.
8. Office copy.
9. Spare.

(I.C. SARMA)
A.P.M.G. (Staff)
For Chief Postmaster General,
Assam Circle, Guwahati-781 001.

TCE:040294

CERTIFIED AS TRUE COPY

AB
Advocate

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL : ASSAM CIRCLE,
MEGHDOOT BHAWAN : GUWAHATI-781 001.

No. Staff/7-6/90

Dated at Guwahati, the 31st March, 1999.

The D.P.S., Office of the Chief Postmaster General, Assam Circle, Guwahati is pleased to appoint Shri Abul Kalam, PA(RO) and Shri Tarun Ch. Basumatary, PA(RO) in the posts of D.O.(PLI), Circle Office, Guwahati in the scale of pay rs.4500-125-7000/- to be effected from 01-04-99 for 3 years vice Shri J.C. Sarma Bordoloi and Bibhuti Bn. Dey reverted to their substantive post of PA(CO) and PA(RO) respectively.

(2) Posting orders of Shri J.C. Sarma Bordoloi, PA(CO) is being issued separately and Shri Bibhuti Bn. Dey will seek posting order at RO/Dibrugarh at Guwahati.

(3) Shri Abul Kalam and Shri Tarun Ch. Basumatary will be attached to PLI Section, CO/Guwahati. This is however subject to their being able to obtain adequate PLI business for which target will be prescribed from time to time by the CPMG(PLI). On termination of their appointment to the posts either on completion of 3 years tenure or otherwise Shri Abul Kalam and Shri Tarun Ch. Basumatary shall be reverted to their substantive posts of PA in RO, Dibrugarh at Guwahati.

(4) This appointment is purely temporary and on adhoc basis and will confer upon the official no claim for regular absorption in the posts. This arrangement can be terminated at any time in the interest of service without assigning any reason.

(I. PANGERNUNGSANG)

Asstt. Postmaster General(Staff)
O/O the Chief Postmaster General,
Assam Circle, Guwahati-781 001.

Copy for information and necessary action

To,

1. The PMG, Dibrugarh at Guwahati w.r.t. his No. Staff/1/28-3/98 (RP) dtd. 18-01-99.
2. The DDM(PLI), CO/GH w.r.t. his No. LI-DO/Bordoloi/98 dtd. 22-12-98
3. The AD(A/Cs), CO/RO, Guwahati.
4. The AJO(BGT), CO/Guwahati.
5. The O.S., CO/Guwahati.
6. The Officials concerned.
7. PF of the officials.

(I. PANGERNUNGSANG)

Asstt. Postmaster General(Staff)
For Chief Postmaster General,
Assam Circle, Guwahati-781 001.

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CERTIFIED AND TRUE COPY

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Advocate



भारतीय डाक विभाग
DEPARTMENT OF POST, INDIA
डाक जीवन बीमा
POSTAL LIFE INSURANCE

श्री/श्रीमती P. कालाम
विकास / क्षेत्रीय अधिकारी अस्सी
परिषष्ठल को वर्ष 1999-2000 में उत्तम कार्य करने
के लिए रजत पत्र प्रदान किया गया।

Shri/Smt. A. Kalam
Development / Field Officer (PLI) of Assam
Circle has been awarded Silver Certificate for the
year 1999-2000 for outstanding performance in
securing Postal Life Insurance business.

R. S. M. G.
मुख्य भवालकपाल
CHIEF POST MASTER GENERAL
परिषष्ठल CIRCLE

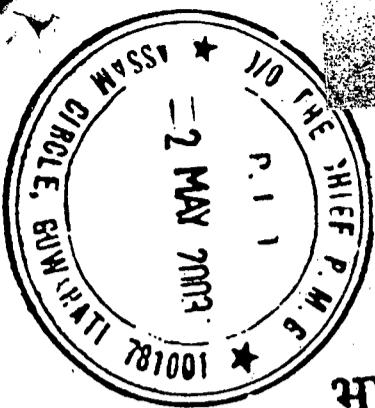
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Advocate

-22-

Annexure-3B

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भारतीय डाक विभाग
DEPARTMENT OF POSTS, INDIA
डाक जीवन बीमा
POSTAL LIFE INSURANCE

श्री/श्रीमती. आहुला.....
विकास / क्षेत्रीय अधिकारी (डा. जी. बी.) ..
परिमण्डल को वर्ष 2000-2001 में उल्कृष्ट कार्य करने
के लिए रजत पत्र प्रदान किया गया।

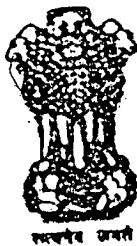
This Silver Certificate has been awarded to
Shri/Smt.
Development / Field Officer (PLI) of Assam.
Circle for his/her outstanding performance in
securing Postal Life Insurance business during
the year 2000 - 2001

मुख्य पोस्टमास्टर 82/2003
CHIEF POSTMASTER GENERAL
M. K. Banerjee

पद्धतिलेखन परिमण्डल
Chief Postmaster General
असम परिमण्डल, गुवाहाटी-781001
Assam Circle, Guwahati-781001

CERTIFIED TO BE A TRUE COPY

Advocate



Annexure - 3C

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भारतीय डाक विभाग
DEPARTMENT OF POSTS, INDIA
डाक जीवन बीमा
POSTAL LIFE INSURANCE

श्री/श्रीमती आबुल काला
विकास / क्षेत्रीय अधिकारी (डा. जी. बी.)
परिमण्डल को वर्ष 2001-2002 में उत्कृष्ट कार्य करने
के लिए राजत पत्र प्रदान किया गया।

This Silver Certificate has been awarded to
Shri/Smt.
Development / Field Officer (PLI) of Assam
Circle for his/her outstanding performance in
securing Postal Life Insurance business during
the year 2001 - 2002

..... 02/03/03
मुख्य पोस्टमार्टर जनरल

CHIEF POSTMASTER GENERAL

M. K. Banerjee
मुख्य पोस्टमार्टर जनरल
Chief Postmaster General
असम परिमण्डल, गुवाहाटी-781001
Assam Circle, Guwahati-781001

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.....
Advocate

Original /

—26—

ANNEXURE- 4 A

भारतीय डाक विभाग

DEPARTMENT OF POST, INDIA

(डाक-तार वित्त पुस्तिका छप्प । नं नियम 8, 154, 159 और
160 तथा डाक-तार वित्त पुस्तिका छप्प III (भाग I)
द्वितीय संस्करण के नियम 100 रुपये । प्रथम संस्करण
(भाग द्वितीय))

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

पुस्तक नंबर
Book No. ८०

रेसीप नंबर
Receipt No.

145831 ०७४
Received from B. S. N. C. Ch. Nath

रु/Rs. 14,566... रुपये Fourteen thousand
on account of three hundred rupees only
being the Area P.T. Premium
against P.T. policy No.

Place

हस्ताक्षर
Signature

Date

Designation

मात्र

<p

-25-

Annexure - 5

Under hand receipt

Department of Posts, India
Office of the Chief Postmaster General, Assam Circle, Meghdoot Bhawan, Fifth Floor,
Guwahati - 781001.

No. AM/YS-56732-CS/Misc.
Dated Guwahati, 21.07.2005.

To

✓ Shri Abul Kalam,
PA, PLI Section,
Office of the Chief Postmaster General,
Assam Circle, Meghdoot Bhawan, 5th Floor,
Guwahati-781001.

Sub : Fraudulent collection of arrear premiums of PLI/RPLI revival cases.

On preliminary enquiry it is found that you have fraudulently taken money being the arrear premiums for revival of their policies from the Insurants to the tune of Rs. 71,042.00 (Rupees Seventyone Thousand fortytwo only), in respect of 14 PLI/RPLI Policies, the particularized list is enclosed herewith.

You are, therefore, requested to deposit the above amount in the Guwahati GPO under UCR in ACG-67 immediately so that the revival can be settled.

Encl. As above.


(D. N. Sharma),
Deputy Divisional Manager(PLI).

CEP/AM/2005/1 TRUE COPY


Advocate

-22-26-

Department of Posts, India
 Office of the Chief Postmaster General, Assam Circle, Meghdoot Bhawan, 5th Floor,
 Guwahati - 781001

NO. DDM(PLI)/Staff/2005.
 Dated Guwahati, 25-07-2005.

Whereas a disciplinary proceeding is against Shri Abul Kalam, Postal Assistant, PLI Section, office of the Chief Postmaster General, Assam Circle, Guwahati is contemplated/pending.

Now, therefore, the undersigned in exercise of the power conferred by Rule-10 (1) of CCS (CCA) Rules 1965, hereby places the said Shri Abul Kalam under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the Headquarters of Shri Abul Kalam, PA, PLI Section should be Guwahati and the said Shri Abul Kalam shall not leave the headquarter without obtaining the previous permission of the undersigned.

[Signature]
 (D. N. SHARMA),
 Deputy Divisional Manager (PLI)
 Office of the Chief Postmaster General,
 Assam Circle, Guwahati-781001.

To

Shri Abul Kalam, Postal Assistant (PLI Section),
 Office of the Chief Postmaster General,
 Assam Circle, Guwahati-781001.

Residing at :--

Shri Abul Kalam,
 No.2 Mathgharia,
 Nooni mati,
 GUWAHATI - 781 020.

SD/

CERTIFIED TO BE TRUE COPY

AB
 Advocate

To,

cc:

Date : 15.9.2005

The Assistant Post Master General (Staff),
Assam Circle
Meghdoct Bhavan, Guwahati - 781001.

Sub : An appeal praying for revocation of the suspension
order dated 25.7.2005.

Sir,

Most humbly I beg to file this appeal for your kind and
sympathetic consideration on the following grounds :-

1. That on 30.4.84, I was appointed as Group D staff
and posted in the Office of the Post Master General,
Shillong. On 13.12.98, I was temporarily appointed as Lower
Division Clerk and posted in Meghdoct Bhavan, Guwahati. On
4.2.1994, my services was confirmed in the scale of pay of
Rs. 975-1660 under an order issued by Your Honour.
Subsequently on 5.10.93, my post as L.D.C. was converted to
the post of Time Scale Postal Assistant w.e.f. 26.6.93 along
with other persons. The said order was issued under Memo No.
Staff/2-30/93 dated 5.10.93 by Your Honour.

A copy of the order dated 5.10.93 is annexed
herewith and marked as ANNEXURE - 1.

2. That on 31.3.95, I was appointed as Development
Officer (PLI), Circle Office, Guwahati for a period of three
years w.e.f. 1.4.99 in the scale of Pay of Rs. 4500-7000. The
said period was extended upto 31.3.04 by Your Honour vide
order dated 7.3.03.

A copy of the order dated 31.3.99 is annexed
herewith and marked as ANNEXURE - 2

2/6/9
CERTIFIED TO BE TRUE COPY

Advocate

Post Master General

-2-

3. That during the appointment as Development Officer (PLI), I rendered my services with outmost honesty and sincerity and as recognition of my meritorious services I was awarded Silver Certificate by His Honour the Chief Post Master General, Assam Circle, Meghdoot Bhavan, Guwahati - 1 for consecutive four years w.e.f. 1999 to 2004.

Copies of the silver certificates are annexed herewith and marked as ANNEXURE - 3 SERIES

4. That after completion of the aforesaid period, I was transferred to PLI section as Postal Assistant vide order dated 28.4.04 under No. Staff/27/98/Pt-1 issued by Your Honour. Thereafter, vide order dated 3.6.05, under No. LI/AM/1-5/88/Ch-II I was allowed to collect PLI business as per target fixed against my name. Accordingly I joined in the said post and was rendering my services sincerely. However, on 20.7.05, the Deputy Divisional Manager (PLI) canceled the aforesaid order dated 3.6.05 considering my performance.

Copies of the orders dated 3.6.05 and 20.7.05 are annexed herewith and marked as ANNEXURES-4 & 5 respectively.

5. That Sir, while I was serving in the aforesaid post, I was entrusted mainly with the duties of receipt of all kinds of Dak, revival of PLI/RPLI, issuance of duplicate PR book and policies, change of nominations and corrections of PLI policies and PLI books. Further I was also allotted a computer terminal connected with the main server to work in the updating of the existing policies, duplicate policy

documents and revival of policies.

6. That Sir, while I was entrusted with the aforesaid duties, I had to deal with various policy holders who come to the office for revival of their policies and other works as mentioned above. On 26.6.05, one Shri B.C. Nath from Udaguri came to the office for revival of his policy No. AM-YS-56782-CS and requested me to complete the necessary formalities for revival of his lapsed policy. The premium with interest accrued to Rs. for 14,356.00 to be paid by Shri B.C. ~~Nath~~ Since Shri B.C. Nath had to return to Udaguri on the same day, he requested and handed over the aforesaid amount to me to be deposited for revival of his policy. Due to some unavoidable circumstances, I deposited the same amount on behalf of Shri B.C. Nath on 19.7.05 vide receipt dated 19.7.05, Book No. 145831 after completion of all the formalities as per my undertaking given on 18.7.05.

On similar situation, one Shri Dilip Das, holder of PLI policy no. AM 34936-CS and Shri Biren Das of Khetri, Holder of RPLI policy No. R-AS-HQ-GY-15121 dated 30.3.01 requested me to deposit Rs. 3842.00 and Rs. 2072.00 in the Post Office respectively for revival of their policies. In this regard I gave the undertaking that the said amount would be paid by me on 29.7.2005 & 22.7.2005 respectively. Unfortunately, I had fallen sick as I was suffering from nerve disorder since long back, as a result I had to take leave for a period of one month w.e.f. 22.7.05. Consequently, I could not deposit the aforesaid amounts in time in the Post Office. However on 31.8.05, when I

- 30 -
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-4-

recovered partially from nerve disorder. I immediately deposited the aforesaid amount in the Post Office vide Book No. CA 234398, Receipt no. 033 and Book No. 234398, Receipt No. 032.

Copies of the above receipts are annexed herewith and marked as Annexure - 6 Series.

7. That Sir, on 21.7.2005 a letter was issued to me by the Deputy Divisional Manager (PLI) stating that I had fraudulently taken money from the insurers for revival of their policies to the tune of Rs. 71,042/- in respect of 14 PLI/RPLI and I was requested to deposit the said amount in the GPO so that revival can be settled.

A copy of the aforesaid letter dated 21.7.2005 is annexed herewith and marked as ANNEXURE - 6(I)

8. That before I could answer the aforesaid letter dated 21.7.2005 surprisingly on 6.8.05, a copy of the order dated 25.7.05, under no. DDM(PLI)/Staff/2005 issued by the Deputy Divisional Manager (PLI) was served on my wife by which I was placed under suspension under Rule 10 of Central Civil Services(CCA) Rules, 1965, contemplating/pending disciplinary proceeding.

A copy of the aforesaid order dated 25.7.05 is annexed herewith and marked as ANNEXURE - 7.

9. That I was surprised to receive the aforesaid order dated 25.7.2005 as throughout my service career I had served the Department with utmost sincerity and it was due to this fact I had deposited the above mentioned amount in the name of the concerned policy holders which I had

received from them. Even while I was serving as D.O.(PLI), I was awarded Silver Certificate on 4 (four) consecutive years due to my meritorious service. It may also be brought to the notice of Your Honour that while serving as P.A. in PLI ^{File No. 11/DPRB/Issue/05} section I have maintained an upto date Register, where I have noted all the duties/functions undertaken by me in discharge of my duties in connection with revival of lapsed policies and other works entrusted to me.

Further, I totally deny that I had fraudulently taken money from 14 Insurers for revival of their policies and it was only on 3 (three) occasions when the insurers handed over their money to me and I had deposited the same on their behalf in the Office as stated above. If I had any malafide intention I simply could have denied the same by not depositing the amount in the name of the policy holders. However, the Deputy Divisional Manager (PLI) without considering the above fact and without any justifiable and valid ground issued the order of suspension dated 25.7.2005.

I therefore humbly pray to Your Honour to peruse ^{File No. 11/DPRB/Issue/05} the Register that I had maintained while performing my duties as P.A. in PLI section and on perusal of the said Register Your Honour would find that I was never involved in the 14 cases mentioned in the order dated 21.7.2005. Even the records of my entire service career will reflect honesty and sincerity maintained by me throughout my service career.

10. That Sir, the Deputy Divisional Manager (PLI) has issued the impugned order dated 25.7.05 in clear violation of the provisions of Rule 10 of the Central Civil Services(

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-6-

C.C.A. Rules, 1965) and he being the authority below the rank of the Appointing Authority, i.e., Your Honour, issued the order dated 25.7.05 without being empowered under law to pass such order of suspension. As such, the same is liable to be set aside and quashed.

11. That the order dated 25.7.05 issued by the Deputy Divisional Manager (PLI) is totally on non-existent ground inflicting punishment on me for no fault of my own. As such, the order dated 25.7.05 being illegal, arbitrary and unreasonable is liable to be interfered with by Your Honour.

12. That Sir, if inadvertently any lapses had occurred during my tenure as P.A. in PLI section, I may kindly be excused.

It is therefore prayed that considering the aforesaid facts Your Honour would be pleased to revoke the suspension order dated 25.7.2005 issued by the Deputy Divisional Manager (PLI), and also grant me the suspension allowances.

And for this act of kindness I will be highly obliged.

Thanking you,

Yours sincerely,

(Shri Abdul Kalam),
P.A. (PLI) section (under suspension)
Office of the Chief Post Master
General, Guwahati - 1

Copy to,

The Chief Post Master General, Assam Circle, Meghdoot
Bhavan, Guwahati - 781001

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 89 of 2006

Date of Order: This is the 26th day of April 2006.

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

Shri Abul Kalam
Son of Late Mutahir Ali
Resident of Matgharia,
P.O. & P.S.: Noonmati
District - Kamrup, Assam.

... Applicant.

By Advocates Mr. S.S. Dey, Mr. N. Nath, Mr. D.P. Boruah.

- Versus -

1. The Union of India,
represented by the Secretary (P),
Department of Post, Dak Bhawan,
New Delhi - 110 001.
2. The Chief Post Master General,
(Assam Circle), Meghdoot Bhavan,
Guwahati - 1.
3. The Assistant Post Master General (Staff)
Meghdoot Bhavan, Guwahati - 1.
4. The Deputy Divisional Manager, (PIL),
Office of the Chief Post Master General,
(Assam Circle), Meghdoot Bhavan, Guwahati - 1.

... Respondents.

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

.....
ORDER (ORAL)

K.V. SACHIDANANDAN (V.C.)

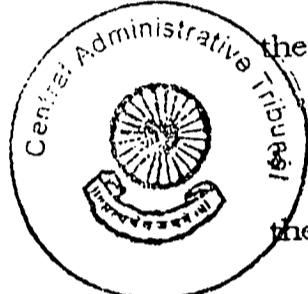
The applicant was serving as Postal Assistant in Postal Life Insurance section in the office of the Chief Postmaster General, Assam Circle, Guwahati. The applicant was placed under

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Ab
Advocate

suspension vide annexure - 6 dated 25.07.2005. The applicant has already submitted an appeal dated 15.09.2005 before the competent authority for revocation of the suspension order dated 25.07.2005 on the ground that the suspension order was issued by the authority below the rank of the appointing authority. The applicant also further averred in the application that subsistence allowance has not been paid to him and his family is starving for want of money.

2. I have heard Mr. S.S. Dey, learned counsel for the applicant and Mr. M.U. Ahmed, learned Addl. C.G.S.C. on behalf of the respondents.

 Mr. M.U. Ahmed, learned Addl. C.G.S.C. on behalf of the respondents submitted that he would like to take instructions as to why subsistence allowance has not been paid to the applicant. At this stage, Mr. S.S. Dey, learned counsel for the applicant submitted that he will be satisfied if a direction is given to the respondent No. 3 to consider and dispose of the appeal filed by the applicant as expeditiously as possible and also direct the respondents to pay the subsistence allowance to the applicant as per rules.

3. Considering the facts of the case, this Court is of the view that ends of justice will be met if such a direction is issued to the respondents. Accordingly, this Court directs the 3rd respondent or any other competent authority to consider the appeal filed by the

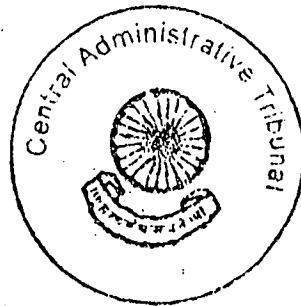
S. B. / 11

applicant on 15.09.2005 and dispose of the same as per rules as expeditiously as possible at any rate preferably within a period of one month from the date of receipt of this order. The respondents are also directed to grant the subsistence allowance to the applicant as per rules and pass appropriate order if he is eligible to receive the same and communicate the order to the applicant thereof.

The O.A. is disposed of as above. Considering the facts, no order as to costs.

Sd/ VICE CHAIRMAN

/mb/



Date of Application : 27/4/06
Date on which copy is ready : 27/4/06
Date on which copy is certified : 27/4/06
Certified to be true COPY

N. Sengupta 27/4/06
Section Officer (Judicial)
C. A. T. C. Guwahati Bench
Guwahati 5.

27/4/06

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE
GUWAHATI-781091

No. Staff/9-64/2005

Dated Guwahati on the 02-06-2006.

APPELATE ORDER

This is an appeal dated 15-09-2005 submitted by Shri Abul Kalam, PA, PLI Section [now under suspension], O/O the Chief Postmaster General, Assam Circle, Guwahati [hereinafter called as appellant] against the suspension order issued by the DDM, PLI, O/O the Chief Postmaster General, Guwahati Memo No.DDM(PLI)/Staff/2005 dated 25-07-2005 [copy enclosed at Annexure-A].

2. Shri Abul Kalam, PA (U/S), PLI Section, Circle Office, Guwahati while functioning as such, during the period from June,2004 to 18-07-2005 misappropriated Govt. money to the tune of Rs.71,042.00 (so far detected) by collecting arrear PLI premiums from the holders of 14 (fourteen) PLI/RPLI policies. On conducting a preliminary enquiry, it reveals that a prima facie case was justified and a disciplinary proceedings against Shri Abul Kalam is contemplated and as such he was placed under suspension vide memo No. DDM(PLI)/Staff/2005 dated 25-07-2005. Being aggrieved, the appellant preferred this appeal dated 15-09-2005 [copy enclosed at Annexure-B], which was received by this office on 16-05-2005. The appellant, without transmitting through proper channel, submitted the appeal direct to this office.

3. I have gone through the appeal and other relevant records very carefully. My findings are given below :-

- i) At paras 1, 2, 3 of the appeal dated 15-09-2005, the appellant furnished the letters numbers of his appointment particulars in various cadres in the Department, which are all of matters of official records and there is nothing to comment to the extent consistent with such records.
- ii) In respect of statement made at para 4 of the appeal, it is stated that DDM (PLI) CO Guwahati vide letter No.LI/AM/1-5/88/Ch.11 dated 20-7-2005, cancelled the permission given to Shri Abul Kalam to collect PLI/RPLI business and also directed to return the LI-7(a) along with all the collected cash and proposals, as it was found that he had fraudulently taken money, being the arrear PLI premiums for revival of lapsed policies from the insureds. As such, his performance in PLI Section is not beyond doubt.

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Advocate

iii) At para 5, the appellant elaborated the duties to be performed by him. The appellant was entrusted with such jobs to be performed by him at the direction of the concerned authority, with honesty and integrity.

iv) (a) The appellant admitted at para 6 that for revival of the lapsed policies, the premiums with interest accrued thereon lapsed policies, were taken by him. Some of these amount was deposited by him and others were deposited by the policy holders. The appellant stated that one Shri B C Nath, holder of policy No. AM-YS-56782-CS came to him on 26-06-05 and handed over Rs.14,356.00 for revival of his lapsed policy, He admitted that he took the amount and deposited the said amount to Govt. account on 19-07-05 i.e., one day ahead of the date (20-07-05) of cessation of performing PLI/RPLI business by him. However, the appellant did not mention under what authority he had taken amount of premium himself and also that at what capacity.

(b) Again, the appellant admitted that he had taken Rs.3842.00 and Rs.2072.00 from Shri Dilip Das and Shri Biren Das respectively, giving undertaking to revive the lapsed PLI policies Nos. AM-34936-CS and R-AS-HQ-GY-15121, by 29-07-05 and 22-07-05 respectively. Further, he stated that due to his illness he failed to deposit the above noted amount of aforesaid two policy holders. Thus, it transpires that appellant had taken the money from the insureds with the false hope to revive the lapsed PLI policies without any authority, violating the prescribed procedure misusing his official position, though he was debarred from performing PLI/RPLI business from 20-07-2005.

(c) The appellant stated he proceeded on leave with effect from 22-07-2005, whereas he was asked vide DDM, PLI, CO Guwahati vide letter No. AM/YS-56732-CS/Misc dated 21-07-2005 to deposit Rs.71,042.00, which was fraudulently taken by him with the false hope given to the insureds of 14 PLI/RPLI policies, being the arrear premiums for revival of their lapsed policies. The appellant was put under suspension with immediate effect vide MEMO DATED 25-07-2005. On the other hand, he stated that he took leave for one month with effect from 22-07-2005 which is contradictory. On accepting/taking the amount of PLI premiums from the insureds unauthorizedly and depositing later on after utilizing the money for his own purpose, does not absolve the appellant from his guilt.

v) In respect of statement made by the appellant at para 7, it is enjoined here that a preliminary enquiry revealed a prima facie case where there was evidence that Rs.71,042.00 was taken by the appellant being the PLI premiums in respect of PLI/RPLI policies. Hence, he was asked vide letter dated 21-07-2005 to deposit the said amount so that revival of 14 lapsed PLI policies can be made.

Contd..

- 03 -

vi) At para 8 of the appeal, the appellant stated that he was placed under suspension before replying the letter dated 21-07-2005. The DDM, PLI, CO Guwahati vide letter dated 21-07-2005 confirmed that on preliminary enquiry it was found that the appellant had fraudulently taken money being the arrear PLI premium to the tune of Rs. 71,042.00, for revival of the policies of the insurants of 14 PLI/RPLI policies. He was also asked to deposit the said amount immediately. The authority taking into account all the factors as well as deciding that his continuance in office would be against the wider public interest, it was considered appropriate to place the appellant under suspension and issued order of suspension vide memo no. ibid dated 25-07-2005. On issuing suspension order, the appellant was neither debarred from replying the letter dated 21-07-05 nor he was enforced to reply but he was asked to deposit the defrauded amount immediately. Thus the appellant could not bring any material to prove his contention on this score.

vii) The appellant stated in para 9 of the appeal that his duties/functions are noted in file No. LI/dPRB/Issue/05 and he performed duty with honesty and sincerity throughout his service career. He also stated that he was awarded for his service while he was DO (PLI). On preliminary enquiry, the appellant was placed under suspension considering that his continuance in office would prejudice to further investigation. During procedural inquiry, the appellant may avail the chance to prove the claim of his innocence. By placing Shri Abul Kalam under suspension vide memo dated 25-07-2005 the appellant is kept out of duty temporarily pending final action being taken against him for the specific allegations of serious nature for the particulars period and past records do not have any bearing on the present case. Suspension was resorted to on the basis of the gravity of the particular allegation. Hence, past records of services can not be considered in such matter.

viii) There was not violation of any provision of Rule 10 of CCS (CCA) Rules, 1965, as alleged by the appellant at para 10, in issuing the order for placing him under suspension as the DDM, PLI CO Guwahati was empowered by the competent authority.

ix) At para 11, the appellant stated that the order dated 25-07-2005 is totally on non-existent ground inflicting punishment on him for no fault of his own and the said order is illegal, arbitrary and unreasonable. Shri Abul Kalam was placed under suspension for misappropriation of Govt. money to the tune of Rs. 71,042.00 in respect of 14 PLI/RPLI policies. The appellant himself admitted at para 6 of his appeal dated 15-09-2005, that he collected/taken the arrear PLI premium from the insurants mentioned there and did not credit the amount to Govt. accounts. The plea on proceeded on leave as put forward for non-crediting the collected amount,

C.R.A.

is not convincing/acceptable. On the other hand, the appellant pleads that he was suspended due to no fault of his own whereas he admitted his lapses at para 6 of his appeal dated 15-09-2005. Such contradictory statements are not tenable and maintainable. There were sufficient grounds and taking all those factors into account, the appellant was placed under suspension, as narrated in foregoing paras. Taking into the gravity of the allegations, relating to the interests of the general public for serving whose interests the Govt. machinery exists and functions, it was considered to debar the appellant, for a time, of his office or position. There was no unreasonness, as alleged by the appellant. He also failed to substantiate his allegation by any proof/evidence. Further, at this present stage, his allegation on "inflicting punishment" is not correct at all, as the suspension provides the Govt. servant with enough time to prepare himself adequately for the enquiry. The appellant raised the allegation without the backing of merit and this allegation at this stage, is unacceptable.

x)

At para 12, the appellant requested to excuse him for the lapses. He also prayed to grant the subsistence allowance and revoke the suspension order issued vide memo dated 25-07-2005. So far his request is concerned, it is mentioned here that the appropriate authority will take the final decision of the lapses committed by him in due course. Subsistence allowance had already been granted vide order No. DDM(PLI)/Staff/2005 dated 15-05-2006. Regarding revocation/continuation of the suspension of the appellant, the Review Committee constituted for the purpose, has reviewed the matter on 17-02-2006 and the last review was done on 16-05-2006 wherein it was recommended for continuation of suspension for a further period of 90 (ninety) days from 18-05-2006.

4.

While working in such a responsible post, it was alleged that he failed to discharge his duties properly. On preliminary investigation it was prima facie justified to put the appellant under suspension, pending further thorough investigation into the allegations as well as pending departmental procedural inquiry.

5.

Keeping in view of the discussions made in foregoing paras, I do not find any ground to interfere with the decision of the DDM (PLI), Circle office, Guwahati and therefore, dispose the appeal [though not addressed to the appropriate appellate authority] passing the order as follows :

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ORDER

I, Dr. N Vinodkumar, Director Postal Services, (HQ&M), Office of the Chief Postmaster General, Assam Circle, Guwahati, do hereby reject the appeal dated 19-05-2005 submitted by Shri. Abul Kalam, PA (U/S), PLI Section, Circle Office, Guwahati and uphold the suspension order issued vide DDM (PLI), C.O. Guwahati Memo No. DDM(PLI)/Staff/-2005 dated 25-07-2005.

✓
Vinod
(Dr. N Vinodkumar)
Director Postal Services (HQ&M),
O/O the Chief Postmaster General,
Assam Circle, Guwahati-781001.

Copy to:

✓ 1. Shri Abul Kalam, PA, PLI Sec., CO Guwahati (now under suspension).
2. The DDM (PLI), Circle Office, Guwahati-781001, for information and necessary action. He will arrange to deliver the letter to the addressee at sl. 1 above under receipt and a signed acknowledgement be sent to this office for office record.
[Enclo: One cover]
3. The Registrar, CAT, Rajgarh Road, Dispur, Guwahati-781005. This refer to CAT case OA No. 89/2006.
4. Shri M U Ahmed, Addl. CGSC, CAT Rajgarh Road, Dispur, Guwahati-781005. He will kindly apprise the Hon' Tribunal on the compliance on OA No, 89/2006.
5. O/C.

✓
Vinod
(Dr. N Vinodkumar)
Director Postal Services (HQ&M),
O/O the Chief Postmaster General,
Assam Circle, Guwahati-781001.

ANNEXURE-10

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CC
The Director of Postal Service(HQ & M),
Office of the Chief Postmaster General,
Assam Circle, Meghdoot Bhawan, Guwahati

Date : 11.9.2006

Subject : Prayer for grant of 15% subsistence allowance.

SW,

Most respectfully I beg to lay down the following lines for your kind and sympathetic consideration :-

That on 25.7.2005 I was placed under suspension by the Deputy Divisional Manager (PLI). Thereafter, I submitted an appeal before the Assistant Postmaster General (Staff), Assam Circle on 15.9.2005 praying for revocation of the abovementioned suspension order along with a prayer for payment of my subsistence allowances. However, since there was no response from the authorities, I approached the Hon'ble Central Administrative Tribunal, Guwahati vide O.A. No. 49/2006. On 26.4.2006 the Hon'ble Tribunal was pleased to direct the Assistant Postmaster General (Staff), Meghdoot Bhawan and/or any other competent authority to dispose of my said appeal within a period of 2 (two) months from the date of receipt of the order. The Hon'ble Tribunal further directed the authorities to grant me the subsistence allowances as per rules.

That on 15.5.2006 the Divisional General Manager (PLI) issued an order under Memo No. DDM(PLI)/Staff/2005 which is as follows :-

.....Under the statutory provisions of FR - 53 the said Sri Abul Kalam (under suspension) is entitled to subsistence allowance during the period of suspension at an amount equal to the leave salary which the said Sri Abul Kalam would have been drawn if he had been on leave on half pay and in addition, dearness allowance, if admissible on the basis of such leave

salary and any other compensatory allowance admissible on the basis of pay of which the said Sir Abdul Kalam in receipt of the date of suspension subject to fulfillment of the conditions laid down for the drawal of such allowance."

It was further mentioned in the said order that my claim for subsistence and compensatory allowance should be supported by a certificate to the effect that I was not engaged in any employment, business, profession or vocation during the period to which my claim relates.

3. That in pursuance of the said order I have been receiving my subsistence allowance @ 50% as granted by the above order.
4. That I beg to state that under FR - 53(1)(ii)(a) proviso (I) on the completion of the three months of suspension, the subsistence allowance of a Government servant may be increased by suitable amount, not exceeding 50% of the subsistence allowance admissible during the period of first three months if in the opinion of the authority the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Government servant.
5. That I beg to state that my period of suspension had already exceeded three months and till date no order has been issued by the authority or any step has been taken for initiation of any Departmental Proceeding. The reasons for delay for completion of the Departmental Proceeding cannot be attributed to me in any manner. Further, my subsistence allowances @ 75% as per above Rules have not been paid to me although all along I have been submitting my certificates regularly to the authorities to the effect that I have not

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-43-

been engaged in any employment, business, profession or vocation during the period of my suspension.

6. That Sir, I beg to state that due to non-payment of the subsistence allowances as payable under FR - 53(1)(II)(a) proviso (I) I have been facing great difficulty in maintaining my school going children as well as other family members.

Hence, under the aforesaid facts and circumstances as well as the order dated 26.4.2006 passed by the Hon'ble Central Administrative Tribunal, Guwahati I pray to Your Honour to increase my subsistence allowance upto 50% of the subsistence allowance already granted to me in addition to the subsistence allowances being paid to me vide order dated 15.5.2006 totaling to 75% of my salary and allowances.

And for which act of kindness I shall remain ever grateful.

Thanking you,

Yours faithfully,


(Shri Abul Kalam)
P.A. (PLI) Section (under suspension)
Office of the Chief Post Master General
Guwahati - 1

Enclosure:-

- (i) Copy of order dated 26.4.2006 passed by the Hon'ble Central Administrative Tribunal.
- (ii) Copy of the order dated 15.5.2006 issued by the Deputy Divisional Manager (PLI).

ANNEXURE-11

b0

- 64 -

Department of Posts, India
Office of the Chief Postmaster General, Assam Circle, Postal Life Insurance,
Meghdoot Bhawan, 5th Floor, Guwahati-781001.

No.DDM(PLI)/Staff/2005
Dated, Guwahati the 29.09.2006.

To

Shri Abul Kalam
Postal Assistant (under Suspension)
Circle Office, Guwahati-781 001

Subject : Representation for enhancement of subsistence allowance.

1. Reference : Your representation dtd. 11.9.2006

2. I have gone through your representation and the concerned cases and observed as under-

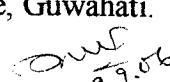
(i) It is not a matter of right of an official under suspension, to have the subsistence allowance at the enhanced rate, merely, on the reason of delay in completing departmental inquiry / proceedings. The reduction / augmentation of the quantum of subsistence allowance, on review, depends upon the merits and other aspects that obviously, reflect on nature of irregularities and frauds committed and their financial implications and limitation of involving records/ documents etc.

(ii) The case of the quantum of subsistence allowance has been reviewed and communicated to you by the DDM(PLI) under his memo of even No. dtd. 14.8.2006.

(iii) The decision, on review of the case, not to vary the quantum of subsistence allowance was taken considering the merit of the case.

3. The undersigned, therefore, does not find any reason to increase the subsistence allowance.


Dr. N. Vinod Kumar
Director Postal Services
Assam Circle, Guwahati.


29.9.06

 CERTIFIED TO BE A TRUE COPY



Advocate

Gram,

D. P. Borah, Advocate

b1

To,

Sri G. Baishy, Advocate

Sri. C. G. S. C.

Sub:- O.A. No. 1208

Abul Kalam -- Applicant

-V8 -

Union of India & Ors. --

-- Respondents / Opp. Parties

Sir,

Please take note that an application as aforesaid has been filed before this Honourable Tribunal, a copy whereof is being served upon you. Kindly acknowledge the receipt.

Thanking you,

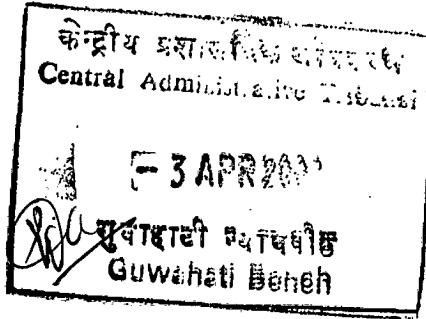
Received

Abu...
400-6250
13.12.06

D. P. Borah

13.12.06

Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

D.A. NO. 302 OF 2006

Sri Abul Kalam

...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 with regard to the statement made in paragraph 1 of the instant application the Respondents have no comment.
2. That with regard to the statement made in paragraph 2 and 3 of the instant application the Respondents have no comment.
3. That with regard to the statement made in paragraph 4.1 and 4.2 of the instant application the Respondents have no comment.
4. That with regard to the statement made in paragraph 4.3 of the instant application the Respondents

Contd., P/-

30.03.07

(2)

beg to state that the applicant was awarded Silver Certificate for the year 1999-2000, 2000-2001 and 2001-2002 that is for 3(three) years and not upto the year of 2004 as stated by the applicant.

5. That with regard to the statement made in paragraph 4.4 of the instant application the Respondents beg to state that, it is a fact that the applicant was transferred and posted as Postal Assistant in PLI Section of the office of the CPMG, Assam Circle, Guwahati on completion of his tenure as Development Officer (PLI) under the order dated 28.4.2004 as stated in the para 4.4 of the O.A. Being an experienced person in procuring of PLI business as DO (PLI) he was allowed to procure PLI business, in addition to his normal duty as Postal Assistant, beyond office working hours and on holidays/ Sundays. The order of permission for procure PLI business was cancelled on administrative ground by another order dated 20.07.2005. On joining as PA in the PLI Section, the applicant did not work sincerely and honestly as detected subsequently. The applicant committed fraud by collecting money from large number of insurant on behalf of the department and by misappropriating Government money collecting from a huge nos. of Insurant

6. That with regard to the statement made in paragraph 4.5 of the instant application the Respondents beg to state that the applicant was working in the PLI

Contd...p/-

Service Centre as Postal Assistant where numbers of Insurant/Customers used to attend every day for various purposes relating to PLI/RPLI. The applicant taking advantages of having Computer terminal linked to Main Server to misappropriate Government money. He used to collect money from the Insurant of the lapsed policies and from the Insurant who lost the Premium Receipt Books and could not deposit the Premium for months. The applicant did not credit the amount so received from the Policy holders to Government account, but misappropriated showing upto date posting of periodical premiums through terminal and issuing fresh Premium Receipt Books to the Insurant.

7. That with regard to the statement made in paragraph 4.6 of the instant application the Respondents beg to state that the applicant being an experienced official in PLI/RPLI works and procedures, he had to know that collection of any amount of money from the Insurant was illegal and not in conformity with the provision of Rules. Any amount was to be deposited in Post Office direct by the Insurant and not through any official of the PLI Section. But the Applicant taking advantage of ignorance of the Policy holders, collected money illegally and did not credit the money to Government Account. Not only in respect of the Policies, he mentioned in the para 4.6 of the O.A. but also in respect of other policies, detected on inquiry, made so far

Therefore, the plea adduced by the applicant in the said para for his failures to credit the amount in Government Account on the very date of collecting the money or in the next date does not come under the purview of any Rules of the Department.

8. That with regard to the statement made in paragraph 4.7 of the instant application the Respondents beg to state that on preliminary enquiry, while it was detected that a sum of Rs.71,042/- collected fraudulently from the policy holders of as many as 14 policies has not credited to Government Account by the Applicant, he was ordered to deposit the amount in Guwahati GPO immediately by the respondent No.4 in his letter dated 21.07.2005 as mentioned in para 4.7 of the O.A.

The respondent No. 4 considering all aspects of the cases of frauds, and in exercising the power conferred upon him by the competent authority, had placed the applicant under suspension under his Memo No. DDM(PLI)/Staff/2005 dated 25.07.2005.

9. That with regard to the statement made in paragraph 4.8 of the instant application the Respondents beg to state that the Respondents deny the contentions of the applicant that he served the department with outmost honesty and sincerity. The verification made so far on his past works reflects otherwise. Misappropriation

tion of money collected from the insurant on behalf of the Department proves that the applicant is not sincere and honest. The Applicant has been placed under suspension on justifiable and valid reasons.

10. That with regard to the statement made in paragraph 4.9 of the instant application the Respondents beg to state that the Respondents agree with the contentions that the appeal preferred by the applicant was received and it was under examination/consideration.

11. That with regard to the statement made in paragraph 4.10 of the instant application the answering respondents beg to state that in honouring the judgement dated 26-04-2006 delivered by the Hon'ble Tribunal, Guwahati Bench in OA No. 89 of 2006, the competent authority considered the appeal dated 15-09-2005 of the applicant and disposed of by issuing a speaking order vide Memo No. Staff/ 9-64/2005 dated 02-06-2006. Moreover, the subsistence allowance at an amount equal to the entitlement relating to the instant case, is being paid to the applicant.

12. That with regard to the statement made in paragraph 4.11 of the instant application the Respondents beg to state that it is true that the appeal preferred by the applicant was disposed of by an Appellate Order dated 2.6.2006. The Review Committee for review of the suspension cases so constituted by the Competent Authority has periodically been reviewing the suspension cases. The suspension case of the Applicant was last reviewed by the Committee on 20.11.2006 and recommended continued suspension for a further period of 90(ninety) days with effect from 16.11.2006. The case will again be reviewed by the Committee before expiry of the 90(ninety) days and follow up action will be taken on the basis of the recommendation of the Committee.

A copy of the Review Committee recommended dated 20.11.06 is annexed herewith as Annexure-1.

13. That with regard to the statement made in paragraph 4.12 of the instant application the Respondents beg to state that the admissible Subsistence Allowance on the strength of the order issued by the Respondent No. 4 dtd. 15.5.2006 is being paid to the applicant from 25.7.2005.

14. That with regard to the statement made in paragraph 4.13 of the instant application the Respondents beg to state that the applicant had committed fraud and misappropriated Government money involving a huge No. of Postal Life Insurance and Rural Postal Life Insurance Policies. Therefore, it was necessary to verify the past works of the applicant, that is, for the period he worked in the PLI Section to arrive at the total amount of fraud committed by him. It is stated that the Policy holders are residing all over the State and verification of past works depends upon the co-operation of the policy holder as well as, their presence before the Investigating Officer etc. For that reason the inquiry into the case has been delayed and charge sheet is to be framed against the applicant.

The Respondent further state that the reduction/increase of the quantum of Subsistence Allowance depends upon the merits of the case which include the nature and gravity of irregularities and frauds committed, financial implications and documentary evidence regarding the fraud committed. The Review Committee also examined these and recommended not to vary the quantum of Subsistence Allowance being paid to the applicant. The applicant submitted an appeal dated 11.9.2006 to the Director of Postal Service (HQ & Marketing), Assam Circle, Guwahati and the same has been disposed of by a reply to the applicant on 29.9.2006.

15. That with regard to the statement made in paragraph 4.14 of the instant application the Respondents have no comment.

16. That with regard to the statement made in paragraph 5.1 of the instant application the Respondents beg to state that the Respondent No.4 issued the order dated 25.7.2005 placing the applicant under suspension in exercise of powers conferred upon him by the Competent Authority. There was no violation of the provisions of Rule 10 of the Central Civil Service (CCS) Rules, 1965.

17. That with regard to the statement made in paragraph 5.2 of the instant application the Respondents

beg to state that the respondent No. 4 has been empowered by the competent authority in conformity with the provisions of rule 10 of the CCS (CCA) Rules, 1965 to place the Applicant under suspension.

Accordingly, the Respondent No. 4 and the Controlling Authority of the applicant, issued order dated 25.7.2005 placing the applicant under suspension.

18. That with regard to the statement made in paragraph 5.3 of the instant application the Respondents beg to state that the contentions as stated by the applicant in para 5.3 of the OA are not correct. The applicant has been placed under suspension on justifiable and valid grounds and taking all factors into account.

19. That with regard to the statement made in paragraph 5.4 of the instant application the Respondents beg to state that the reasons for non framing of charge sheet against the applicant have been stated in para 4.13. The Review Committee reviewed the suspension case of the Applicant last on 20.11.2006 and recommended continued suspension for a period of 90(ninety) days with effect from 16.11.2006.

20. That with regard to the statement made in paragraph 5.5 of the instant application the Respondents beg to state that there is no violation of the provi-

sions of any Rule of the Central Civil Services (CCA) Rules, 1965 in this case. All actions have been taken as per the provisions of Rules.

21. That with regard to the statement made in paragraph 5.6 of the instant application the Respondents beg to state that the reasons for not increasing/decreasing of the Subsistence Allowance granted to the applicant have been narrated against para 4.13.

22. That with regard to the statement made in paragraph 5.7 of the instant application the Respondents beg to state that the order dtd. 25.7.2005 was issued in accordance with the provisions of Rules. The Respondents further beg to state that the grounds set forth in the instant application are not good grounds and also not tenable in the eye of law therefore the instant application is liable to be dismissed.

23. That with regard to the statement made in paragraph 6 of the instant application the Respondents beg to state that the respondents do not agree to the contentions of the applicant that he has been suffering both from mentally and financially without any fault on his part. The applicant misappropriated a large amount of Government money misguiding scores of insurant. The Review Committee on examination of all aspects of the case had recommended continued suspension of the applicant.

24. That with regard to the statement made in paragraph 7 of the instant application the Respondents have no comment.

25. That with regard to the statements made in paragraphs 8.3 of the instant application the Respondents beg to state that the Applicant was placed under suspension on justifiable grounds as per statutory provisions of suspension, as he had engaged himself in activities prejudicial to the interest of Postal Life Insurance functioning. To perform the job with devotion and honestly is since quantum for a Govt. official, so on detection of fraud committed by the applicant he was put under suspension to arrest further fraud. The period of suspension will be decided on the outcome of the disciplinary proceedings to be initiated against the applicant on completion of the inquiry of related cases spread over different places of Assam Postal Circle. So, the applicant is not entitled to any relief, at this stage, as the disciplinary proceeding as per statutory provisions of Central Civil Services (Classification, Control and Appeal) Rules, 1965 is in progress.

26. That with regard to the statement made in paragraph 9 of the instant application the Respondents beg to state that the claim of the applicant is illegal and ill founded and the applicant is not entitled to get any interim relief.

27. That the respondents submit that the application has no merit and as such the same are liable to be dismissed.

22

(11)

VERIFICATION

I, Kutubuddin Ahmed . S/O Habib Ali
aged about 54 years, R/O Hatigaon, Guwahati-38
District Kamrup . . . and competent officer of the
answering respondents, do hereby verify that the state-
ment made in paras . 1 to 11., 13 to 27. are true
to my knowledge and those made in paras 12
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 sign this verification on this 2nd day
of March 2007 at Guwahati.

Kutubuddin Ahmed
Signature

उप प्रभागीय प्रबंध (डा. जी. बी.)
Dy. *Divisional Manager (PLI)*
असम परिमंडल, गुवाहाटी-781001.
Assam Circle, Guwahati-781001.

Minutes of the meeting of Review Committee for reviewing the suspension cases held on 20.11.2006 at 15.30 hours in the chamber of the Director of Postal Services (HQ), Assam Circle, Guwahati.

1. The following members were present-

(i)	Dr. N. Vinod Kumar D.P.S.(HQ)	Chairman
(ii)	Shri B. B. Roy Choudhury, A.D. (Mails)	Member
(iii)	Shri Manik Das D.D.M. (PLI)	Member

1. The case of suspension of Shri Abul Kalam, PA, PLI Section, Circle Office, Guwahati who has been under suspension since 25.7.2005 was last reviewed by the committee on 14.8.2006 and after due consideration of all aspects of the case, it was recommended for continuation of suspension for a period of 90 days from 18.8.2006.

2. The Review Committee again met and examined the relevant records and other aspects in the case of suspension of Shri Abul Kalam, PA, PLI Section, C.O., Guwahati to determine as to whether the order of suspension should be revoked or to be continued for further period.

3. The Committee observed that the official was placed under suspension on 25.7.2005. The departmental investigation of the case of alleged misappropriation of Govt. money by the said Shri Abul Kalam has not yet been completed.

4. Now, the Committee, after due and careful consideration of the facts and circumstances, come to the conclusion that the official should be kept under suspension for a further period of 90 (ninety) days to facilitate completion of inquiry. However, as the official has been under suspension since 25.7.2005, the Committee observed that the pending inquiry should be completed within a least possible period. Accordingly, the Committee recommends continued suspension of the official for a further period of 90 (ninety) days with effect from 16.11.2006.

5. The Committee further reviewed the quantum of subsistence allowance drawn by the said Abul Kalam and after careful consideration of the merits and other aspects of the case, recommended not to vary the quantum of subsistence allowance at this stage.

Manik Das 26/11/06 (B.B.Roy Choudhury)
DDD(PLI)& Member AD(Mails)&Member

Vinod Kumar
(Dr. N. Vinod Kumar)
D.P.S. & Chairman

Altered
25/11/2007
चप प्रभागीय प्रबंध (डा. बी. बी.)
Dy. Divisional Manager (PLI)
असम रिज़िस्ट्रेशन गुवाहाटी-781001.
Assam Circle, Guwahati-781001.

Parul Das
N.C. Das
Parul Das

1 MAY 2007

गुवाहाटी बैचली
Guwahati Bench

filed by

3.5.07
The applicant through
Dipankar Dr. Borah
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. No. 302/2006

SRI ABUL KALAM

.....APPLICANT

-VERSUS-

UNION OF INDIA & ORS.

.....RESPONDENTS

IN THE MATTER OF :-

Rejoinder filed by the Applicant to the
Written Statement filed by the
Respondents.

REJOINDER OF THE APPLICANT

1. That with regard to the statements made in paragraphs 1, 2, 3 & 4 of the Written Statement the Applicant does not have any comment.

2. That with regard to the statements made in paragraph 5 of the written statement the applicant states that the allegations made by the Respondents that the applicant did not work sincerely and honestly is totally incorrect and baseless. In this regard the applicant reiterates his statements made in paragraph 3 of the O.A. and states that he was awarded Silver Certificates by the Respondent No. 2 due to his meritorious service. Further, the allegation of fraud committed by the applicant is totally baseless since the Respondents could not prove it for long two years.

3. That the applicant denies the allegations made by the Respondents in paragraphs 6, 7, 8 & 9 of the written

Abul Kalam

statement and reiterates his statements made in paragraphs 4.6 & 4.8 of the O.A. As stated in the said paragraphs the applicant had never collected money from any person on any occasion except Sri B.C. Nath, Sri Dilip Das and Sri Biren Das. The applicant had a good personal relationship with those three persons and on personal request of these persons he took money from them for the revival of their lapsed policies and subsequently deposited them. However, due to his illness he was on leave for a period of one month and hence there was a delay in depositing their money. Else than those three persons the applicant never took money from any person. The applicant reiterates that while he was in service, all along he had maintained an upto date File bearing No. LI/DPRB/ISSUE/05 in the Office wherein he has recorded all the works/duties carried out in respect of revival of lapsed policies as well as other duties allotted to him by the authorities. Your applicant denies that he had fraudulently taken money from 14 insurents for revival of their policies and it was only on 3 occasions whenever insurents handed over their money to the applicant for revival of their policies, your applicant had deposited the same in the office on their behalf as stated above. This Hon'ble Tribunal may be pleased to call for the aforesaid File No. LI/DPRB/ISSUE/05 which your applicant maintained while serving in the aforesaid post for kind perusal and on perusal of the aforesaid File, this Hon'ble Tribunal will find that there was no lapses on the part of your applicant in any manner while he was serving as Postal Assistant in PLI section. The record will also reflect that your applicant has deposited the amount handed over to him by the aforesaid persons on their behalf in the office.

Abul Kalam

4. That with regard to the statements made in paragraphs 10 & 11 of the Written Statements the Applicant does not have any comment.

5. That as regards the statements made in paragraph 12 & 19 of the written statement the applicant states that last review was done by the Review Committee on 20.11.2006 and recommended continuation of suspension for a further period of 90 days w.e.f. 16.11.2006. However, the said period of 90 days as mentioned above have already been expired on 16.2.2007.

6. That with regard to the statements made in paragraph 13 of the Written Statements the Applicant does not have any comment.

7. That with regards to the statements made in paragraphs 14, 21 & 26 of the written statement the applicant states that the Respondents could not gather any irregularity on the part of the applicant. For long two years the Respondents could not prove even a single irregularity committed by the applicant. Since, the allegations of the Respondents are baseless therefore they could not prove any fraud committed by the applicant and hence causing delay in framing the Charge Sheet against the applicant only to harass him. Further, the plea of the Respondents that the presence and cooperation of the policy holders who reside all over the State of Assam is necessary before the Investigating Officer is not sustainable in as much as during the period of long two years the

Abul Kalam

Investigating Officer could have completed the inquiry either by visiting the concerned policy holders or by summoning them to his office.

Regarding the subsistence allowance the applicant reiterates his statements made in paragraph 5.6 of his O.A. and states that under FR - 53(1)(ii)(a) proviso (i), on the completion of the three months of suspension, the subsistence allowance of a Government servant may be increased by suitable amount, not exceeding 50% of the subsistence allowance admissible during the period of first three months, if in the opinion of the authority the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Government servant.

8. That with regard to the statements made in paragraphs 16, 17 & 20 of the Written Statement the Applicant reiterates his statements made in paragraphs 5.1 & 5.2 of his O.A.

9. That with regard to the statements made in paragraph 18 of the Written Statements the Applicant denies the same and states that he has been placed under suspension totally on baseless grounds.

10. That with regard to the statements made in paragraph 25 of the Written Statement the Applicant states that he has been placed under suspension totally on baseless allegations which could not be proved by the Respondents for long two years. Hence, the applicant may be reinstated in his service forthwith.

Abul Kalam

VERIFICATION

I, SHRI ABUL KALAM, Son of Late Mutahir Ali, aged about 48 years, Resident of Matgharia, P.O. & P.S. Noornmati, District - Kamrup, Assam do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 10 above are true to my knowledge which I believe to be true and the rest are my humble submission before the Hon'ble Tribunal.

And in proof I sign this verification on this the 3rd day of May, 2007.

Abul Kalam
SIGNATURE