

FROM NO. 4.
(S.O. Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 87/06
2. Misc Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(S) J. C. Bezboruah

Respondants U. C. & Son

Advocate for the Applicant(S) H. Rahman, Mr. J. Huda, J. Deka, R.S. Thakur

Advocate for the Respondant(S) Case

Notes of the Registry Order of the Tribunal

The application is in form
is Rs. 50/-
d. per 20
No. 266323332
Dated 30.3.06

Ans
Dy. Registrar

Ans
6-4-06

Steps Taken

Ans
Rs. 10/- Paid for
the Respondent Nos. 6 & 7.

Ans

Printed
copy of the
order
13.04.06

C.C. of the order has
been collected by the L/Adv.
for the applicant. dt. 13/4/06

06.04.2006

Heard learned counsel for the parties
The application is disposed of in terms
of the order passed in separate sheets
at the admission stage itself. No order
as to costs.

Vice-Chairman

2

27-6-06

A. letter received from
Chief Post Master General
Noam circle regarding
Q.A. 87/06. and the
same is placed at flag A

3

DEPARTMENT OF POSTS:INDIA
O/O THE SUPDT OF POST OFFICES: SIVASAGAR DIVISION

केन्द्रीय प्रशासन
Jorhat-785001

- 8 JUN 2007

Guwahati Bench.
गुवाहाटी न्यायपीठ

To
The Registrar
Hon'ble CAT, Guwahati Bench
Guwahati-781001

No:- F 4-1 / 1990-91


dtd. at Jorhat the 30-05-07

Sub:- Appeal preferred by Jadav Chandra Bezbarua, ex-SPM-ONGC Colony SO.

Ref:- OA No. 87/2006.


A photocopy of Appellate Order received vide CO's letter no. VIG / 2-2(R) / 91 dated 19-06-2006 is forwarded herewith for favour of kind disposal.

Enclo. As above.


Supdt of Post Offices
Sivasagar Division, Jorhat-785001

Copy forwarded to:-

The Assistant Director (Vig), O/o the Postmaster General, Dibrugarh
Region, Dibrugarh-1 for kind information w.r.t. RO's letter no. Vig / 2-2(R) / 91-Pt-II dtd.
18-5-2007.


Supdt of Post Offices
Sivasagar Division, Jorhat-785001

भारतीय डाक विभाग
DEPARTMENT OF POSTS : INDIA
कार्यालय पोस्टमास्टर जनरल
OFFICE OF THE POSTMASTER GENERAL
डिब्रूगढ़ क्षेत्र, डिब्रूगढ़ - 786 001
DIBRUGARH REGION, DIBRUGARH - 786 001



Memo No: VIG/2-2(R)/91

Dibrugarh the June 19, 2006

In the light of order dated 06.04.2006 passed by Hon'ble CAT, Guwahati, the appeal dated 15.02.2005 preferred by Sri Jadav Ch. Bezbaruah, applicant of CAT case No. 87/2006 could not be considered for the following reasons.

No appeal shall lie in terms of Rule 22 of CCS(CCA) Rules, 1965 as the order was made by the President.

Sat
(A. Ghosh Dastidar)
Chief Postmaster General
Assam Circle
Guwahati - 781 001

Copy to:-

1. The Registrar, Hon'ble CAT Guwahati Bench, Guwahati -5 for information. This is in reference to order dated 06.04.2006 issued by Hon'ble CAT, Guwahati in OA No. 87/2006.
- ✓ 2. Shri Jadav Ch. Bezbaruah, Retired SPM, ONGC Colony SO, PO & Dist - Sivasagar.
3. Shri S. D. Purkayastha, Supdt. of Post Offices, Sivasagar Division, Jorhat - for information. A copy of this memo addressed to Sri Jadav Ch. Bezbaruah is enclosed herewith for making delivery under clear receipt and a copy of receipt in original be submitted to this office for record
4. Office copy/Spare copy.

A. Ghosh Dastidar
Chief Postmaster General
Assam Circle
Guwahati - 781 001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

87 of 2006

O.A. No.

06.04.2006

DATE OF DECISION

Sri J.C. Bezboruah

..... Applicant/s

~~Ms. J. Huda, Ms. I Deka & Mr. R.S. Thakur~~

..... Advocate for the
applicant/s.

- Versus -

Union of India & Ors.

..... Respondent/s

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

..... Advocate for the
respondents

CORAM

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

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

Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 87 of 2006

Date of Order : This the 6th day of April 2006.


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

Sri Jadav Ch. Bezbaruah,
Son of Late G. Bezbaruah,
Resident of Amolapatty, Sibsagar,
P.S. & District - Sibsagar, Assam.

... Applicant

By Advocates ~~XXXXXXXXXXXX~~ Ms. J. Huda, Ms. I. Deka and Mr.
R.S. Thakur.

- Versus -

1. Union of India
Represented by the Secretary to the
Government of India,
Ministry of Communication and I.T.,
New Delhi - 110 001.
 2. The Director General
Department of Post Offices
New Delhi.
 3. The Desk Officer (Vigilance Petition)
Department of Posts,
Ministry of Communications and I.T.,
Government of India,
Dak Bhawan, Sansad Marg,
New Delhi - 110 001.
 4. The Chief Postmaster General
Assam Circle, Meghdoot Bhawan
Guwahati.
 5. The Post Master General
Office of the Post Master General
Upper Assam Region, Dibrugarh
P.O., P.S. and District - Dibrugarh, Assam
 6. The Post Master
Sibsagar Division Head Office
Sibsagar.
- 

7. The Superintendent
Office of the Superintendent of Post Office,
Sibsagar Division, Sibsagar.

... Respondents.

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

....

ORDER (ORAL)

K.V. SACHIDANANDAN (V.C.)

The applicant while working as Sub Post Master, O.N.G.C. Colony Branch, Sibsagar disciplinary proceeding was initiated against him for criminal misappropriation and he was put under suspension. While the departmental inquiry was in progress, the applicant attained the age of superannuation and suspension of the applicant was revoked on 19.02.1993 and he was permitted to retire from service. Thereafter, charge sheet was issued to the applicant and finally the Disciplinary Authority passed order dated 05.11.2003 against which the applicant filed an appeal dated 15.02.2005, annexure - IX. Amongst other grievances one of the grievance is that the appeal has not been disposed as yet. Aggrieved by the said inaction, the applicant has filed this application seeking the following reliefs: -

"It is, therefore, prayed that Your Lordship would be pleased to admit this application, issued a notice upon the respondents to show cause as to why the impugned Order No. 9-39/93-VP dated 05-11-2003 issued under the signature of the Desk Officer (Vigilance Petition), Department and I.T., Government of India (Annexure - VII) should not be set aside and upon cause/causes being shown and after hearing the parties be pleased to set aside and quashed the impugned Order dated 05.11.2003 (Annexure - VII) and/or pass such

further or other order/orders as Your Lordships may deem fit and proper."

2. I have heard Ms. J. Huda, learned counsel for the applicant and Mr. G. Baishya, learned Sr. C.G.S.C. for the respondents.

3. When the matter came up for hearing, learned counsel for the applicant submits that she will be satisfied if a direction is given to the Respondent No. 4 to consider and dispose of the above appeal if not already considered and disposed of with speaking order. Mr. G. Baishya, learned Sr. C.G.S.C. for the respondents submits that this will suffice the ends of justice and he has no objection.

4. This Court also is of the view that the applicant shall approach when the remedy is exhausted at the administrative level in the appeal to be disposed of. In the circumstances, this Court directs the Respondent No. 4 or any other competent authority authorized by him who act as Appellate Authority to consider and dispose of the appeal dated 15.02.2005 as per rules within a period of two months from the date of receipt of this order. It is also made clear that personal hearing to the applicant may be granted if he so desires.

The O.A. is disposed of as above. In the circumstances no order as to costs.



(K.V. SACHIDANANDAN)
VICE CHAIRMAN

To

The Deputy Registrar
Central Administrative Tribunal
Gujarat Bench, Guwarati.

Sub: O A 87 / 2006

Shri Sadar Bezbaruah
- vs -

M. O. 1 & all.

Sir,

Please do the needful
in placing the matter
before the Hon'ble Bench
as enlisted item.

Allowed
for

Thanking you

Jesmer Hude
Advocate

90

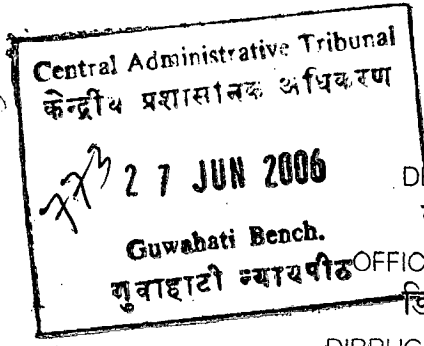
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORIGINAL APPLICATION NO. 87/06

1. a) Name of the Applicant:- J. C. Bezboruck
b) Respondants:- Union of India & Ors
c) No. of Applicant(S) :-
2. Is the application is the proper form:- Yes/No.
3. Whether name & description and address of the all papers been furnished in cause title :- Yes/No.
4. Has the application been dully signed and varified :- 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 is in time :- Yes/No.
10. Has the Vakalatnama/Memo of appearance/Authorisation is filed:-Yes/No.
11. Is the application by IPO/BD/For Rs: 5/-266323332
12. Has the application is maintainable :- Yes/No.
13. Has the Impugned order original duly attested been filed : Yes/No.
14. Has the ligible copies of the annexures dully 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 respondants been filed:- Yes/ No.
17. Has the declaration as required by item 17 of the form:- Yes/No.
18. Whether the relief sought for arises out of the single :- Yes/ No.
19. Whether 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:-

Mention case The application is in order.
SECTION OFFICER (J)

[Signature]
DEPUTY REGISTRAR




भारतीय डाक विभाग
DEPARTMENT OF POSTS : INDIA
कार्यालय पोस्टमास्टर जनरल
OFFICE OF THE POSTMASTER GENERAL
डिब्रूगढ़ क्षेत्र, डिब्रूगढ़ - 786 001
DIBRUGARH REGION, DIBRUGARH - 786 001

Memo No: VIG/2-2(R)/91

Dibrugarh the June 19, 2006

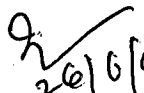
In the light of order dated 06.04.2006 passed by Hon'ble CAT, Guwahati, the appeal dated 15.02.2005 preferred by Sri Jadav Ch. Bezbaruah, applicant of CAT case No. 87/2006 could not be considered for the following reasons.


No appeal shall lie in terms of Rule 22 of CCS(CCA) Rules, 1965 as the order was made by the President.



(A. Ghosh Dastidar)
Chief Postmaster General
Assam Circle
Guwahati - 781 001

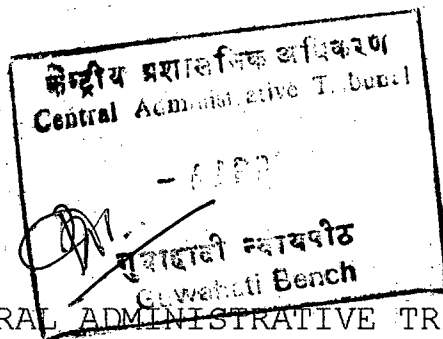
Copy to:-

- ✓ 1. The Registrar, Hon'ble CAT Guwahati Bench, Guwahati -5 - for information. This is in reference to order dated 06.04.2006 issued by Hon'ble CAT, Guwahati in OA No. 87/2006.
2. Shri Jadav Ch. Bezbaruah, Retired SPM, ONGC Colony SO, PO & Dist - Sivasagar.
3. Shri S. D. Purkayastha, Supdt. of Post Offices, Sivasagar Division, Jorhat - for information. A copy of this memo addressed to Sri Jadav Ch. Bezbaruah is enclosed herewith for making delivery under clear receipt and a copy of receipt in original be submitted to this office for record.
4. Office copy/Spare copy.


26/6/06.
So(J)


Chief Postmaster General
Assam Circle
Guwahati - 781 001


27.6.06



IN THE GENERAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BRANCH,
GUWAHATI.

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

O.A. 87/06

Sri Jadab Chandra Bezbaruah.

..... Petitioner.

- Versus -

Union of India & Others.

..... Respondents.

I N D E X

- | | | |
|-----|------------------------|-------------------------------|
| 1. | Application | |
| 2. | Annexure-I | Suspension Order |
| 3. | Annexure-II | Memorandum dated 19-02-1993 |
| 4. | Annexure-III | Office Memo dated 22-04-1993 |
| 5. | Annexure-III-A | Representation dtd 12-05-1993 |
| 6. | Annexure-IV | Representation |
| 7. | Annexure-V | Notice dated 11-04-2002 |
| 8. | Annexure-V-A | Reply comment dtd 28-04-2003 |
| 9. | Annexure-VI | Forwarding letter |
| 10. | Annexure-VII | Order dated 05-11-2003 |
| 11. | Annexure - <u>VIII</u> | Order dated 17-01-2005 |
| 12. | Annexure <u>IX</u> | Appeal filed 15-02-2005 |

Filed by :-

Jessie Chouda

Advocate.

*Filed by the petitioner
through Jessie Chouda
Advocate*

19

IN THE GENERAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BRANCH,
GUWAHATI.

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

Original Application NO. /2006.

Sri Jadav Ch. Bezbaruah

..... Applicant

- Versus -

Union of India & Others.

..... Respondents

LIST OF DATES / SYNOPSIS

- 09-04-1990- Applicant who was posted as Sub Post Master, ONGC Colony Branch, Sibsagar was placed under suspension pending initiation of disciplinary proceeding.
- 04-07-1991- Memorandum of charges issued by the Superintendent of Post Offices, Sibsagar Division. The applicant submitted his written statement of defence denying the charges leveled against him.
Departmental Enquiry initiated against the applicant wherein the applicant participated.
- 19-02-1993- While the Departmental enquiry was in progress the applicant attained the age of

- 14
- superannuation on 28-02-1993. Accordingly vide memo dated 19-02-1993 the suspension of the applicant ^{was} ~~the~~ revoked and he was allowed to resume duties on 27-02-1993 and retired from service on 28-02-1993.
- 22-04-1993- Superintendent of Post Offices, Sibsagar Division vide memo dated 22-04-1993 communicated the enquiry report to the applicant and asked him to file comments, if any, before the disciplinary authority.
- 12-05-1993- Applicant submitted a representation before the Superintendent of Post Offices, Sibsagar Division but, till today no final order has been passed as a result of which the appellant is deprived of the regular pension and other post retirement benefits.
- 23-06-1993- Provisional Pension @ Rs.800/- per month sanctioned for a period of six months. The same is still being paid after sanction by the competent authority.
- 20-06-1993- The Court of Judicial Magistrate (1st Class) Sibsagar by Judgment dated 20-06-2001 acquitted the applicant in the Original Case being G.R. Case No.489/1990 under Section 409 of Indian Penal code.

Thereafter, the applicant submitted various representations before the authority for finalization of the departmental enquiry and for regularization of the pension and payment of his post retirement benefits.

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11-04-2003- Applicant through his advocates served a notice to the Superintendent of Post Offices, Sibsagar Division requesting him to clear the outstanding dues of the applicant.

28-04-2003- The Superintendent of Post Offices, Sibsagar Division replies to the notice of the applicants Counsel.

30-06-2003- Applicant approached the Hon'ble Central Administrative Tribunal Guwahati against the non payment of pensionary and other post retirement benefits and non regularization of his pension.

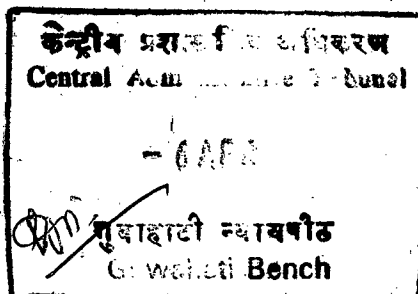
01-08-2003- Original Application No.138/2003 filed by the applicant admitted by the Hon'ble Central Administrative Tribunal.

05-11-2003- During the pendency of the O.A. No.138/2003 Respondent No.3 vide order No.9-39/93-VP dated 05-11-2003 imposed the penalty of withholding of entire monthly pension on a permanent basis along with withholding of entire gratuity amount of Rs.29,040/- payable to the applicant.

24-02-2004- Original Application No.138/2003 withdrawn by the applicant.

17-1-05 - Dispose off the O.A NO.47/p/ filed against the impugned order dt 5-11-03. A

15-2-05 - appeal was filed



IN THE GENERAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BRANCH,
GUWAHATI.

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

Original Application NO. /2006

Sri Jadav Ch. Bezbaruah
Son of Late K. Bezbaruah,
Resident of Amolapatty, Sibasagar,
P.S. & District Sibasagar, Assam.

..... Applicant

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India,
Ministry of Communication and
I.T., New Delhi - 110001.
2. The Director General
Department of Post Offices,
New Delhi.
3. The Desk Officer (Vigilance
Petition), Department of Posts
Ministry of Communications &
I.T., Government of India,
Dak Bhawan, Sansad Marg,
New Delhi-110001.

Jadav Bezbaruah.

Jader Bez Baruah.

4. The Chief Postmaster General
Assam Circle, Meghdoot Bhawan
Guwahati.
5. The Post Master General
Office of the Post Master
General, Upper Assam Region,
Dibrugarh, P.O., P.S. and
District Dibrugarh, Assam.
6. The Post Master
Sibasagar Division Head Office
Sibasagar.
7. The Superintendent
Office of the Superintendent
of the Post Office, Sibasagar
Division, Sibasagar.

..... Respondents.

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

i) This application is made against the non-disposal of the appeal dated 15-05-2005 filed by the applicant against the Order No.9-39/93-VP dated 05-11-2003 issued under the signature of the Desk Officer (Vigilance Petition), Department of Post, Ministry of Communications & I.T., Government of India, imposing the penalty of withholding of entire monthly pension admissible to the applicant on a permanent basis along with withholding of entire gratuity amount of Rs.29,040/- payable to the applicant.

2. JURISDICTION :-

The applicant declares that the cause of action of this application is within the Jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :-

The applicant further declares that the application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act. 1985.

4. FACTS OF THE CASE :-

i) That your humble applicant is a citizen of India and is a permanent resident of Sivasagar in the district of Sivasagar, Assam and, as such, he is entitled to the rights and privileges as guaranteed under the Constitution of India and the laws framed thereunder.

ii) That while your applicant was posted as Sub Post Master, O.N.G.C. Colony Branch, Sivasagar, a Disciplinary Proceeding on the charge of Criminal Mis-Appropriation was initiated against him and he was placed under suspension with immediate effect vide office Memo No.B2/J.C. Bezbaruah dated 09-04-1990 issued by the Superintendent of Post Office, Sivasagar Division, Jorhat.

A copy of the said Suspension Order is annexed herewith and marked as Annexure-I

iii) That your applicant begs to state that thereafter the Superintendent of Post Offices, Sivasagar

Jadar Bezbaruah

Division, Jorhat, vide his office letter No.E4-1/90-91 dated 04-07-1991 issued a Memorandum of Charges framed against the applicant and directed the applicant to submit a written statement of the defence. Accordingly, your applicant submitted the written statement of defence before the authority denying all the allegation leveled against him.

iv) That the applicant begs to state that thereafter a departmental enquiry was initiated against him and he participated in the said enquiry in defence of the charges leveled against him.

v) That your applicant begs to state that while the departmental enquiry was in progress vide Memo NO. B2/J.C. Bezbaruah dated 19-02-1993 the Office of the Superintendent of Post Office, Sibasagar Division, Jorhat, revoked the suspension order of the applicant as the applicant had attained the age of Superannuation. Accordingly on 27-02-1993, the applicant was allowed to resume his duties and on the next day i.e. on 28-02-1993 he was retired from the service as he attained the age of superannuation and he was released from the service.

A copy of the said memo dated 19-02-1993 is annexed herewith and marked as Annexure-II.

vi) That your applicant begs to state that the Superintendent of Post Offices, Sibasagar Division Sibasagar vide its office Memo No.F-4-1/90-91 dated

Jadar Bezbaruah

22-04-1993 communicated to the enquiry report your applicant and also asked the applicant to file representation if any, before the disciplinary authority. Accordingly on 12-05-1993 your applicant submitted a representation before the Superintendent of Post Offices, Sibasagar Division, Jorhat but, the authority did not pay heed to said the representation and till date the authority has failed to complete the Departmental Proceeding.

Copies of the said Office Memo dated 22-04-1993 and the representation dated 12-05-1993 are annexed herewith and marked as Annexures-III, III-A respectively.

vii) That your applicant begs to state that as your applicant attained the age of superannuation during the pendency of disciplinary proceedings, he was retired from service on 28-02-1993. Thereafter as per draft calculation, Provisional Pension @ Rs.800/- per month had been sanctioned to the applicant vide the Office Memo No. CZ/J. C. Bezbaruah dated 23-06-1993 for a period of 6 (six) month upto 31-08-1993.

viii) That your applicant begs to state that thereafter on several occasion the applicant made inquiry about the finalization of Departmental Proceeding and also requested the authority to pay the pensionary benefit and to regularize the pension of the applicant

Jade Bezbaruah

but the authority declined to take any steps on the plea that the Criminal case which was initiated against the applicant being G.R. No.489/1990 under Section 409 of the Indian Penal Code is yet to be disposed by the Court.

Jader BezBaruah

ix) That your applicant begs to state that in the meantime the learned Court of Judicial Magistrate, (1st Class), Sibasagar, by its Judgment dated 20-06-2001 acquitted the applicant of the Criminal Charge on the ground that the prosecution has failed to establish the case beyond reasonable doubt. On being acquitted by the learned Court below, your applicant again submitted a representation before the Post Master General, Upper Assam Region, at Dibrugarh on 07-02-2002 praying for immediate action on the part of the authority to pay the gratuity, leave encashment, group insurance and also regularizes the Pension at up-to-date Scale and/or all other post retirement benefits to which your applicant is entitled, but surprisingly this time also the authority did not respond to the representation submitted by your applicant and accordingly no retirement benefits has been paid to your applicant which is due since his retirement i.e. 28-02-1993.

A copy of the representation is annexed herewith and marked as Annexure-IV.

x) That your applicant begs to state that as the authority did not respond to the representation filed by the applicant, your applicant sent a reminder to the authority, but without any result. Ultimately on

11-04-2003 the applicant finding no way out approached his Counsel and handed over the relevant documents to him. The Counsel after going through the documents immediately sent Notice by registered post to the Superintendent of Post Offices, Sibasagar Division requesting him to clear the outstanding dues to the applicant. The Superintendent of Post Offices, Sibasagar Division on receipt of the said Notice vide his official letter No.C2/J.C. Bezbaruah dated at Jorhat the 28-04-2003 sent a reply to the said notice dated 11-04-2003 which was received by the Counsel at Guwahati on 01-05-2003.

Jadar Bezbaruah.

A copy of the Notice dated 11-04-2003 and reply comment dated 28-04-2003 is annexed herewith and marked as Annexures-V&V-A respectively.

xi) That your applicant begs to state that Superintendent of Post Offices, Sibasagar Division in his reply to paragraph 3 of the Notice has admitted that the Inquiry Report along with Original file of the case has been sent to Circle Office, Guwahati on 23-06-1993 for finalization of disciplinary action but till date no action has yet been take by the authority.

xii) That your applicant begs to state that it will not be out of context to mention herein that earlier your applicant filed a representation before the Superintendent of Post Offices, Sibasagar Division for regularization of his pension and to extend the

provisional pension. The Superintendent of Post Offices, Sibasagar Division forwarded the said representation along with a forwarding letter No.C2/J.C. Bezbaruah dated at Jorhat the 06-10-1993 to the Director of Accounts (Postal) Pension Section, Kolkata, wherein in the said forwarding letter it has also been mentioned that the pension case of the applicant could not be forwarded to Audit Office in time in absence of the Service Book which was been sent to Circle Office.

A copy of the said letter is annexed herewith and marked as Annexure-VI.

Jader Bez-Baruah

xiii) That your applicant begs to state that since his case for regular pension and post retirement benefits were not considered by the Respondent authorities, he filed an application before the Hon'ble Central Administrative Tribunal, Guwahati praying for regularization of his monthly pension and payment of his post retirement benefits. The said application was registered and numbered as D.A. 138/2003.

xiv) That your applicant begs to state that the Hon'ble Tribunal by order dated 01-08-2003 was pleased to admit the said Original Application No.138/2003 filed by the applicant and notices were issued upon the respondent authorities to show cause as to why the relief prayed for should not be granted.

xv) That your applicant begs to state that during the pendency of the Original Application NO. 138/2003,

the Desk officer (vigilance pension) Department of post, Ministry of Communist by an Office Order No.9-39/93-VP dated 05-11-2003 imposed the penalty of withholding of the entire monthly pension admissible to the applicant and also withholding of the entire gratuity amount of Rs.29,040/- payable to the applicant.

A copy of the said Order dated 05-11-2003 is annexed herewith and marked as Annexure-VII.

Jader Bez-Baruah

xvi) That your applicant begs to state that thereafter, on 25th February, 2004 he withdraw the Original Application No.138/2003 filed by him before this Hon'ble Tribunal.

xvii) That your applicant begs to state that being aggrieved by the order dated 05-11-2003 passed by the Desk Officer (vigilance petition), Ministry of Communication and I.T., he filed an application before the Hon'ble Central Administrative Tribunal, Guwahati Bench, challenging the said order dated 05-11-2003. The said application was registered and numbered as O.A.No.47 of 2004.

xviii) That your applicant begs to state that the Hon'ble Central Administrative Tribunal Guwahati Bench, by order dated 17-01-2005 was pleased to dispose of the said original application with an observation that the applicant may file an appeal before the appellate authority as provided in the service rule.

A copy of the said order dated 17-01-2005 in O.A. No.47/04 is annexed herewith and marked as ANNEXURE-VIII.

XIX) That your applicant begs to state that as per the direction of the Hon'ble Central Administrative Tribunal by order dated 17-01-2005 in O.A. No.47/2004, the applicant filed an appeal before the Chief Post Master General, Assam Circle, the appellate authority on 15-02-2005.

A copy of the said appeal dated 15-02-2005 is annexed herewith and marked as ANNEXURE-IX.

xx) That your applicant begs to state that the appellate authority has till date not disposed of the said appeal filed by the applicant as a result of which the applicant is facing great hardship and uncertainty. As such, this application is being filed for redressal of his grievances on the following grounds-

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :-

- i) For that, the action of the Respondent Authority in passing the impugned Order dated 05-11-2003 and withholding the entire monthly pension to the applicant along with withholding of entire gratuity amount is most arbitrary, unfair, capricious and highly excessive and

Jader Bez-Barua

violation of the Equality Clause under Articles 14 & 16 of the Constitution of India.

ii) For that, the impugned Order dated 05-11-2003 has been passed most mechanically on the basis of irrelevant and extraneous consideration. There has been total non application of mind to the relevant factors. The impugned penalty of withholding the gratuity amount is more than the total loss the respondent authority has suffer and on that count alone, the said action of the authority is disproportionate, excessive and arbitrary and hence liable to be set aside and quashed.

iii) For that, the impugned Order dated 05-11-2003 clearly reflects non application of mind inasmuch as the authority without any basis on total irrelevant and extraneous consideration has ordered for withholding the entire monthly pension on permanent basis and such action is totally outrageous and in defines of logic. Moreover, the said action is totally not consumerate with the alleged misconduct and is socking to judicial conscience and hence, warrants the Tribunals interference.

iv) For that, the impugned Order dated 05-11-2003 has adverse civil consequence as the applicants status will be reduce to a penury inasmuch as impugned orders speaks of withholding the entire monthly pension and entire gratuity

Jader Bez-Barral

amount on a permanent basis. Moreover, the impugned Order is in gross violation of the procedure laid down in law and in violation of the principles of natural justice and fair play.

v) For that, the impugned Order dated 05-11-2003 imposing harsh and punitive measures in the form of loss of pension and gratuity has been passed on the whims and caprice of the respondent authority inasmuch as the comparative hardship to be faced by the applicant on account of such punitive measures has been totally ignored and the said action is devoid of any reasons.

For order Bez Baruan

vi) For that, the impugned Order dated 05-11-2003 is hit by the doctrine of proportionality inasmuch as the penalty imposed is harsh excessive and totally unheard of in service jurisprudence and on that count alone the said action is liable to be set aside and quashed.

vii) For that, in any view of the matter the impugned Order dated 05-11-2003 is not sustainable in law and as such the same is liable to be set aside and quashed.

6. DETAILS OF REMEDY EXHAUSTED :-

There is no other remedy except filing this application before this Hon'ble Tribunal.

7. MATTER NOT PENDING IN ANY OTHER COURT/TRIBUNAL :-

That the applicant declare that he has not that he has not filed any other application before any Court/Tribunal.

8. RELIEF PRAYED FOR :-

It is, therefore, prayed that Your Lordship would be pleased to admit this application, issued a notice upon the respondents to show cause as to why the impugned Order No.9-39/93-VP dated 05-11-2003 issued under the signature of the Desk Officer (Vigilance Petition), Department and I.T., Government of India (Annexure-VII) should not be set aside and upon cause/causes being shown and after hearing the parties be pleased to set aside and quashed the impugned Order dated 05-11-2003 (Annexure-VII) and/or pass such further or other order/orders as Your Lordships may deem fit and proper.

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

9. INTERIM ORDER. IF ANY PRAYED FOR :-

Jader Bez Barua

Pending disposal of the Original Application, Your Lordships may be further pleased to direct the Respondent Authorities to pay the provisional pension to the applicant which he has been receiving since 23-06-1993.

10. PARTICULARS OF THE POSTAL ORDER :-

Postal Order No. :-

Date of issue :-

Issued from :- G.P.O. Guwahati

Payable at Guwahati

11. DETAILS OF INDEX :-

An index showing the particulars of the documents is enclosed.

12. LIST OF ENCLOSURES :-

As state in the Index.

- | | |
|-------------------|---------------------------------|
| 1. Annexure-I | Suspension Order |
| 2. Annexure-II | Memorandum dated 19-02-1993 |
| 3. Annexure-III | Office Memo dated 22-04-1993 |
| 4. Annexure-III-A | Representation dated 12-05-1993 |
| 5. Annexure-IV | Representation |
| 6. Annexure-V | Notice dated 11-04-2002 |
| 7. Annexure-V-A | Reply Comment dated 28-04-2003 |
| 8. Annexure-VI | Forwarding letter |
| 9. Annexure-VII | Order dated 05-11-2003 |

Jader Bez Baruah

V E R I F I C A T I O N

I, Sri Jadav Chandra Bezbaruah, son of Late G. Bezbaruah, aged about 71 years, resident of Amolapatty, Sibasagar, P.S. & District Sibasagar, Assam, do hereby verify and declare that the statements made in this foregoing paragraphs are true to my knowledge and belief.

And I sign this verification on this the 5th day of ^{April} February, 2004 at Guwahati.

Jadav Bezbaruah.

S I G N A T U R E

Annexure-I

STANDARD FORM OF ORDER OF SUSPENSION

(RULE 10 (1), CCS (CCA) RULES)

(READ CAREFULLY INSTRUCTION (II) BELOW RULE 10 BEFORE
COMMENCING TO USE THIS FORM).

MEMO NO.BZ/JC BEZBARUAH

Date :- 09-04-1990.

GOVERNMENT OF INDIA

MINISTRY OF THE SUPERINTENDENT OF POST OFFICE

SIBSAGAR DIVISION, JORHAT.

(Place of issue Jorhat)

Dated :-

O R D E R

(Whereas a disciplinary proceeding against Sri Jadav Chandra Bezbaruah, Senior Post Master, O.N.G.C. Colony, (name and designation of the Government Servant) is contemplated/pending.

Now, therefore, the President/ the undersigned (the appointing authority or a authority to which it is subordinated or any other authority empowered by the President in that behalf), in exercise of the powers conferred by Sub-Section (1) of Rule 10 of the Central Civil Services (Classification, control and Appeal, 1965, hereby places the said Sri Jadav Chandra Bezbaruah, Senior Post Master, O.N.G.C. Colony under suspension with immediate effect.

It is, further ordered that during the period that this order shall remain in force the Head Quarters of Sri Jadav Chandra Bezbaruah, Senior Post Master, O.N.G.C. Colony (name and designation of Government Servant) should be Sibasagar (name & place) and the said Sri Jadav Chandra Bezbaruah shall not leave the Head

Notified to the Head Office
Jesmee Chandra
ADVOCATE

Quarter without obtaining the previous permission of the undersigned.

Sd/ A. BEHARA

(By order and in the name of the President)

Signature

Name and Designation of the Suspending Authority.

1. Copy to Sri Jadav Chandra Bezbaruah, SPM, O.N.G.C. Colony (name and designation of the suspended officer). Orders regarding subsistence allowance admission to him during the period of his suspension will issue separately.
2. Copy to the Post Master of Sibasagar (name and designation of authority) for information.
3. Copy to Director of Accounts (Postal) Calcutta (Name and designation on the lending authority) for information. (Through the Post Master, Sibasagar).
4. P/F of the Suspended Official.
5. Punishment Registrar.
6. O.C.

Sd/- Illegible

09-11-1990

Superintendent of Post Office
Sibasagar Division, Jorhat.

Certified to be True Copy
Jessee Andia
ADVOCATE

Annexure -II

DEPARTMENT OF POST INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES, SIBASAGAR
DIVISION, JORHAT.

Memo No.B2/J.C. Bezbaruah

Dated Jorhat, 19-02-1993

O R D E R

Whereas an order placing Shri Jadav Chandra Bezbaruah the Senior Post Master, O.N.G.C. Colony, under suspension was made on 09-04-1990

Now, therefore, the undersigned, in exercise of the powers conferred by Clause (C) of Sub-Rule (5) of Rule 10 of the Central Civil Service (Classification, Central and Appeal) Rule, 1965 hereby revoke the said order of suspension with immediate effect.

Sd/- Ganga Saran
Superintendent of Post Offices
Sibasagar Division, Jorhat.

Copy to :-

1. Shri Jadav Chandra Bezbaruah, Amolapatty, Sibasagar.
2. The Post Master, Sibasagar.
3. Punishment Registrar.
4. Staff Branch, Divisional Office.
5. C.R. File of the official.
- 6-8. Spare.

Sd/- Ganga Saran
Superintendent of Post Offices
Sibasagar Division, Jorhat.

Jeaneel Dinda
ADVOCATE.

Annexure -III

DEPARTMENT OF POST INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES, SIBASAGAR
DIVISION, JORHAT.

Memo No.F-4-1/90-91

Dated Jorhat, 22-04-1993

An inquiry was held against Srhi Jadav Chandra Bezbaruah, the then Senior Post Master, O.N.G.C. Coloby, Sibasagar (Now retired) under Rule 14 of CCS (CCA) Rules, 1965.

The report of the Inquiry Offices is enclosed. The Disciplinary Authority will take a suitable decision after considering report. If you wish to make any representation on submission you may do so in writing to the disciplinary authority within 15 days on receipt of this letter.

Enclosed :- 13 sheets.

Sd/- Ganga Saran
Superintendent of Post
Offices
Sibasagar Division,
Jorhat.

Regd. A/D :-

To Shri Jadav Chandra Bezbaruah, the then Senior Post Master, O.N.G.C. Colony (now retired), Amolapatty, P.O. Sibasagar.

Certified to be a true copy
Sesame Andh
ADVOCATE.

Annexure-III-A.

To

The Superintendent of Post Offices
Sibasagar Division, Jorhat

Date :- 12-05-1993.

Sub :- Rule 14 case against Sri J.C. Bezbaruah then
Senior Post Master, O.N.G.C. S.O.

Ref :- Your F4-1/90-91, dated 22-04-1993.

Sir,

With reference to your memo cited above I beg to submit my representation as called on by Your Honour, hereunder for favour of your kind perusal & to have a lenient justifiable view in decisions the fate of the undersigned who served in the department for more than 36 years with utmost devotion & dedication.

As per imputations charge against me in Art-I may kindly be read with the statements of of imputation, I beg to state that I could not exactly remember anything about the transaction referred therein, after such a long & distance date. I could not also recollect whether Smti. Kusum Kumari Gupta, N.S.C. agent at all handed over the amount to me or not. During the peak hour of office duties, I always used to remain carefully busy with mutiferious works & as per system prevailing over their in, at O.N.G.C. so, since long the certificates used to be written by the agents themselves & thereafter they obtained my signature thereon. So, it is not possible that if any one escaped our notice during this busy

Certified true copy
Annee Ahla
ADVOCATE

working hours of the certificates had been delivered without realizing the amount. Besides, this the prosecution side utterly failed to cause appearance of Smti. Kusum Kumari Gupta before the enquiry for giving her deposition despite repeated request from the defence side. As per rule no evidence which is not tendered before the enquiry officer in presence of the accused can be taken as a valid evidence. But here in this instant case it is seen that the statement of Smti. Kusum Kumari Gupta has been relied upon. Though not given before the enquiry.

Article-II :- Regarding 2nd count i.e. double payment of four matured R.D. & C.T.D. A/C I have already stated in details in my written brief duly submitted which may kindly be consulted.

Article - III :- As per 3rd Count I beg to state that I have stated in details in this regard which may kindly be referred to.

Lastly I beg to state that the departmental enquiry is not an empty formality, it is a serious proceedings intended to give officer concerned a chance to meet the charge & to prove his innocence. In the absence of any such enquiry it would be highly unjust & unfair to strain the facts against the official.

Further, it may be stated that procedure in proceedings must continue in principles of natural justice, procedure cannot be short circuited on consideration of expediency.

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Jasvee Ahluwalia
ADVOCATE

That it may kindly be assessed from the processing of this Rule 14 enquiry case that how hurriedly it has been concluded without giving breathing time to the defence side only to shirk the responsibilities of the I/O by submitting his preconcluded enquiry report to the disciplinary authority from this it may kindly be inferred that the enquiry authority is under pressure from unknown force for quick conclusion of the formaliting of Rule 14 case by hook & crook within a short period and to submit his report to disciplinary authority for quick disposal of the case.

Further the enquiry authority when preparing his reports did not taken into consideration the written brief submitted by me on 01-03-1993 by Regd. Post through Sibasagar Post Office vide receipt No.1828 on the plea that submission of the brief was delayed and not reach him before submission of this report dated nil. That I have already intimated to the I/O that I am not in a position to submit my brief within the date specified by you due to my fofe's illness and requesting him to grant men at least 10 (ten) more days for submitting my brief. From his enquiry report it also seen that he did not take by brief into consideration as my wife's illness was not authenticate by any medical certificate, and he stated that it is a mere plea which is a baseless. At this stage it may be argued that the I/O was in full liberty to ask me to submit M/C in support of my wife's illness. But he did not response.

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Jessee Shinda
ADVOCATE.

Besides his contention in this regard is contradictory. In one plea he stated that my brief could not be taken into consideration due to not receipt of it before submission of this report.

In another place he stated that the brief was not taken in consideration as my wife illness was not authenticate by M/C. So, I am in a state of confusion which one is to be regarded as genuine.

In view of the facts narrated above it may kindly be deducted that I am in no way responsible for negligent for the charges framed against me and request you to have a lenient and sympathetic view in deciding the faith of the case.

Yours faithfully,

Sd/- Jadav Ch. Bezbaruah,
Ex. Senior Post Master, ONGC,
S.O., Now retired.

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Jessee Anala
ADVOCATE.

Annexure -iv.

From :- Sri Jadav Chandra Bezbaruah
S.M.P. (Retired), ONGC Colony Branch, Sibasagar
H.C.B. Road, Amolapatty, Sibasagar
P.S. & District Sibasagar, Assam.

To,

The Post Master General
Office of the Post Master General
Upper Assam Region, Dibrugarh
P.O., P.S. & District - Dibrugarh, Assam.

Date :- 07-02-2002.

Sub :- Prayer for getting after retirement and
suspension period benefit.

Ref :- Memo No.B2/JC Bezbaruah dated 19-02-1993 issued
by Superintendent of Post Offices, Sibasagar
Division, Jorha.

Sir,

With due respect I want to bring to your kind
notice the following few lines for favour of your kind
consideration and necessary action.

That Sir, I was working as Senior Post Master,
ONGC Colony Branch, Sibasagar and was placed under
suspension from my services w.e.f. 09-04-1990 on charges
of criminal misappropriation pending departmental
proceedings.

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Jessee Huda
ADVOCATE.

That vide memo No. B2/JC Bezbaruah dated 19-02-1993 of the Office of the Superintendent of Post Offices, Sibasagar Division, Jorhat (copy enclosed) my suspension order was revoked, considering my date of superannuation, i.e. 28-02-1993 dueign continuance of departmental proceedings. Accordingly, I resumed my duties on 27-02-1993 and took retirement on 28-02-1993.

That Sir, though I was innocent, the departmental proceedings found me guilty of offence of criminal misappropriation and a criminal case registered against me under Section 409 of Indian Penal Code in the year 1990 being G.R. Case No.589/1990 under Section 409 I.P.C.

That Sir, after more than eleven years of Trial the aforesaid case has been disposed of on 20-6-2001 in my favour. After taking so many evidences against me and after hearing both the sides the learned trying Magistrate holds that I was not guilty of offences under Section 409 I.P.C. and set me at liberty forthwith (an attest photo copy of the judgment is attached herewith for your perusal).

That Sir, during this long period of more than eleven years I have been suffering a lot both mentally and financially beyond imagination for no-fault of me.

That Sir, I have not even got all the retirement / suspension period benefits from the department till date, except the pension at the old scale.

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Jessee Dinda
ADVOCATE

Under the above facts and circumstances I would like to request you kindly to look into the matter seriously and to expediate action to sanction the amounts of gratuity leave enhancement, group insurance and the pension at the upto date scale with retrospective effect and any/or all other after retirement benefits for which I am entitled to for the suspension to me for which I shall ever pray.

Thanking you,

Enclosures :-

Yours faithfully

1. Memo No. B2/JC Bezbaruah Sd/- Jadav Ch. Bezbaruah
dated 19-02-1993
2. Photo copy of the Court
Judgment
3. Chief Post Master General
Meghdoot Bhawan, Guwahati
4. The Superintendent of Post
Offices, Jorhat, Sibsagar
Division.

Certified to be true copy
Sesree Huda
AD

Annexure-V.**Ziaul Alam**Advocate
Gauhati High Court

Chamber :-

Hatigaon Road
Behind Rajdhani Masjid
Dispur-6

Date : 11-04-2003.

N O T I C E

To

The Superintendent of Post Offices
Sibsagar Division, Jorhat-1Sub :- Non-regularisation & Non-payment of Pensionary
benefits.

Sir,

Under instruction and upon the authority from my client Sri Jadav Chandra Bezbaruah, Senior Post Master (retired), ONGC Colony Branch, Sibsagar, I do hereby issue this notices to you to the following effect -

1. That my client Sri J.C. Bezbaruah was an employee of your department and while my client was working as Senior Post Master in the ONGC Colony Branch, Sibsagar, he was put under suspension, vide Office Memo No.B2/JC Bezbaruah on 09-04-1990 with immediate effect.

2. That a departmental proceeding was initiated against my client for alleged official misconduct. During continuance of departmental proceedings my client was allowed to resume duty on 27-02-1993 and immediately on

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Jessee Duda
ADVOCATE

the next date i.e. 28-02-1993 my client was retired from the service considering his date of superannuation.

3. That after the conclusion of the Departmental Inquiry, the Inquiry Officer submitted the inquiry Report before the Disciplinary Authority for necessary action. But till date, Disciplinary authority failed/neglected to pass any order punishment against my client.

4. That it will not be out of context to mention herein that the Criminal Case No.G.R.No.589/1990 under Section 409 I.P.C. which was pending against my client has already been disposed of and the learned Judicial Magistrate, 1st Class vide its judgment dated 20-06-2001 was pleased to acquit my client.

5. That, although my client retired from service on 28-02-1993 but till date his pension has not been regularized, nor he has been paid the pensionary benefits like Gratuity, Group Insurance Benefits, Leave Encashment etc.

6. That, although my client approached you for making necessary arrangement to regularize the pension of my client and also to pay the other benefits due to my said client but no proper and adequate action has been taken from your end to meet up the genuine grievances of my client.

7. That my client has no other source of income and he is suffering from different old age related ailments. Under such circumstances, you are hereby requested on

Verified to be true
Service
ADVOCATE
Dhida

behalf of my client to kindly make necessary arrangement
for payment of outstanding due to my client.

You are further requested to treat the matter as
urgent.

Thanking you,

Yours faithfully,

Sd/- Ziaul Alam

Advocate.

ADVOCATE
Jessee
Advocate

Annexure -V-A.

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES, SIBASAGAR
DIVISION, JORHAT - 785001.

To

The Ziaul Alam, Advocate
Gauhati High Court

No.C2/J.C.Bezbaruah dated at Jorhat, the 28-02-1993.

Sub :- Non regularization and non-payment of
pensionary benefits.

Ref :- Gauhati High Court notice dated 11-04-2003.

Sir,

Kindly refer your notice cited above on the
above mentioned subjects. Parawise comments on the above
notice are furnished below for your kind information.

Para 1 :- No comments.

Para 2 :- No comments.

Para 3 :- Inquiry Officer's report including original
file of the case has been sent to co on 23-06-
1993 for finalization of disciplinary action.
But the same is yet to be received from Cos
end.

Para 4 :- Court case is still subjudiced at Gauhati High
Court.

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Jessee Ghoda
ADVOCATE.

Para 5 :- Rule-9 case against the Sri Jadav Chandra Bezbaruah is still pending with Cos Guwahati. Hence, his prayer cannot be considered now.

Para 6 :- Untill finalization of Rule-9 case. Pension case cannot be sent to AD and regularized. S/Book was sent to Director (Vig), N. Delhi by the Vig. Section of Cos on 21-12-2003 for necessary approval under Rule-0 of CCs (Pen) Rule, 1972, as informed by Co. The Case is still pending in date.

Para 7 :- No comments.

Yours faithfully,

Sd/- B.K. Marak

Superintendent of Post Offices
Sibasagar Division, Jorhat-1.

Copy to :-

1. The PMG, Dibrugarh Region, Dibrugarh for information.
2. The PMG, Assam Circle, Guwahati for information.

Yours faithfully,

Sd/- B.K. Marak

Superintendent of Post Officer
Sibasagar Division, Jorhat-1.

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Jessie Dinda
ADVOCATE.

Annexure-VI.

DEPARTMENT OF POSTS, INDIA
OFFICE OF ~~THE~~ SUPERINTENDENT OF POST OFFICES, SIBASAGAR
DIVISION, JORHAT - 785001.

No.C2/J.C. Bezbaruah

Dated Jorhat, the 06-10-1993.

To

The Director of Accounts (Postal)
Pension Section, Calcutta

Sub :- Extention of Provisional Pension - case of
Sri Jadav Ch. Bezbaruah, Ex-SPM, ONGC Colony,
pending settlement of Disciplinary case under
Rule 9 of CCS (Pension) Rules.

The aforesaid official was placed under
suspension on 09-04-1990 but before completion of the
departmental proceedings under Rule-14 of CCS (CCA)
Rules, 1965 the official attained superannuation on 28-02-
1993. Accordingly, as per draft calculation, provisional
pension of even No.- dated 23-06-1993 for a period of 6
months upto 31-08-1993.

Now Sri Bezbaruah has applied for
regularization of his pension and to extend the
provisional pension. His application in original is sent
herewith for disposal.

In this connection it is to mention that
pension case of the official could not be forwarded to
Audit office in time in absence of the Service Book which

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Jasveer Dhillon
ADVOCATE.

has been sent to Circle Office in connection with the Rule-9 case.

Enclo :-

Sd/- P.V. Sugunan
Superintendent of Post Offices,
Sibasagar Division, Jorhat.

Copy to :-

1. Sri J.C. Bezbaruah, Ex-PA, Sibasagar H.O.
2. The Chief Post Master General, Assam Circle, Guwahati with reference to Cos No.Vig 4/6/85.

Sd/- P.V. Sugunan
Superintendent of Post Offices,
Sibasagar Division, Jorhat.

Certified to be true copy
Teoree Shida
ADVOCATE.

ANNEXURE-VIINO.9-39/93-VP

GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATION & I.T.
DEPARTMENT OF POSTS

DAK BHAVAN, SANDAD MARG,

NEW DELHI - 110001.

DATED :- 05-11-2003.

O R D E R

Discliplinary proceedings under Rule 14 of CCS (CCA) Rules 1965, were initiated against Sri Jadav Chandra Bezbaruah, Sub Postmaster, ONGC Colony SO, Assam Circle by the Superintendent of Post Offices, Sibasagar Division Jorhat vide memo dated 04-09-1991 on the following charges :-

"Article-I" :-

That Sri Jadav Chandra Bezbaruah while functioning as SPM, ONGC Colony SO during the period from 19-06-1987 to 09-04-1990 did not credit to Govt. Account a sum of Rs.16,000/- on 09-02-1990 and sum of Rs.25,000/- on 12-02-1990 being the amounts of sale preceeds of 5 years KVPs violating the provisions of Rule 4(1) of FHB Vol.1. Thus Sri Jadav Chandra Bezbaruah had failed to maintain absolute integrity, devotion to duty and acted in a manner which was unbecoming of a Government servant as enjoined in Rule 3 (I) (i), 3 (I) (ii) & 3 (I) (iii) of the CCs (Conduct) Rules 1964.

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Jessee Huda
ADVOCATE.

Article-II :-

That during the period from 19-04-1987 to 09-04-1990 while functioning as officiating SPM, ONGC Colony SO, Sri Jadav Chandra Bezbaruah had charged in the Government Account final withdrawals in respect of ONGC Colony matured R/D Account Nos. 15687, 17023, 16273 & 15876 twice each. Thus Sri Jadav Chandra Bezbaruah had failed to maintain absolute integrity & devotion to duty and acted in a manner which was unbecoming of a Government Servant as enjoined in Rule 3 (I) (i), 3 (I) (ii) & 3 (I) (iii) of the CCs (Conduct) Rules 1964.

Article-III :-

1. That Sri Jadav Chandra Bezbaruah while functioning as the Sub Postmaster, ONGC Colony SO during the period from 19-06-1987 to 09-04-1990 had charged in the Government Account final withdrawals in respect of ONGC Colony matured CTD Account Nos. 45989 and 45622 twice each. Thus Sri Jadav Chandra Bezbaruah had failed to maintain absolute integrity & devotion to duty and acted in a manner which was unbecoming of a Government Servant as enjoined in Rule 3 (I) (i), 3 (I) (ii) & 3 (I) (iii) of the CCs (Conduct) Rules 1964."

2. The said chargesheet was served upon the ex-official, Sri Jadav Chandra Bezbaruah in July, 1991 while he retired on superannuation on 28-02-1993. The disciplinary proceedings initiated against the Sri Jadav Chandra Bezbaruah was therefore deemed to be converted into proceedings under Rule 9 of the CCs (Pension) Rule, 1972. Mandatory inquiry proceedings were concluded on 12-05-1993. All the charges were held proved. A copy

Copy made by
Jessee Duda
ADVOCATE

of the enquiry report was sent to the ex-official for submitting his representation, if any, His representation dated 12-05-1993 was received. After taking it into consideration the findings given in the inquiry report, the disciplinary authority recommended action under rule 9 of the CCS (Pension) Rules, 1972 against Shri Jadav Chandra Bezbaruah as there were documentary evidence to establish the charges.

3. The case was therefore considered by the President. The President came to a tentative conclusion that the ex-official deserved to be punished under Rule 9 of the CCS (Pension) Rules, 1972 for the proven charges. Accordingly, the case was referred to the Union Public Service Commission for statutory advice. The Commission has tendered advice vide letter No.3/110/98-S.I. dated 26-09-2003. It has been observed on record, the Commission is of the view that the charges are of grave nature, which have been established from documentary evidence. Keeping the said grave misconduct of Shri Jadav Chandra Bezbaruah in view, the Commission has advised that the ends of Justice will be met if the penalty of withholding of entire monthly pension on permanent basis otherwise admissible to the charged official and also the entire amount of gratuity admissible to him, is ordered to be withheld.

4. The President has carefully considered the advice of the Commission with reference to the fact and evidence on record. It has been decided to accept it. Hence entire monthly pension admissible to the charged official is ordered to be withheld on permanent basis

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Vasudeo Dinda
ADVOCATE

alongwith withholding of entire gratuity amount of Rs.29,040/- payable to Shri Jadav Chandra Bezbaruah.

BY ORDER AND IN THE NAME OF THE PRESIDENT.

Enclosed :-

Copy of the letter No.F.No.3/110/98-SI dated 26-09-2003 of the Union Public Service Commission.

Sd/- P. Haridassan Pillai
Desk Officer (Vigilance Petition)

Shri Jadav Chandra Bezbaruah
Ex-SPM, ONGC Colony P.O., Assam.

(Through Postmaster General, Dibrugarh Region, Dibrugarh)

Copy to be sent to
Jessee Chouda
ADVOCATE

.....ANNEXURE- VIII

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original application No.47 of 2004.

Date of Order : This, the 17th Day of January, 2005.

THE HON'BLE SHRI R. K. BATTa, VICE CHAIRMAN.

THE HON'BLE SHRI K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

Sri Jadav Ch. Bezbaruah

Son of Late G. Bezbaruah

Resident of Amolapatty, Sibsagar

P.S. : & District Sibsagar, Assam.

.....Applicant.

By Advocates S/Shri D. K. Das, N. Baruah & Z. Alam.

- Versus -

1. Union of India
Represented by the Secretary
To the Government of India
Ministry of Communication and I.T.
New Delhi - 110001.
2. The Director General
Department of Post Offices
New Delhi.
3. The Desk Officer (Vigilance Petition).
Department of Posts
Ministry of Communications & I.T.
Government of India, Dak Bhawan
Sansad Marg, New Delhi - 110001.
4. The Chief Postmaster General
Assam Circle, Meghdoot Bhawan
Guwahati.

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ADVOCATE.

5. The Post Master General
Office of the Post Master General
Upper Assam Region, Dibrugarh
Assam.
6. The Post Master
Sibsagar Division Head Office
Sibsagar.
7. The Superintendent
Office of the Superintendent
Of the Post Offices
Sibsagar Division
Sibsagar.

.....Respondents.

By Mr. A. Deb Roy, Counsel for Respondents.

O R D E R (ORAL)

BATTA, J. (V.C.):

Heard Mr. D.K. Das, learned counsel for the applicant. The remedy of appeal is available to the applicant against the impugned order. Hence, he may pursue alternative remedy available to him.

In this view of the matter, we are not inclined to pass any order in this application and the application is disposed of accordingly.

Sd/ VICE CHARIMAN

Sd/ MEMBER (A)

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Seenu Chouda
ADVOCATE.

.....ANNEXURE- IX

To

The Chief Postmaster General
Assam Circle, Meghdoot Bhawan
Guwahati-781001

Sub:- Appeal against order No.9-39/93-VP dated 05-11-2003 issued under the signature of the Desk - Officer (Vigilance Petition), Department of Post, Ministry of Communications and I.T., Government of India imposing the penalty of withholding of entire monthly pension on a permanent basis along with withholding of entire gratuity amount of Rs.29,040/-.

Ref:- Order dated 17th January 2005 passed by the Central Administrative Tribunal, Guwahati Bench in Original Application No.47 of 2004.

Sir,

With due respect and humble submission, I beg to file this appeal before you as follow:-

- 1) That Sir, while I was posted as Sub-Post Master, O.N.G.C. Colony Branch, Sibsagar, a Disciplinary Proceeding on the charge of Criminal Mis-appropriation was initiated against me and I was placed under suspension with immediate effect vide office Memo No.B2/J.C Bezbaruah dated 09-04-1990 issued by the Superintendent of Post Office, Sibsagar Division, Jorhat.

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Sesree Shukla
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15/2/05

2) That Sir, thereafter the Superintendent of Post Offices, Sibsagar Division, Jorhat, vide his office letter No.E 4-1/90-91 dated Jorhat, 04-07-1991 issued a Memorandum of Charges framed against me and directed me applicant to submit a written statement of the defence. Accordingly, I submitted the written statement of defence before the authority denying all the allegation leveled against him.

3) That thereafter a departmental enquiry was initiated against me and I participated in the said enquiry in defence of the charges leveled against me.

4) That while the departmental enquiry was in progress vide Memo No.B-2/J.C. Bezbaruah dated 19-02-1993 the Office of the Superintendent of Post office, Sibsagar Division, Jorhat, revoked my suspension order as I had attained the age of Superannuation. Accordingly on 27-02-1993, I was allowed to resume my duties and on the next day i.e. on 28-02-1993 I was retired from the service as I attained the age of Superannuation and I was released from the service.

5) That the Superintendent of Post Offices, Sibsagar Division, Sibsagar vide its office Memo No.F-4-1/90-91 dated 22-04-1993 communicated the enquiry report and also asked me to file representation if any, before the disciplinary authority. Accordingly on 12-05-1993, I submitted a representation before the Superintendent of Post Offices, sibsagar Division, Jorhat.

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6) That as I attained the age of superannuation during the pendency of disciplinary proceedings, I was retired from service on 28-02-1993. Thereafter as per draft calculation, Provisional Pension @ Rs.800/- per month had been sanctioned to me vide the Office Memo No.J.C. Bezbaruah dated 23-06-1993 for a period of 6 (six) month upto 31-08-1993.

7) That since my case for regular pension and post retirement benefits were not considered by the authorities, I filed an application before the Hon'ble Central Administrative Tribunal, Guwahati praying for regularization of my monthly pension and payment of my post retirement benefits. The said application was registered and numbered as O.A. No.138/2003.

8) That during the pendency of the Original Application No.138/2003, the Desk-Officer (Vigilance Petition), Department of Post, Ministry of Communication & I.T. by an Office Order No.9-39/93-VP dated 05-11-2003 imposed the penalty of withholding of the entire monthly pension admissible to me and also withholding of the entire gratuity amount of Rs.29,040/- payable to the applicant.

A copy of the said Order dated 05-11-2003 is annexed herewith.

9) That thereafter, on 25th February, 2004, I withdraw the Original Application No.138/2003 filed by me before this Hon'ble Tribunal.

CONFIDENTIAL
Jusree Chida
ADVOCATE

10) That being aggrieved by the said order dated 05-11-2003 issued under the signature of the Desk Officer (Vigilance Petition), Department of Post, Ministry of Communication and I.T., Government of India, I had filed an application before the Central Administrative Tribunal, Guwahati Bench challenging the said order of punishment. The Hon'ble Tribunal was pleased to admit the said application which was registered and numbered an Original Application No.47 of 2004.

11) That the Hon'ble Tribunal by order dated 17-01-2005 was pleased to dispose of said Original Application with an observation that the remedy of appeal is available to the applicant against the impugned order and hence, he may pursue the alteration remedy available to him.

A copy of the said order dated 17-01-2005 in O.A. No.47/2004 is annexed herewith.

12) That in pursuance to the above observations made by the Hon'ble Central Administrative Tribunal, I am filing this Appeal for setting aside the impugned order dated 05-11-2003 on amongst other the following ground -

G R O U N D S

a) For that, the action of the Authority in passing the impugned Order dated 05-11-2003 and withholding the entire monthly pension to the applicant along with withholding of entire

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gratuity amount is most arbitrary, unfair, capricious and highly excessive and violation of the Equality Clause under Articles 14 & 16 of the Constitution of India.

- b) For that, the impugned Order dated 05-11-2003 has been passed most mechanically on the basis of irrelevant and extraneous consideration. There has been total non application of mind to the relevant factors. The impugned penalty of withholding the gratuity amount is more than the total loss the respondent authority has suffer and on that count alone, the said action of the authority is disproportionate, excessive and arbitrary and hence liable to be set aside and quashed.
- c) For that, the impugned order dated 05-11-2003 clearly reflects non application of mind inasmuch as the authority without any basis on total irrelevant and extraneous consideration has ordered for withholding the entire monthly pension on permanent basis and such action is totally outrageous and in definds of logic, moreover, the said action is totally not consumerate with the alleged misconduct sand is socking to judicial conscience and hence, warrants the Tribunals interference.
- d) For that, the impugned order dated 05-11-2003 has adverse civil consequence as the applicants status will be reduce to a penury inasmuch as

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ADVOCATE.
Shukla

the impugned orders speaks of withholding the entire monthly pension and entire gratuity amount on a permanent basis. Moreover, the impugned Order is in gross violation of the procedure laid down in law and in violation of the principles of natural justice and fair play.

- e) For that, the impugned Order dated 05-11-2003 imposing harsh and punitive measures in the form of loss of pension and gratuity has been passed on the whims and caprice of the respondent authority inasmuch as the comparative hardship to be faced by the applicant on account of such penitive meawures has been totally ignored and the said action is devoid of any reasons.
- f) For that, the impugned Order dated 05-11-2003 is hit by the doctrine of proportionality inasmuch as the penalty imposed is harsh excessive and totally unheard of in service jurisprudence and on that count alone the said action is liable to be set aside and quashed.

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Jasveer Shukla
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It is, therefore, prayed that Your Honour would be pleased to admit this appeal and an perusal of the materials on record be further pleased to set aside and quash the impugned Order dated 05-11-2003 passed by the Desk Officer (Vigilance Petition), Department of Post, Ministry of Communications and I.T., Government of India, imposing the penalty of withholding of entire monthly pension on a permanent basis along with withholding of entire gratuity amount of Rs.29,040/-.

Thanking you.

Yours faithfully,

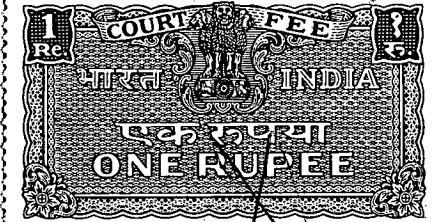
Dated:

(JADAV CH. BEZBARUAH).

Certified to be True Copy
Jessee Shida
ADVOCATE

SL No.
DISTRICT:

34287



VAKALATNAMA

IN THE GAUHATI HIGH COURT

[THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA, MIZORAM
AND ARUNACHAL PRADESH]

OA NO 37 OF 2006

Sri Jadab Ch. Bezbarua

APPELLANT
PETITIONER

VERSUS

U. O. I.

RESPONDENT
OPPOSITE-PARTY

Know all men by these presents that the above named do hereby nominate, constitute and appoint Sri/Smti Miss Seemee Duda, Suahina Deha Lana Shankar, Shakur Advocate and such of the undermentioned Advocates as shall accept this Vakalatnama to be my/our true and lawful Advocates to appear and act for me/us in the matter noted above and in connection therewith and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filing in or taking out papers, deeds of composition etc. for me/us and on my/our behalf and I/We agree to ratify and confirm all acts to be done by the said Advocates as mine/ours for all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate will be bound to appear and act on my/our behalf.

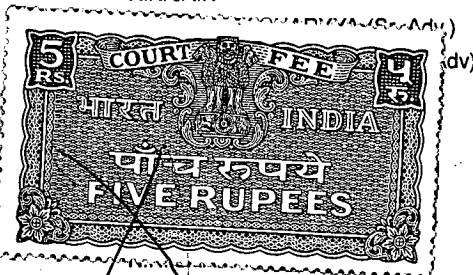
In Witness Whereof I/We hereunto set my/our hand on this 5/5 Day of April 2006

N. M. LAHIRI (Sr. Adv.)
B. M. GOSWAMI (Sr. Adv.)
J.P. BHATTACHARJEE (Sr. Adv.)
D.C. SHARMA
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 RAMESH BARPUJARI
 MRS. NIRUPAMA SAIKIA
 JENAT MOLLAH
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 QZI. S. KUTUBUDDIN
 S.K. KEJRIWAL
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 MS. B. K. DEVI GOSWAMI
 B.C. SARMA
 MS. J.D. ACHARYYA
 V.M. THOMAS
 K.K. PHUKAN
 B. DEVA GOSWAMI
 AMAL CHANDRA DAS
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 MD. IQBAL HUSSAIN
 DEBJIT KR. DAS
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 MS. NEELI BORDOLOI
 D.K. KOTHARI
 KALYAN BHATTACHARJEE
 DAYAL CH. BARMAN
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 MD. K.A. MAZUMDAR
 U.C. BHATTACHARYYA
 TAYUM SON
 MS. R. DAS MOZUMDAR
 MS. SYEDA I.A. BEGUM
 A.S. NIJAMUDDIN
 RANJAN MAZUMDAR
 RAMEN DAS (I)
 N.N. OZAH
 S.K. PAUL
 MUKPERTIN
 DR A.C. PHUKAN
 M.C. DEKA
 PALLAV KATAKI
 S.C. KEYAL
 MS. S. B. BHUYAN
 SKH. MUKTAR
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 SIDHARTHA BHATTACHARYYA
 M.P. SHARMA
 RANJIT DAS
 RAMESH GOENKA
 PHANIDHAR GOGOI
 MS. P.B. HATIKAKOTI
 MS. SUNITY SONOWAL
 MS. BABITA GOYAL
 BIMAL CHETRI
 PREM SHARMAH
 BISWAJEET GOSWAMI
 MRS. EVA KAKOTI
 T.C. CHUTIA
 V.K. CHOPRA
 S.K. SINGH
 C.T. JAMIR
 MALKIT SINGH
 H.K. SHARMA
 SUDAMA CHAUHAN
 U.K. BORTHAKUR
 MS. GEETA DEKA
 MS. N. DUTTA SHARMA
 MS. S. ADWANI
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 C.K. DAS
 PALLABH BHOWMICK
 S.M. SARKAR
 S.K. GOSWAMI
 HARMOHAN TALUKDAR
 R.M. CHOUDHURY
 MASLIM GHANI
 J.C. BEZ
 BIJAN CHAKRABORTY
 A.B. ROY (Sr. Adv.)
 A.M. BUZARBARUAH (II)
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 L. NESSA CHOUDHURY
 DHIRAJ KR. SAIKIA
 J.K. MISRA
 BIPUL SARMAH
 MS. S. DAS BARUAH
 G.K. THAKURIA
 H. K. NATH
 RAFIQUUL ISLAM
 K.R. SURANA
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 ANUPAL DUTTA
 P.K. ROYCHOUDHURY

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 KHAGEN GOGOI
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 T.G. BARUAH
 D.G. BARUAH
 MD. ABDUL HAKIM (II)
 A.C. KALITA
 B.C. SAIKIA
 TAFAZZUL HUSSAIN
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SONIT KR. SAIKIA
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SHAHAB UD. MAZUMDAR
ABDUL MANNAF

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SUBIR BHATTACHARJEE
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DHRUVAJYOTI PATHAK
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 ANIL GOHAIN
 MISS. ANUJITA BORA
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 MISS. MOON BARUAH
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 MISS. SABINA YASMIN
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 KULA PD. GOGOI
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 MISS BABITA DAS
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 MISS MURCHANA SARMA
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 DR N.G. GOSWAMI
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 MISS DIPANJANA NANDI
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MUKTI RAM LASKAR
MISS BINITA BARUAH
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ATANU GANGULY
BHARGAV SARMA
TALAT H. HAZARIKA
DIPAYAN DUTTA
GHANASHYAM DAS
NAYANJYOTI MEDHI
MS. MOON MOON LASKAR
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PRANJAL BORTHAKUR
BIPUL KR. DAS
ASHOK KR. BORAH (2)
MISS PALLAVI TALUKDAR
INDRAJEET SHARMA
SUKUMAR SARMA
NAYAN JT. SARMA
RITU BARNA DEKA
MS. MOMITA BARAH
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RITURAJ BISWAS
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SATYAJIT KR. SHARMA
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ZAKIR HUSSAIN

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MRIDUL KR. BORAH
MRS. NANDITA NATH
MISS KALPANA TALUKDAR
BHUPEN KUMAR
MS. MITALI GOGOI
MISS RULI BARUAH
DIGBIJOY MANDAL
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MS. TEENA SHARMA
MS. MANISHA SARMAH
MISS BIJU RANI KALITA
MISS BARASHA DAS
SAMUDRAGUPTA DUTTA
MISS KABITA GOSWAMI
RAJEEB KALITA
TRIDEEP BARUAH
MS. AFSANA IRFAN
MRS. DIKSHA H. BAROOWA
MS. TRIPTI PATOWARY
KRISHNA KT. DAS
NAYAN MONI HAZARIKA
ZAKIR HUSSAIN (II)
ABDUS SABUR AKAND
MRS. SABINA YESMIN (II)
MRIDUL MAHANTA
MRS. SONGITA MAHANTA
ABDUL GONI
TILAK RANJAN SARMA

Received from the executant,
satisfied and accepted

Advocate

Jessee Dhalan

Mr/Ms..... will lead
me/us in the case

And Accepted

Advocate

Advocate

Juliana Deka

And Accepted

Advocate

And Accepted

Rama Saran Kar Thakur

Advocate

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Notice

From: Mr. Jesur Huda
Advocate
Gauhati High Court

S,

Sr. C. G. & C
~~Gauhati High Court~~
C. A. T.

Ref:- OA. No 106

Sri Indab Ch. Bezbarua
- vs - Petitioner
Union of India Govt
- Respondent

Sir,

please take this notice that the above named Petitioner has filed an O.A application and same will be moved as an when Hon'ble Court Room.

A copy of the same is served upon you for your use.

Kindly receipt of the same.

Recd copy

5.04.06

Advocate

Yours faithfully

Jesur Huda
Advocate