

(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :
ORDERSHEET

1. ORIGINAL APPLICATION No : -----/ 2009.
 2. Transfer Application No : -----/2009 in O.A. No.-----
 3. Misc. Petition No : -----/2009 in O.A. No.-----
 - ✓ 4. Contempt Petition No : -----/2009 in O.A. No.-----
 5. Review Application No : 1 2010 / 2009 in O.A. No. 134/2006.
 6. Execution Petition No : -----/2009 in O.A. No.-----
- Applicant (S) : Shri Prabhak Chanda Das
- Respondent (S) : Shri Pradeep Kumar & 4 others
- Advocate for the : Mr. M. Chanda
- {Applicant (S)} Mr. S. Nath & Ms. U. Dutta
- Advocate for the : Ms. M. Das, Sr. CGSC, Mr. S. N. Tamuli, Ms. PU Zangar,
- {Respondent (S)} Ms. N. Vallum, Ms. M. Debar, Mr. C. S. Hazarika,

Notes of the Registry	Date	Order of the Tribunal
<p><u>11.1.2010</u></p> <p>This Contempt Petition has been filed by the Applicant through his L/Advocate with a prayer to initiate Contempt proceeding against the alleged contemnors for willful non-compliance of the order dated 27.03.2009 passed in OA No. 134/2006.</p> <p>Laid before the Honble Court for favour of orders.</p> <p><i>[Signature]</i> 11/01/2010 Section Officer (J).</p> <p><u>K. Paimai</u> Issue notice to the Respondent No. 3.</p> <p><i>[Signature]</i> 13/1/10</p>	12.01.2010	<p>Vide order dated 27th March, 2009 in O.A. 134 of 2006, appellate order passed by Major General, Electrical Mechanical Engineering (MGEME) had been quashed and set aside and the matter was remitted back to said authority for passing a reasoned and speaking order on appeal. It is contended that said order and directions have not been comply with willfully deliberately. Three month was granted to them but more than nine month have been passed since then, but no steps have been taken to obey said directions.</p> <p>Issue notice to Respondent No.3.</p> <p>As far as the rest of the officials impleaded are concerned, they are not necessary party and therefore no notice be issued to them. Notice returnable on 24th February, 2010. Personnel appearance is dispensed with for the time being.</p> <p><i>[Signature]</i> (Madan Kumar Chaturvedi) (Mukesh Kumar Gupta) Member (A) Member (J)</p>

C.P. 01/2010 (O.A.134/2006)

24.02.2010

O.A.s 134 & 149 of 2006 were decided vide order dated 27.03.2009 by passing separate orders though on identical lines. The Appellate Orders dated 08.05.2006 had been quashed and the matter was remitted to the Appellate Authority to re-consider Applicant's appeal by passing reasoned and speaking order. Alleging willful disobedience of the said directions, present C.P. was preferred.

Respondents have filed their reply and placed on record identical orders dated 06.02.2010 whereby Major General, Headquarters, Eastern Command (EME Branch), Fort William, Kolkata has passed detailed speaking order rejecting the appeal. Thus, it is contended by the Respondents that direction of this Tribunal stands complied with.

On examination of the matter, we find justification in the said contention as the orders are detailed and speaking.

Accordingly, C.P.s are closed with liberty to Applicants to take appropriate steps, if any as per rules and law on the said subject.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

Received for Mrs. M. Das,
Sr. C. G. S. C.
Wingshim Basm
(Adv.)
26/2/10

Received
on
26/02/10

10-3-2010

Final order dated 24/2/2010

Prepared and sent to the J/section

for issuing the all the respondents

by post and issued Advocate to the

both sides vide No — 534 to 538 dated 10-3-2010

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

(An application under Section 17 of the Administrative Tribunal Act, 1985)

CONTEMPT PETITION No. 1/2010

In O.A No. 134/2006

Shri Prabhat Chandra Das.
-Versus-
Union of India & Ors.

3) 11 JAN 2010
Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

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Filed By:

[Signature]

Advocate.

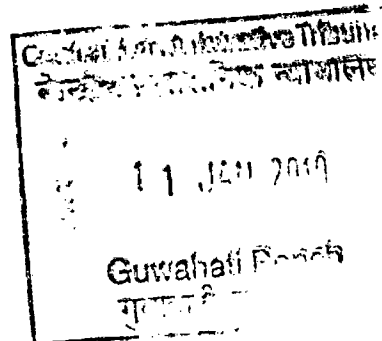
Date: 11.01.10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Section 17 of the Administrative Tribunal Act, 1985)

CONTEMPT PETITION No. 1/2010

In O.A. No. 134/2006



In the matter of:

Shri Prabhat Chandra Das.

... Petitioner.

-Versus-

Union of India & Ors.

-And-

In the matter of:

An application under Section 17 of the Central Administrative Tribunals Act, 1985, praying for initiation of a Contempt proceeding against the alleged contemnors for non-compliance of the judgment and order dated 27.03.2009 passed in O.A. No. 134/2006.

-And-

In the matter of:

Shri Prabhat Chandra Das,
Son of Late Gopal Chandra Das,
Qtr. No. DM 30/4,
Deodgenline
Shillong Cantt. Shillong
Shillong (Meghalaya).

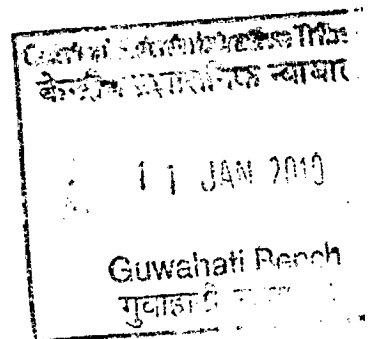
.... Petitioner.

-Versus-

1. Shri Pradeep Kumar, IAS
Secretary to the
Government of India,
Ministry of Defence, South Block,
New Delhi- 110001.

Prabhat Ch. DAS

2. Lt. General A.K.S Chandela
Directorate General of EME (Civ),
Master General of Ordnance Branch,
Army Headquarters,
DHQ Post, New Delhi- 110011.
3. Shri S.C Jain
Major General
Electrical Mechanical Engineering (MGEME),
HQ Eastern Command (EME Branch),
Fort William, Kolkata- 21.
4. Brig. Har Vijay Singh
Station Commander,
Station Headquarters, EME,
Shillong.
5. Co. G.S. Cheema,
Officer Commanding,
306 Station Workshop
EME, C/o 99 APO.



... Alleged contemnor/
Respondent.

The humble petitioner above named

Most respectfully sheweth:-

1. That your petitioner had approached this Hon'ble Tribunal through O. A. No. 134/2006 praying for setting aside of the impugned order of penalty bearing letter No. 10401/169/Civ dated 15.04.2005 issued by the disciplinary authority as well as against the impugned appellate order dated 08.05.2006 and further praying for a direction upon the respondents to reinstate the applicant in service at least from the date of dismissal of service.
2. That this Hon'ble Tribunal after hearing contention of the parties was pleased to dispose of the O.A. No. 134 of 2006 on 27.03.2009, directing the respondents as follows: -

"3. We have given our anxious thought to the arguments advanced by the counsel for the parties. In view of the aforesaid decisions, we are fully satisfied that the appellate authority had not at all considered the grounds taken in the appeal dated 06.12.2005, the

forukhat- ch. DAS -

appellate order has been passed in a most casual and perfunctory manner without application of mind. Accordingly, we quash and set aside the appellate order dated 08.05.2006 and remit back the matter to the appellate authority to reconsider the appeal of the Applicant by passing a reasoned and speaking order in accordance with the provisions of rules, within a period of three months from the date of receipt of copy of this order.

With the above observations and direction, the O.A. is disposed of as above."

(A Copy of the judgment and order dated 27.03.2009 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- I).

3. That the petitioner begs to state that immediate after receipt of the judgment and order dated 27.03.09 he submitted a representation on 01.04.2009 addressed to the respondent/alleged contemner No. 3 enclosing there a copy of the judgment and order dated 27.03.09 passed in O.A. No. 134/2006 praying for compliance of the judgment and order dated 27.03.2009. However, finding no response from the respondents/alleged contemnors regarding compliance of the judgment and order dated 27.03.2009, the petitioner submitted another reminder representation on 30.10.2009 addressed to the respondent/alleged contemner No. 3 for compliance of the judgment and order dated 27.03.2009 passed in OA No. 134/2006. But to no result.

(Copy of the representation dated 01.04.2009 and 30.10.09 are enclosed herewith and marked as Annexure- II and III.)

4. That petitioner begs to state that the Hon'ble Tribunal in judgment and order dated 27.03.2009 pleased to set aside the impugned appellate order dated 08.05.2006 and directed the appellate authority to reconsider the appeal of the applicant by passing a reasoned and speaking order in accordance with law within a period of three months from the date of receipt of the copy of the order. Accordingly, the petitioner submitted a representation on 01.04.2009 enclosing therewith a copy of the judgment and order dated

Prabhat- ch. DM.

27.03.2009 passed in OA No. 134/2006 for compliance of the judgment of this Hon'ble Tribunal. However, after elapse of more than 9 (nine) months time the respondents have not implemented the judgment and order dated 27.03.2009 passed in OA No. 134/2006 till date.

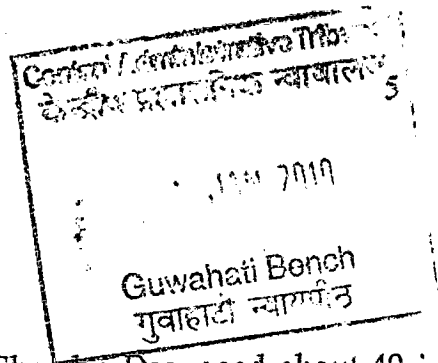
5. That it is stated that the respondents/alleged contemnors deliberately and willfully did not initiate any action for implementation of the order dated 27.03.2009 passed in OA No. 134/2006, which amounts to Contempt of Court. Therefore, the Hon'ble Tribunal be pleased to initiate a Contempt proceeding against the alleged contemnors for willful violation of the order dated 27.03.2009 passed in OA No. 134/2006 of this Hon'ble Tribunal and further be pleased to impose punishment upon the alleged contemnors in accordance with law.
6. That this application is made bonafide and for the cause of justice.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate Contempt proceeding against the alleged contemnors for willful non-compliance of the order dated 27.03.2009 passed in OA No. 134/2006 and be pleased to impose punishment upon the alleged contemnors in accordance with law and further be pleased to pass any other order or orders as deemed fit and proper by the Hon'ble Court.

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

Prabhat Ch. DAE

AFFIDAVIT

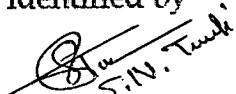


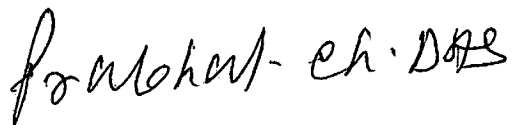
I, Shri Prabhat Chandra Das, S/o- Late Gopal Chandra Das, aged about 49 years, resident of the quarter No. DF-18/1 & 2 in Burma line, Shillong, do hereby solemnly declare as follows: -

1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statements made in paragraph 1 to 5 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before this Hon'ble Tribunal, Guwahati Bench, Guwahati for non-compliance of the Hon'ble Tribunal's order dated 27.03.2009 passed in OA No. 134/2006.

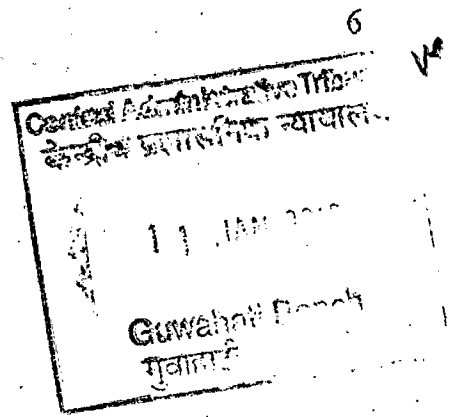
And I sign this Affidavit on this 10th day of January 2010.

Identified by


S.N. Tanti
Advocate.



Deponent



DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati Bench for initiating a contempt proceeding against the contemnors for willful disobedience and deliberate non-compliance of the Hon'ble Tribunal's judgment and order dated 27.03.2009 passed in OA No. 134/2006 and further to impose punishment upon the alleged contemnors for willful disobedience and deliberate non-compliance of the Hon'ble Tribunal's judgment and order dated 27.03.2009 passed in OA No. 134/2006.

For Guwahati Bench - DAS

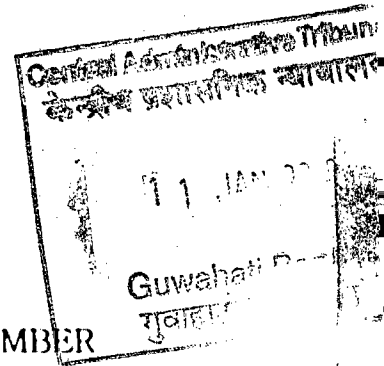
-7-
CENTRAL ADMINISTRATIVE TRIBUNAL ANNEXURE-I
GUWAHATI BENCH

Original Application No.134 of 2006.

Date of Order : This, the 27th day of March, 2009.

THE HON'BLE MR. A.K.GAUR, JUDICIAL MEMBER

THE HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER



Shri Prabhat Chandra Das
S/o Late Gopal Chandra Das
Qtr. No.DM 30/4
Deodgenline
Shillong Cantt.
Shillong

...Applicant.

By Advocates: Mr.M.Chanda. Mr.S.Nath & Mr.G.N.Chakraborty

- Versus -

The Union of India represented by the
Secretary to the Govt. of India
Ministry of Defence, South Block
New Delhi - 110 001.

2. The Director General (Civ)
Master General of Ordnance Branch
Army Headquarters, DHQ Post
New Delhi - 110 011.
3. Major General
Electrical Mechanical Engineering (MGEME)
HQ Eastern Command (EME Branch)
Fort William
Kolkata-21.
4. Station Commander
Station Headquarters, EME
Shillong.
5. Officer Commanding
306 Station Workshop
EME, C/o 99 APO..
6. Asstt. Executive Engineer (AEE)
306 Station Workshop EME

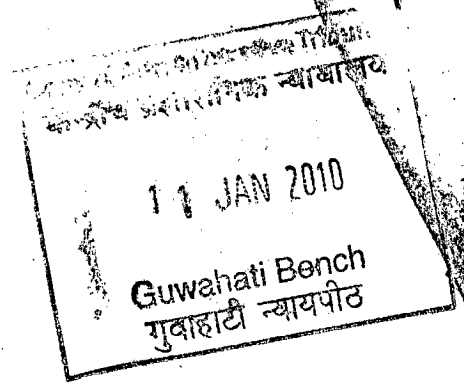
*Collected
Dutta
Adv*



-8-
C/o 99 APO.

7. Lt. Col JS Bains
Officer Commanding
306 Station Workshop EME
C/o 99 APO.

8. Shri R.C.Nath
Subedar
JC-750768X
306 Station Workshop EME
C/o 99 APO.



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

... Respondents.

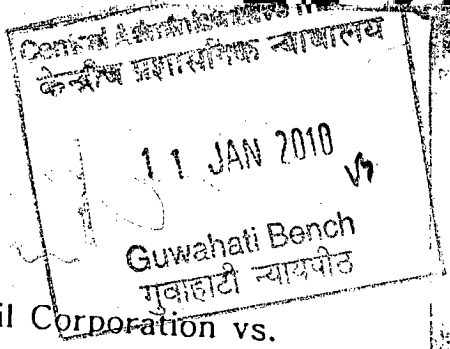
ORDER (ORAL)

A.K.GAUR, MEMBER (J) :

We have heard M.Chanda, learned counsel for the Applicant and Mr. M.U.Ahmed, learned Addl. Standing counsel for the Government of India.

2. It has been argued by the learned counsel for the Applicant that the order passed by the appellate authority is not a reasoned and speaking one and the appellate authority has passed the said order dated 08.05.2006 in a most casual and perfunctory manner without application of mind without considering all the grounds taken in the appeal dated 06.12.2005. To support his contention, learned counsel for the Applicant has placed reliance on the following Supreme Court decisions in order to buttress the contention that it is the bounden duty of the appellate authority to consider each and every ground raised in the memorandum of appeal:-

- (i) 2006 SCC L&S 840 (Narinder Mohan Arya. vs. United India Insurance Co. Ltd & Others);
- (ii) AIR 1986 SC 1173 (Ram Chander vs. Union of India & Others)
- (iii) (2005) 7 SCC 597 (National Fertilizers Ltd. and Another vs. P.K.Khanna; and lastly



(iv) 2006 (11) SCC 147 (Director of Indian Oil Corporation vs. Santosh Kumar)

3. We have given our anxious thought to the arguments advanced by the counsel for the parties. In view of the aforesaid decisions, we are fully satisfied that the appellate authority had not at all considered the grounds taken in the appeal dated 06.12.2005, the appellate order has been passed in a most casual and perfunctory manner without application of mind. Accordingly, we quash and set aside the appellate order dated 08.05.2006 and remit back the matter to the appellate authority to reconsider the appeal of the Applicant by passing a reasoned and speaking order in accordance with the provisions of rules, within a period of three months from the date of receipt of a copy of this order.

4. With the above observations and direction, the O.A. is disposed of as above.

3d- Member (J)
5d- Member (A)

TRUE CO

प्रतिलिपि

27/4/09

अनुभाग अधिकारी

Section Officer (Judl)

Central Administrative Tribunal

गुवाहाटी न्यायपीठ

Guwahati Bench

गुवाहाटी न्यायपीठ

27/4/09

BILLING AND CREDIT
 ALL INFORMATION
 CONTAINED HEREIN IS UNCLASSIFIED
 DATE 11-19-2001 BY 60322
 11/19/2001



DATE D: SHILLONG.

31.4, 09

ANNEXURE-II

14

To,

The Major General
Electrical Mechanical Engineering (MCME)
(Appellate Authority)
Fort William, Kolkata- 21.

Subj: - Intimation regarding judgment and order dated 27.03.2009 in O.A No. 134/2006 (Shri Prabhat Chandra Das -Vs- U.O.I & Ors.) passed by the Hon'ble CAT, Guwahati Bench; compliance of

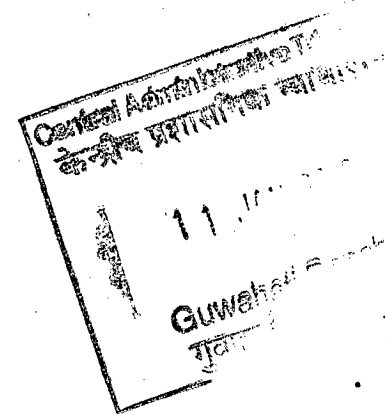
Control Administration Tribunal
केन्द्रीय प्रशासनिक न्यायालय
11 JAN 2010
Guwahati Bench
गुवाहाटी न्यायापीठ

Sir,

Most humbly I beg to state that being aggrieved with the penalty order bearing letter No. 10401/169/Civ dated 15.04.2005, issued by the disciplinary authority as well as against the impugned appellate order dated 08.05.2006, I had approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati through O.A No. 134/2006. In the said Original Application I also prayed for a direction upon the authority to reinstate me in service at least from the date of dismissal of service. However, the Hon'ble Tribunal vide judgment and order dated 27.03.2009 pleased set aside the Appellate order bearing No. 332229/2/EME Civ 09.05.2008 and further directed to consider appeal of the undersigned with the provisions of law. Hence this appeal before Your Honour with the prayer to consider the following facts and to drop the penalty order dated 15.04.2005 and to reinstate me in service at least from the date of dismissal of service.

1. That Sir, while I was working as Vehicle Mechanic (Motor Vehicle), in the 306 Station Workshop EME, C/o 99 APO, I was holding the post of Vice-President of the Station Workshop, Civilian Workers Union, Shillong.
2. That Sir, during tea break on 01.06.2001 in the Civilian Recreation Room in between 1030 hrs to 1045 hrs wherein the undersigned (Vice President) and Shri Bihari Singha, the General Secretary were busy with the most important works of the Union, mainly on the issue of long standing medical reimbursement claims of the members of the Union, which was initiated by Asstt. Labour Commissioner (Central), Guwahati. In the nick of time all of a sudden, the Officer Commanding (Lt. Col. JS Bains) along with Nb Sub RC Nath and the staff car driver Nk. Purn Singh rushed into the said Civilian

Attached
Quota
Adm

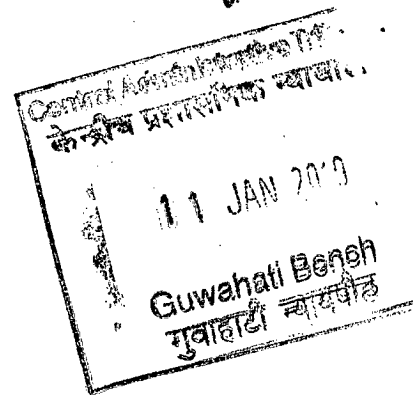


Recreational Room (at around 1045 hrs) compelling all other Defence Civilians, present therein, instantly to scuttle away from the said room out of fear except the undersigned and Shri Bihari Singha, the General Secretary. Having seen both of us in such an un-staggered position there, the Officer Commanding (Lt. Col. JS Bains) seemed to have lost his temper beyond his control, for reasons best known to him only. However, both I and Shri Bihari Singha, while wishing Officer Commanding Lt. Col. Shri JS Bains, politely informed him about the aforesaid burning issues of the Union and at the same time, tried to show him a letter received from the ALC (Central), Guwahati out of the Union file in this regard. But ironically, instead of reciprocating it, the said Officer Commanding started behaving like a person not commensurate with his official status and that was evident from his unparliamentary and un-ethical words, like, "Go to Hell your Union", "Abhi tum log ko suspend karta hoan" etc. and in no time he threw away the said Union file and practically he did what he uttered i.e. both the undersigned and Shri Bihari Singha, the General Secretary were instantly placed under suspension on this very day of 1st June 2001. Only God knows, how things could so happen and that too, so quickly, if there was no preponderance.

3. That Sir, thereafter memorandum of charge sheet bearing No. 21208/169/EST-IND/LC dated 11.07.2001 was served upon me. In the said memorandum of charge sheet in as much as 5 allegations is brought against me as follows:

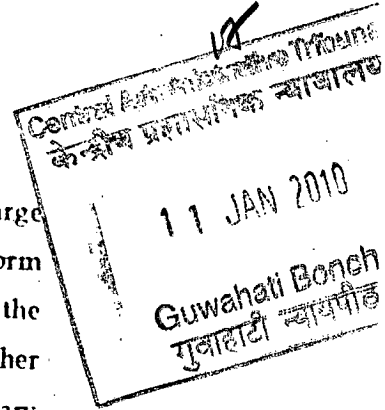
"1. On 01 Jun 2001, JC-750768X Nb Sub RC Nath of 306 Stn Wksp EME went to civilian rest room at 0830h and requested the workers to come to the shop floor for work. T. No. 172 Shri Bihari Singha and T. No. 169 Shri PC Das informed that they will not come out as they wanted to discuss about the picketing by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub RC Nath returned back and waited for them for about one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub RC Nath again went to the civilian rest room along with Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Lalan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T. No. 172 Shri Bihari Singha and T.

No. 169 Shri PC Das left for the work. They were going through some siles. Shri PC Das shouted at Nab Sub RC Nath and said "Hamara Koi Claim Pass Nahi Hota. Yahan Par Sab Gandu Offir Aur JCO Hai. Hum Bharat Varash Ke Employee Hain Yahan Par Dil Karega Rathengi". Shri PC Das again raised his hands to hit Nb Sub RC Nath and said "AAP Chor Ho, FIP Ka Paisa Khaya Hai". He made a gesture to hit Nb Sub RC Nath with both hands but Nb Sub RC Nath ducked and saved himself."



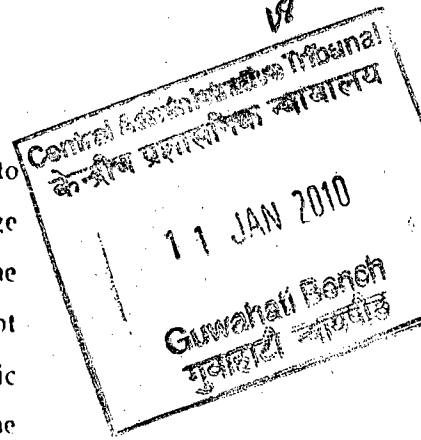
On a mere reading of the article of charge it appears that the Officer Commanding Lt. Col. JS Bains has issued the memorandum of charge sheet with whom the allege incident has taken place on 01.06.2001 since Lt. Col. JS Bains, Officer Commanding is involved in the instant alleged incident on 1st June 2001 as such Lt. Col. JS Bains should not have issued the memorandum of charge sheet since he is an interested party and at his instance the applicant was placed under suspension and further departmental proceeding has been initiated. In the statement of imputation of misconduct the said disciplinary authority tactfully alleged that the incident has taken place in between the applicant and Nab Sub RC Nath without referring his name and his presence at the time of alleged incidence on 1st June 2001. In fact the alleged incident was created by Shri JS Bains himself but in order to impose major penalty in a well planned manner Shri JS Bains tactfully did not show his presence at the place of incidence rather terror was created by Shri Bains alone and on that score alone the memorandum of charge sheet bearing letter No. 21208/169/EST-IND/LA dated 11.07.2001 is liable to be dropped.

4. That Sir, I beg to say that on a mere reading of the Article of charge, more particularly the charge alleged in Sl. No. 4 and 5 of the article of charge that the I was continuously and willfully neglecting my duty from 1st February 2001 to 1st June 2001 on all working days and continuously and willfully disobedience of order for refusing to proceed to place of work from 1st Feb' 2001 to 1st June 2001 on all working days. Therefore, it appears that the concerned sectional in-charge deliberately did not take any action against me from 1st Feb' 2001 to 1st June 2001 and the allegation of non-performing of



duties has not reported to the higher authorities by the Section In-Charge and assuming but not admitting that the undersigned has refused to perform the assigned duties than a duty cast on the Section In-Charge to report the matter immediately to the higher authority and in the instant case higher authority is Officer Commanding i.e. Lt. Col. J S Bains and the disciplinary authority ought to have taken action against me on the alleged ground of non-performing his duties for such a long period i.e. about 5 months, whereas no memo or show cause was issued at any point of time since February 2001 to 1st June 2001 rather I was paid full salary since February 2001 to 1st June 2001. As such, it can rightly be presumed that all the charges labeled against me are false, concocted and baseless not based on any record as because the entire allegation or charges were based on only two lists of documents.

5. That Sir, the disciplinary authority by the impugned letter bearing No. 10401/169/Civ/INQ/2005 dated 15.04.2005, forwarded the impugned penalty order to me. The disciplinary authority by the order dated 15.04.05 imposed the extreme penalty of dismissal from service w.e.f. 15.04.05. interestingly in the penalty order the disciplinary did not consider any of the grounds raised by me in my representation dated 29.11.03 but mechanically followed the inquiry report submitted by the inquiry officer.
6. That Sir, the contention of the disciplinary authority to the effect that the charged official neither opted to cross-examine any witness nor submitted any defence thereof is categorically denied: rather the charged official has been denied reasonable opportunity to advance his defence in the inquiry proceeding in the following manner:
 - (i) Firstly, the applicant was not intimated regarding appointment of the inquiry officer as well as appointment of presenting officer by the disciplinary authority as required under the rule, however the same was intimated to the applicant by the disciplinary authority much after the commencement of the proceeding.



- (ii) Listed documents relied upon by the disciplinary authority to substantiate the charges contained in the memorandum of charge sheet has not been supplied to the applicant along with the memorandum of charge sheet even those listed documents also not supplied at any stage of the inquiry proceeding in spite of specific request and thereby reasonable opportunity has been denied to the applicant to take adequate defence to the charges.
- (iii) That the inquiry authority deliberately and willfully did not intimate the date of hearing on many occasion when ex parte proceeding was held and in some occasion the inquiry officer deliberately send the intimation of hearing after the expiry of the schedule dates of hearing. The details of delayed communication of hearing dates as well as non-communication of hearing dates are quoted below for perusal since the inquiry proceeding conducted ex parte.

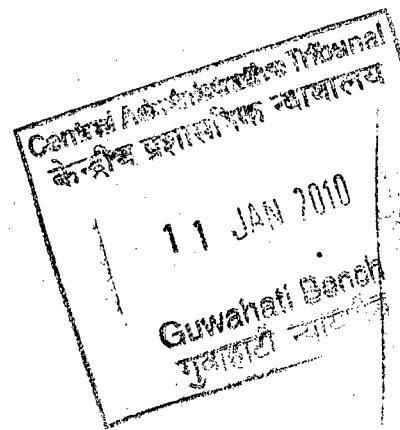
Schedule date of hearing	Date on which intimation of hearing received	Non-receipt of intimation regarding hearing.
20.09.2001	26.09.2001	
09.10.2001	21.11.2001	
22.10.2001	21.11.2001	
16.11.2001	21.11.2001	
17.01.2002	01.03.2002	Since letter dated 22.02.02 received by the applicant on 04.03.02, wherein it is directed to the applicant to appear inquiry on every alternative day.
06.02.2002	04.03.2002	
12.03.2002	04.03.2002	I went to the office but gate was closed due to holiday of Shiv Ratri.
14.03.2002		I appeared in the proceeding.
18.03.2002		I appeared in the proceeding.
20.03.2002		I appeared but it is informed that there is no sitting of inquiry.
21.03.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed me to appear on every alternative day before the inquiry proceeding but inquiry

30.03.2002	No intimation to me.	held in violation programme fixed by letter dated 22.02.02 that too without intimation. As per direction contained in the letter dated 22.02.02 it was directed to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
04.02.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed to me appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
23.04.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
03.06.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.

Central District Prison, Guwahati
 केन्द्रीय प्रशासनिक न्यायालय
 11 JAN 2010
 Guwahati Bench
 गुवाहाटी न्यायपीठ

- (iv) It is categorically submitted that the intimation regarding date of hearing on 20.09.01 has been intimated to the applicant at a later stage after the inquiry was over on the schedule date. Moreover, in terms of the letter dated 22.02.2002 received by the applicant on 04.03.2002, wherein it has been instructed that the proceeding will be held on every alternate day. The applicant thereafter as per instruction appeared on 14.03.02, 18.03.02 and participated in the inquiry proceeding in spite of inhuman torture and humiliation as indicated in preceding paragraph. Again he went to attend inquiry on 20.03.02

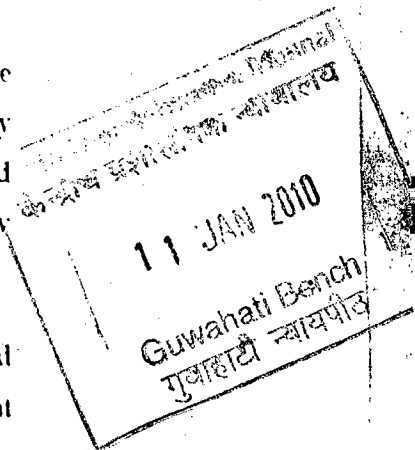
but it was informed by the security personal at the gate that there was no sitting of the inquiry proceeding whereas as per order dated 22.02.02 hearing is supposed to take place on every alternative date but it appears that hearing has been conducted on 21.03.02, 30.03.02, 23.04.02, 03.06.02 in violation of the instructions contained in the letter dated 22.02.02 that too without any intimation to the applicant and thereby denied reasonable opportunity to the applicant.



- (v) That the documents relied upon by the disciplinary authority has not been examined as required under the rule.
- (vi) Out of 9 listed witnesses only stereotype deposition of 5 interested state witnesses has been recorded more or less on the similar fashion on the dictation of the inquiry authority as well as of the higher authority. But the remaining 4 state witnesses have not been examined for the reasons best known to the authority.
- (vii) That the statement of deposition of the interested witnesses has been prepared and got signed by them through Nb Sub Shri RC Nath.
- (viii) That the charge of continual and willful disobedience of the order of supervisory staff and non-performing of duties w.e.f. 01.02.01 to 01.06.01 has held to be proved by the inquiry officer without examining any evidence on record and also without examining the listed documents but on the basis of deposition of the interested witnesses which was confirmed by the disciplinary authority without any discussion of evidence in his impugned order of penalty dated 15.04.05.
- (ix) That the Inquiry officer failed to give any specific finding as to whether charge is proved or not in his inquiry report dated 07.07.03 which was forwarded to the applicant vide letter dated 21.11.03 that is after lapse of about more than 4 months.
- (x) That the disciplinary authority did not consider any of the grounds raised by me in my representation dated 29.11.03 and surprisingly the

disciplinary authority did not discuss a single evidence in the impugned order of penalty dated 15.04.05 whereby major penalty have been imposed mechanically without application of mind and also without taking into consideration the record of the inquiry proceeding.

- (xi) That the complain lodged by Nb R.C Nath listed document (a) relied upon by the disciplinary authority neither supplied to the applicant nor examined in ex parte inquiry proceeding but relied upon by the inquiry officer and the D.A. passed the order of penalty on the alleged ground of creating a riotous and disorderly situation in the rest room on 1st June, 2001.
- (xii) Listed document no. (b) whereby allegation of continual and willful absence from work place w.e.f. 01.02.01 to 01.06.01 neither supplied to me nor examined in ex parte inquiry proceeding which is heavily relied upon by the disciplinary authority.
- (xiii) Findings of the I.O and P.O without considering the listed documents relied upon by the D.A is not sustainable in the eye of law.
- (xiv) No show cause notice or warning or memo given to the applicant for alleged continuous willful absence from the place of work w.e.f. 01.02.01 to 01.06.01 by the supervisory officer as alleged even in the list of document (b) which is relied upon by the disciplinary authority as an evidence for alleged absence not even supplied to the applicant in spite of repeated request nor it was examined in the inquiry proceeding.
- (xv) Listed documents relied upon by the D.A not supplied to the applicant in spite of his specific request.
- (xvi) I.O failed to give any specific findings as to whether charge is proved or not in his inquiry report dated 07.07.03.
- (xvii) Col. J.S. Bains, disciplinary authority personally involved in the alleged incident on 01.06.01 who attacked the charged official on



01.06.01 along with Nb Sub R.C. Nath and other Jawans and created riotous and disorderly situation in the recreation room.

Under the facts and circumstances as stated above I earnestly request you to consider the infirmities and irregularities committed by the disciplinary authority in passing the penalty order dated 15.04.2005 and further be pleased to cancel the penalty order dated 15.04.2005 and to reinstate the undersigned in service with effect from the date of dismissal.

A copy of the judgment and order dated 27.03.2009 passed in O.A. No. 134/2006 is enclosed herewith for your kind perusal and implementation.

Yours faithfully

(Signature) 01/04/09

Shri Prabhat Chandra Das

S/o- Late Gopal Chandra Das.
Qtr. No. 124/30/4
Deodgenline.
Shillong Cantt. Shillong.

Date: SHILLONG
01/4/2009

*Collected
Wulla
Law*

11 JAN 2010
Guwahati Branch
গুৱাহাটী শাখা

ANNEXURE III

The Major General
Electrical Mechanical Engineering (EME) 30 Oct. 2009.
(Appellate Authority)
Fort William, Kolkata -21.

Sub :- Intimation regarding judgment and order dated 27/3/2009
in O.A No. 134/2006 (Shri Prahat Chandra Das vs U.O.I
& Ors) passed by the Hon'ble CAT, Guwahati Bench ;
compliance of.

Sir,
I have the honour to invite a reference to my earlier
application dtd 01/4/2009 on the subject indicated above and
to state as hereunder :-

1. That Sir, it needs to be reiterated that being aggrieved
with the memorandum of charge sheet dtd 11/7/2001, order of
penalty bearing letter No. 10401/169/Civ dtd 15/4/2005 issued
by the Disciplinary Authority as well as against the impugned
Appellate order dtd 08/5/2006, I had approached the Hon'ble
Central Administrative Tribunal, Guwahati Bench, Guwahati
through O.A No. 134/2006. In the said original Application
I also prayed for a direction upon the authority to reinstate
me in service at least from the date of dismissal of service.
However, the Hon'ble Tribunal vide judgment and order dated
27/3/2009 pleased set aside the Appellate order bearing No.
332229/2/EME/Civ dtd 09/5/2006 and further directed to
consider appeal of the undersigned with the provision of law,
within a period of three months from the date of receipt of
a copy of this order.

2. That Sir, it is a matter of great surprise and agony that
the Appellate Authority has not taken any action till to
date. As a consequence, I am subjected to suffer from
immense hardship both financial and mental.

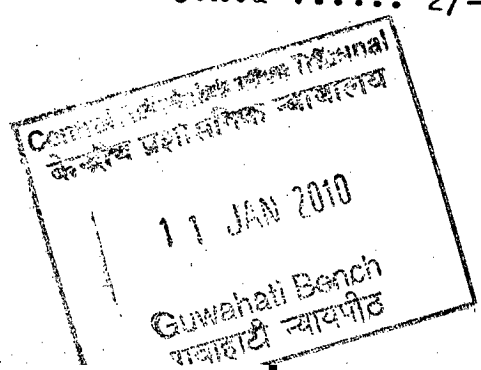
Contd 2/-

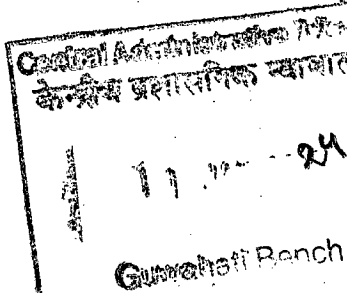
*Accepted
M. A.
Adv*

SHILLONG G.O. 73001
H.O. 86412
Counter No: 1 (UP-Code: HK)
To: THE DG EME (I) EC FORT WILLIAM
KOLKATA. PIN: 21



NR: 10/Grans.
Gdt: 22.00 . 03/11/2009 . 11:27
<Have a nice day>





-: 2 :-

3. That sir, the Appeal pending before the Appellate Authority has not been disposed of even after the expiry of the period from the date of the receive of the copy at 14/4/2009 and in the meanwhile no Appeal has also been preferred by the respondents and as such the related order dt 27/3/2009 is a final one for both the parties.
4. That sir, I presume that the Appellate Authority has no ground to reject my Appeal and as such I am entitled otherwise eligible to reinstate in service.
5. That sir, I do not like to go for any further litigation unless forced.

In view of the facts stated hereinabove, I would once again request you to kindly reinstate the Appellant / Petitioner in service at an early date with all consequential benefits i.e. Arrears dues and promotion dues etc. For this act of your kindness, I shall ever remain grateful to you.

Your's faithfully.

(P.C DAS)

T/No. 169 Civ. W(M) U/S

Act No. DF 18/182

Burmahine

Shillong Cantt. Shillong.

File in Court on... 24/2/10
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
24 FEB 2010
Guwahati Bench
गुवाहाटी न्यायपीठ

IN THE MATTER OF:

C.P. NO.01/2010

In O.A. No. 134/06

-AND-

IN THE MATTER OF :

Sri Prabhat Chandra Das,
Son of Late Gopal Chandra Das
Qtr. No DF-18/2
Burma Line, Shillong Cantt.
Shillong (Meghalaya)

... Petitioner

-Vs-

1. Shri Pradeep Kumar, IAS
Secretary to the Government of India
Ministry of Defence, South Block
New Delhi- 110001.

2. Lt Gen A.K.S. Chandela
Director General of EME (DGEME)
Master General of Ordnance Branch
Army Headquarters
DHQ Post New Delhi- 110011

3. Maj Gen S.C. Jain, Major General
Electrical and Mechanical Engineering (MGEME)
HQ Eastern Command (EME Branch)
Fort William, Kolkata-21

4. Brig Harvijay Singh
Station Commander
Station Headquarters, Shillong

5. Col G.S. Cheema
Officer Commanding
306 Station Workshop EME
C/O 99 APO

... Alleged Contemnors/ Respondents

Harvijay Singh

Filed by the Respondent No 4
through S.N. Tamuli 25-
Advocate 24/2/2010.

-AND-

IN THE MATTER OF :

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय 24 FEB 2010 Guwahati Bench गुवाहाटी न्यायाधीश	An Affidavit/compliance report on behalf of the alleged Contemnor/Respondent No. 4 to the C/P. No. 01/2010 (AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 4)
--	--

I, Brig. Harvijay Singh, S/o S Jagdishwan Singh
 aged about 42 years presently working as Station Commander,
 Station Headquarters, Shillong Military Station do hereby
 solemnly affirm and state as Follows :-

1. That I am the Station Commander, Station Headquarters, Shillong Military Station. In the above contempt petition, I have been impleaded as Party Respondent / Contemnor No. 4. The said contempt petition was moved in this the Hon'ble Tribunal, *inter alia*, praying for issuing show cause notice to the respondent contemnors and taking appropriate action for willful and intentional violation of the order dated 27.03.09 passed by this Hon'ble Tribunal in O.A. No. 134/06.

2. That the humble deponent begs to state that this Hon'ble Tribunal vide order dated 12.01.2010 was pleased to issue notice to the Respondent. The copy of the notice was served upon the humble deponent. I have gone through the copy of the contempt petition and have understood the contents thereof.

3. That I do not admit any of the statements save and except which are specifically admitted hereinafter and the same are deemed as denied.

4. That with regard to the statements made in paragraphs 1 & 2 of the contempt petition; the humble deponent begs to offer no comment. However he does not admit any statement which are contrary to record.

5. That with regard to the statements made in paragraph 3 & 4 of the contempt petition, the humble deponent begs to state that immediately on receipt of the judgment and order dated 27.03.09 along with the representation dated 01.04.09 made by the petitioners the humble deponent prepared the para-wise comment to the representation dated 01.04.09 submitted by the petitioner and forwarded the same to the H.Q. Eastern Command (EME), Kolkata vide office letter No 20201/Civ/EME dated

Harvijay Singh

19.05.09 for approval of the competent authority as the local head office at shillong is not competent to pass any order as per the direction of the Hon'ble Tribunal without prior approval of the aforesaid H.Q, through departmental procedure. It is humbly submitted that as the matter was forwarded to the HQ for due approval there was some unavoidable and unintentional delay in complying with the aforesaid order dated 27.03.09 of the Hon'ble Tribunal.

Copy of the letter dated 19.05.09 is annexed herewith and marked as **ANNEXURE-1**

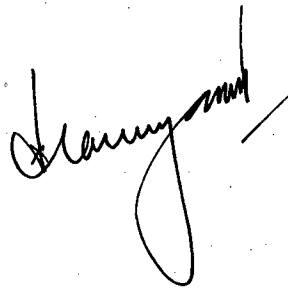
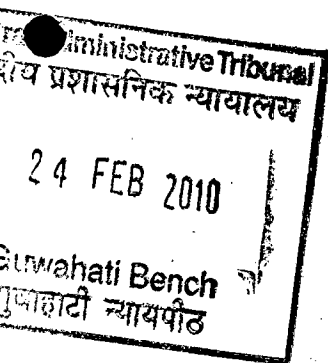
6. That with regard to the statements made in paragraph 5 of the contempt petition, the humble deponent begs state that vide order no 332230/PCD/EME Civ. dated 06.02.2010 the Major General, Electrical and Mechanical Engineering (MCME), HQ Eastern Command (EME Branch), Fort William, Kolkata-21 passed an speaking order as per the direction of the Hon'ble Tribunal rejecting the appeal of the petitioner. Hum'ble deponent most respectfully begs to state that Respondents/alleged Contemnors started the process of implementation of the aforesaid order of the Hon'ble Tribunal immediately on receipt of the order and representation dated 01.04.09. as stated in para 5 above and as such there is no intentional, willful and deliberate violation of the order dated 27.03.09 passed by this Hon'ble Tribunal.

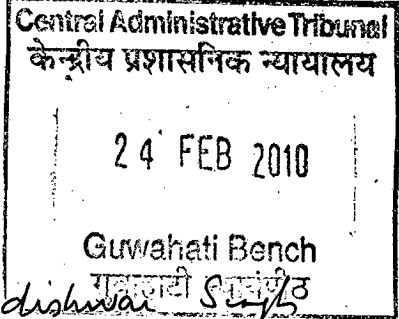
Copy of the order dated 06.02.2010 is annexed herewith and marked as Annexure-2.

7. That the humble deponent begs to state that there is no lapse or negligence on the part of the respondent authorities to comply with the Hon'ble Tribunal's order .

8. That the humble deponent respectfully begs to pray that in view of the above facts and circumstances, this contempt petition may be closed.

9. That the humble deponent begs to tendered unconditional apology for delay in complying with the Hon'ble Tribunals order dated 27.03.09.

**AFFIDAVIT**

I, Brig. Har Vijay Singh, S/o..... ✓ *S Jagdishwar Singh*
aged about..... *47* years presently working as Station Commander, Station
Head Quarters, Electrical and Mechanical Engineering, Shillong. do hereby
solemnly affirm and state as follows :-

1. That I have been impleaded as the alleged contemnor no. 4 in
the instant case and fully conversant with the facts and circumstances of the
case.

2. That the statements made in this affidavit and in paragraphs
..... ✓ *3, 4 and 7* are true to my knowledge and
those made in paragraphs *1, 2, 5 and 6* being
matters of records of the case derived therefrom which I believe to be true
and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this the 24th day of February, 2010 at
Guwahati.

Identified by:-

L. K. Rana

Advocate.

x

[Signature]
DEPONENT

Tele : 6147

Mukhalaya 101 Area	
HQ 101 Area (EME)	
Pin - 908101	
C/O 99 APO	

29

20201/Civ/EME

19 May 2009

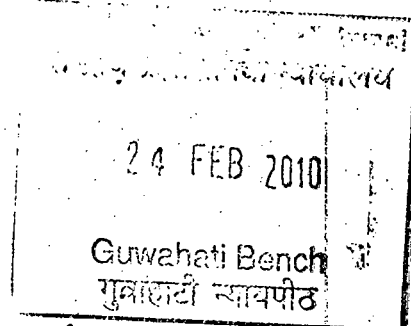
HQ Eastern Comd (EME)
Pin - 908542
C/O 99 APO

INTIMATION REGARDING JUDGMENT AND ORDER DATED 27 MAR 2009 IN O.A NO 134/2006 (SHRI PRABHAT CHANDRA DAS VS - U.O.I & ORS) PASSED BY THE HON'BLE CAT. GUWAHATI BENCH. COMPLIANCE OF

1. Please refer your HQ letter No 332229/2/EME Civ dated 19 Apr 2009.

Parawise comments on appeal submitted by Shri Prabhat Chandra Das received from Stn Wksp EME, Shillong ; as asked vide your HQ letter referred above are fwd herewith alongwith following documents :-

- (a) Brief of the court case - One folder
- (b) Draft Appellate Order - One folder



(MK Bhardwaj)
Col
Col EME

As above

Copy to :-

Stn Wksp EME, Shillong -

for info wrt your letter No 10401/134/PCD dt 15 May 2009.

You are requested to fwd one more copy of the for our record.

What is reqd.

Attested
(Advocate)

10401/134/PCD

15 May 2009

HQ 101 Area (EME)
PIN-908101
C/O 99 APO

INTIMATION REGARDING JUDGMENT AND ORDER DATED 27 MAR 2009 IN OA NO 134/2006 (SHRI PRABHAT CHANDRA DAS VS - UOI & ORS) PASSED BY THE HON'BLE CAT GUWAHATI BENCH, COMPLIANCE OF

1. Please refer to :-

- (a) Your HQ letter No 20201/Civ/EME dated 23 Apr 2009.
- (b) Copy of appeal submitted by T/No 169 Civ Shri PC Das dated 01 Apr 2009.

2. Para wise comments on the appeal submitted by Shri PC Das as appended below :-

Para No - 01 . No comments.

Para No - 02 : The contention of the appellant that Lt Col JS Bains, Officer Commanding had gone to the Civilian Recreation Room is wrong. The actual fact is that on 01 Jun 2001, JC-750768X Nb Sub (Now Sub) RC Nath of Station Workshop EME went to civilian rest room at 0830h and requested to the workers to come to the shop floor for work. T/No 172 Shri Bihari Singha and T/No 169 Civ PC Das informed that they will not come out as they wanted to discuss about the picketing by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub (Now Sub) RC Nath returned back and waited for them for one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub (Now Sub) RC Nath again went to the civilian rest room along with Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Balan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilians, he noticed that all other workers except T/No 172 Shri Bihari Singha and T/No 169 Civ Shri PC Das left for the work. These two were going through some files. Shri PC Das shouted at Nb Sub RC Nath and said "Hamara Koi Claim Pass Nahi Hota, Yahan Par Sab Gandu Offr Aur JCO Hai, Hum Bharat Varash Ke Emppoyee Hain Yahan Par Dil Karega Bathenge". Shri PC Das again raised his hands to hit Nb Sub RC Nath and said "AAP Chor Ho, Aur FIP Ka Paise Khaya Hai". He made a gesture to hit Nb Sub RC Nath with hand but Nb Sub RC Nath ducked and saved himself. It is pertinent to bring out that Lt Col JS Bains, OC 306 Stn Wksp, EME never went to the recreation room. The acusition is thus false and a blatant lie. Inquiry report had amply clarified the same.

Para - 3: The statement made by the appellant that Lt Col JS Bains was present at the place of incident is false and intended to divert the focus of authorities. The incident was informed by JC-750768X Nb Sub (Now Sub) RC Nath vide letter dated 01 Jun 2001 (**Annexed as Annexure - I**) to Officer Commanding, Lt Col JS Bains on 01 Jun 2001. Lt Col JS Bains, being disciplinary authority served a charge sheet vide Office Memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001 for violations of Rule 3 and 7 of CCS (Conduct) Rules and directed for inquiry to be held under Rule 14 of CCS (CCA) Rules 1965 (**Annexed as Annexure II**)

Para - 4: The statement made by appellant is wrong. T/No 169 Civ Shri PC Das was willfully showing disobedience of order for refusing to proceed to place of works from 01 Feb 2001 to 01 Jun 2001. In this regards Section Incharge Nb Sub Md C Ahmed had intimated to Officer Commanding through letters dated 28 Feb 01, 31 Mar 01, 01 May 01, 31 May 01 (**Annexed as Annexure - III, IV, V, VI**) regarding disobedience of orders and no output in respect of T/No 169 Civ Shri PC Das.

Para – 5 : The evidence on behalf of Disciplinary Authority has been closed and the same has been intimated to the applicant vide letter No 10401/169/Civ/Inq dated 09 Apr 2002. (Annexed as Annexure – VII). Departmental Inquiry report is self explanatory (Annexed as Annexure – VIII)

Para – 6 : The contention of the appellant that defence was denied to him is wrong. The inquiry had been ordered as per Rule 14 of CCS (CCA) Rules 1965. The charge sheets have been given to the applicant as per Rule 14 of CCS (CCA) Rule 1965 for violations of Rule 3 and 7 of CCS (Conduct) Rules by the applicant. The applicant was served charge sheet vide Office memorandum No 21208/169/Est-Ind/LC dt 11 Jul 2001. This aspect was also referred in OA 150/2003 submitted by the appellant in the Hon'ble CAT, Guwahati. The Hon'ble CAT had dismissed OA No 150/2003 of the applicant and up held the procedure followed by the department. (Copy Hon'ble Court Order is Annexed as Annexure – IX).

Para – 6 (i) : Inquiry was ordered as per CCS (CCA) Rules, 1965 against the applicant. Shri Bidyot Panging, AEE of this Workshop was appointed as Inquiry Officer vide order dated 30 Aug 2001. Shri Amar Singh the Presenting Officer vide 10401/169/Civ dated 30 Aug 2001. The letters had been dispatched duly registered but these letters were not accepted by the applicant and returned back by postal authorities on 15 Sep 2001 with the remarks "Refused". (Annexed as Annexure – X).

Para – 6 (ii) : The charge sheets have been given to the applicant as per Rule 14 of CCS (CCA) Rule 1965 for violations of Rule 3 and 7 of CCS (Conduct) Rules by the applicant. The applicant was asked to see the statements of State Witnesses recorded so far in the earlier hearings during the hearing on 14 Mar 2001. However the applicant refused without defence assistance.

Para – 6 (iii) : The statement of the appellant is false that the ex-parte inquiry proceedings were held and sufficient time was not given to the applicant. On the contrary the applicant was using dilatory tactics for not attending the inquiries. The applicant was given sufficient time for attending the hearing schedules. Dates of hearing schedules are given below:-

Ser No	Date of hearing	Remarks
(a)	20 Sep 2001	The applicant has been directed to appear for preliminary hearing on 09 Oct 2001 vide letter No 10401/Civ/169/Inq dt 20 Sep 2001. <u>(Annexed as Annexure - XI)</u>
(b)	09 Oct 2001	The inquiry proceedings could not proceed, as the applicant was absent. An intimation was issued vide letter No 10401/Civ/169/INQ dt 03 Oct 2001 <u>(Annexed as Annexure – XII)</u> regarding the next hearing date on 22 Oct 2001 and the same letter had been received by the applicant on 15 Oct 2001. Photo copy of Postal Acknowledgment is attached as <u>Annexure – XIII</u>
(c)	22 Oct 2001	Adjourned because the applicant was absent and next hearing date on 16 Nov 2001 has intimated vide letter No 10401/169/Civ/INQ dt 23 Oct 2001 through registered letter against RL No 243 also been intimated that the inquiry proceedings will be held on every alternative day except Sundays and holidays. (Photo copy of Register Receipt is att as <u>Annexure – XIV</u>)
(d)	16 Nov 2001	The applicant was absent. Inquiry was held ex-parte. Statement of State Witness No 1- JC-750768X Nb Sub (Now Sub) RC Nath has been taken.

24 FEB 2010

(e)	17 Jan 2002	An intimation was issued to attended next inquiry on 17 Jan 2002 vide letter No 10401/169/Civ/Inq dt 21 Dec 2002 and the letter was returned undelivered because the applicant had "Refused" to accept the registered letter on 11 Jan 2002, as per remarks endorsed on the letter by the Postal authority. copy att as <u>Annexure - XV</u>
(f)	06 Feb 2002	A letter was issued to attend the inquiry on 06 Feb 2002 vide letter No 10401/169/Civ/Inq dt 24 Jan 2002(<u>Annexed as Annexure- XVI</u>) through registered letter and the same has receipt by the applicant on 14 Feb 2002 (Photo copy Postal Acknowledgement is att as <u>Annexure - XVII</u>)
(g)	12 Mar 2002	The applicant was absent, hence statement of JC-753913P Nb Sub K Jaya Prakasan, State Witness (SW-3) has been recorded under the provisions.
(h)	14 Mar 2002	Applicant came for the first time for hearing with an application for reconsidering the appointment of Defence Assistance from outside Shillong. The application had been considered by the inquiry officer and rejected. Applicant has been advised to engage a defence assistance from Shillong. He was also told him to attend the hearing regularly since ex-parte inquiry has already been started. The statements of State Witnesses recorded so far in the earlier hearings were shown to the applicant. However, he refused to see the statements without defence assistance. Deposition by JC-753913P Nb Sub K Jaya Prakasan, State Witness has been recorded.
(i)	18 Mar 2002	The applicant left the place of hearing just before its start saying "I will not attend the inquiry proceedings". Hence, proceedings of the inquiry continued and the Statement of 145991478F Nk SC Singh, SW-4 was recorded. Cross examination by Defence Assistance/Charged official was not done and questions by the inquiry officer were postponed to the next hearing.
(k)	21 Mar 2002	The Inquiry was proceeded as per the direction contained in the letter dated 22 Feb 02 (<u>Annexed as Annexure - XVIII</u>). Since the applicant was absent No 14591478F Nk SC Singh (SW-4) was again produced by the Presenting Officer for questioning by the inquiry officer. The Presenting Officer sought permission for production of daily register maintained by section in charge 'B' Veh of which reference was made in the cross examination SW-3 and SW-3 has been cited as a witness only to prove the allegations through the said daily register. Permission has been granted to produce the same in the next hearing
(l)	30 Mar 2002	Presenting officer submitted the daily register of 'B' veh section. Same has been perused by the inquiry officer and was brought on record as Exhibit S-1. Statement of No 14581821L Hav J Kushwaha, SW-5 has been recorded. Cross examination by Defence Assistance/Charged Official was not done and questions by the inquiry officer were postponed to the next hearing.

(m)	04 Apr 2002	The applicant was absent and No 14581821L Hav J Kushwaha, SW-5 was again produced by the presenting officer for questioning by the inquiry officer. Presenting officer declared that he has produced sufficient state witnesses to prove the charges against the charged official and remaining state witnesses need not to be produced for inquiry. Evidence on behalf of Disciplinary Authority was closed.
(n)	23 Apr 2002	The charged official was told to submit his written statement of defence by 23 Apr 2002 vide registered letter No 10401/169/Civ/INQ dated 09 Apr 2002 (Annexed as Annexure – VII) but the applicant had failed to submit the same. He was given one more opportunity to submit his written statement of defence by 03 Jun 2002, failing which the evidence on behalf of T/No 169 Civ VM Shri PC Das will be treated as closed.
(o)	03 Jun 2002	The applicant had failed to submit his written statement of defence and also failed to appear in person before the Inquiry Officer. The evidence on behalf of the charged official was closed. The Presenting Officer was directed to submit his written brief so as to reach Inquiry Officer before 15 Jun 2002 for intimation to the Charged Official. In turn the Charged Official has to submit his written brief by 29 Jun 2002. The case was declared closed.

Para – 6 (iv) : The contention of the appellant is wrong. Protracted corres regarding intimation of the proceeding in the form of registered letters is on record. It was intimated in person also that proceedings will be held on every alternative day except Sunday and Holiday and if the date of inquiry is falls on Sunday & Holiday these will be held on next working day at same time and place. Accordingly the inquiry proceeding was also conducted. Photo copies of Inquiry Report against the applicant is att as **Annexure – XIX**.

Para – 6 (v) : The inquiry proceeding had been conducted as per CCS (CCA) Rules 1965 and all the documents were produced in the inquiry proceedings but the applicant “Refused” to see without defence assistance from outside Shillong which was refused by the disciplinary authority.

Para – 6 (vi) : Recorded Statements of the 5 witnesses had proved that the accusations made were absolutely correct. Since the accused never turned up and he was found guilty further proceedings were closed. Copies of Departmental Inquiry are annexed as **Annexure – VIII**.

Para – 6 (vii) : This statement is false and misconstrued.

Para – 6 (viii) : The statement is false. On 14 Mar 2002 the applicant came for the first time for hearing and was asked to see the statements of State Witnesses recorded so far in the earlier hearing but he “Refused” without defence assistance.

Para – 6 (ix) : The statement is false. Inquiry Officer had brought out holdings of all charges very explicitly against T/No 169 Civ Shri PC Das in the Findings of the Inquiry Report. (Copies of Findings of Inquiry is annexed as **Annexure - XX**).

Para – 6 (x) : The statement is false. Application dt 29 Nov 2003 of the appellant was perused in detail by the disciplinary authority.

Para - 6 (xi) : It is incorrect that the applicant had come for the first time on 14 Mar 2001 for hearing the inquiry proceeding. The statements of State Witnesses recorded so far in the earlier hearings were shown to the applicant but he refused to see the statements without defence assistance.

Para - 6 (xii) : All the witness documents during the ex-part inquiry proceeding were shown to applicant but he denied to see the documents.

Para - 6 (xiii) : The statement is false and illogical.

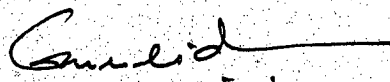
Para - 6 (xiv) : Appellant was coming to the wksp but was continuously absent from the place of work wef 01 Feb 02 to 01 Jun 2001. Attendance Register of Veh Sec is self explanatory. and letters dated 28 Feb 01, 31 Mar 01, 01 May 01, 31 May 01 from Section IC Nb Sub Md C Ahmed regarding disobedience of orders and no output was intimated to the Officer Commanding.

Para - 6 (xv) : The statement of the appellant is false. He was asked to see all the documents but he "Refused".

Para - 6 (xvi) : The statement by the appellant is false. The inquiry officer who enquired into the matter and the proceedings conducted during 20 Sep 2001 to 25 Jun 2003 which has been duly recorded in detail consisting of statement of witnesses, exhibits, correspondence details, details appeals and its disposal thereof and the findings arrived at by the inquiry wherein the applicant was found guilty of all the five charges by the inquiry officer.

Para - (xvii) : It is false statement. Lt Col JS Bains, disciplinary authority was informed of the incident by JC-750768X Nb Sub (Now Sub) RC Nath vide letter dated 01 Jun 2001.

Encl : As above


(GS Cheema)
Col
Officer Commanding

Annexure - I

From,

JC-750768X Nb Sub RC Nath

306 Stn Wksp EME

C/O 99 APO

To,

Officer Commanding

306 Stn Wksp EME

C/O 99 APO

Complaint :- Mis-Conduct and Mis-behaviour by T No. 172 Electrician Shri Bihari Singha and T.No 169 Veh Mech Shri PC Das

Sir,

Respectfully I beg to state the following few lines for your consideration and taking necessary action.

On 01 Jun 2001, I was performing the duties of Wksp JCO and R&I JCO of 306 Station Workshop. In the morning I used to distribute the duties to all Comb and Civilian Mechanics. No civilian mech reported at the shop floors till 0830h and were sitting in the recreation/rest room. I went to the recreation/rest room where Shri Bihari Singha, Shri PC Das, Shri PK Das, Shri SN Das, Shri SR Borah and Shri SD Lakhar were sitting and reading newspaper. I told them to report to shop floor for work as it was already 0830h. They told me that since there is picketing tomorrow, we will come after some time. I went back and waited for them for one hour. Again I went to recreation room and advised them to come to the shop floor. They kept quiet and kept sitting and ignored me. I again told them to come to the shop floor but no body came.

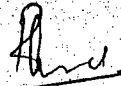
I, then again went to recreation room alongwith 2-3 more men so that no untoward incident takes place. I took Nk Puran Singh, Nk SC Singh, Hav J Khushwaha and Hav Lalan Shah with me and went to recreation room again. At that time Shri Bihari Singh (Electrician), Veh Mech Shri PC Das, Veh Mech Shri PK Das and Shri SR Borah and Armr Shri SD Lakhar were all sitting there. All other pers except Shri Bihari Singha and Shri PD Das left the recreation room. I advised Shri Bihari Singha and Shri PC Das to move to the shop floor but they refused. Shri Bihari Singha got up and picked up a file and told me that you are telling us to do work but I have to do lot of Union work and our welfare is not being looked after. He took out a file where a letter signed by Lt Col Nk Tiwari Ex OC Wksp was there. He said "Ye Col Tiwari Gandu Officer Tha, Jisne Is Letter Ko Sign Kiya Hai, Hamare Medical Claim Pass Nahi Hote" and the words to that effect. Shri PC Das also repeated that "Hamara Koi Claim Pass Nahi Hote Raha Hai, Hum Kam Nahi Karenga, Yaha Par Sab Gandu Officer Aur JCO Hai, Hum Bharat Varash Ke Employee Hai, Yahan Par Dil Karega Bethenge". Shri PC Das again raised his hand to hit me and said that "AAP Chor Ho, Apne Bahut Chori Ki Hai, Aur FIP Ka Paise Khaya Hai". He made a gesture to hit me but I ducked and went back. Meanwhile Shri Bihari Singha made a violent gesture with both hands to hit me and then hit the table with both hands repeatedly to show anger and violent behaviour. All of a sudden I stopped and came out to escape his violent behaviour.

You are requested to initiate necessary disciplinary action to save our honour and avoid humiliation. I have not seen such a behaviour through out my service. These two civilian workers have not been obeying orders of Section incharges and not performing any duty for the last many months. Whenever we tell them to go to shop floor they have been refusing and do not perform any duty.

I will be grateful if strict disciplinary action is initiated immediately against these individuals other wise it will be difficult for the supervisory staff to get work from civilian staff.

Thanking You,

Your Sincerely


(R. E. Nath)

Nb Sub

Dated : 01 Jun 2001


CONFIDENTIALSTANDARD FORM FOR CHARGE SHEET FOR MAJOR PENALTIES
(UNDER RULE 14 OF CCS (CC & A) RULES, 1965)BY REGD POST
306 Sth Wksp EME
C/O 99 APO

21208/169/EST-IND/LC

Jul 2001

MEMORANDUM

1. The undersigned proposes to hold an Inquiry against T.No 169 Trade Veh Mech Name Shri PC Das under Rule 14 of the Central Civil Services (Classification and Appeal) Rules, 1965. The substance of the imputations of mis-conduct, or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of charge (Annexure I). A statement of the imputations of mis-conduct or mis-behaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and list of witnesses by whom, the article of charges are proposed to be sustained are also enclosed (Annexure III & IV).
2. Shri PC Das is directed to submit within 10 days of the receipt of this memorandum, a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an Inquiry will be held only in respect of those article of charge as are not admitted. He should therefore specifically admit or deny each article of charge.
4. Shri PC Das is further informed that if he does not admit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the Inquiring authority or otherwise fails or refuse to comply the provisions of Rule 14 of the CCS (CC & A) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the Inquiring Authority may hold the Inquiry against him ex-parte.
5. Attention of Shri PC Das is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt in these proceedings, it will be presumed that Shri PC Das is aware of such representation so that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.
6. The receipt of the Memorandum may be acknowledged.


 (JS Bhatia)
 Lt Col
 Officer Commanding
 (Disciplinary Authority)7

Encls :- Annexure I to IV

T.No/69 Trade Veh Mech
Shri PC Das Q/No DM 30/4, Dudgeon,
Lines ShillongCONFIDENTIAL

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Annexure I

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST T.NO 169 TRADE
VEHICLE MECHANIC NAME SHRI PC DAS OF 306 STATION WKSP EME. C/O 99 APO

ARTICLE OF CHARGE - I

That the said T.No 169 Shri PC Das while functioning as Veh Mech during the period Feb 2001 to Jun 2001 committed the following offences :-

"Gross misconduct" i.e

(i) On 01 Jun 2001, at about 0935h created a riotous and disorderly situation in the civilian rest room while being told to go to the shop floor by JC-750768X Nb Sub RC Nath.


(ii) Assaulting JC-750768X Nb Sub RC Nath by raising both his hands to hit him on 01 Jun 2001 at 0935hrs approximately.

(iii) An act, subversive of discipline in using abusive and filthy language against JC-750768X Nb Sub RC Nath, a Junior Commissioned Officer.

(iv) Continual and willful neglect of duty from 01 Feb 2001 to 01 Jun 2001 on all working days.

(v) Continual and willful disobedience of orders for refusing to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of a Government Servant and committed offences violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964."


.....Contd.....2/-

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**STATEMENT OF IMPUTATION OF MIS-CONDUCT OR MIS-BEHAVIOUR IN SUPPORT
OF THE ARTICLE OF CHARGES FAMED AGAINST T.NO 169 TRADE VEH MECH
NAME SHRI PC DAS**

ARTICLE OF CHARGE I

1. On 01 Jun 2001, JC-750768X Nb Sub RC Nath of 306 Stn Wksp EME went to civilian rest room at 0830h and requested the workers to come to the shop floor for work. T.No 172 Shri Bihari Singha and T.No 169 Shri PC Das informed that they will not come out as they wanted to discuss about the picketting by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub RC Nath returned back and waited for them for about one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub RC Nath again went to the civilian rest room alongwith Nk Puran Singh, Nk SC Singh, Hav J Kustwaha and Hav Lalan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T.No 172 Shri Bihari Singha and T.No 169 Shri PC Das left for the work. They were going through some siles. Shri PC Das shouted at Nb Sub RC Nath and said "Humara Koi Claim Pass Nahi Hota, Yahan Par Sab Gendu Off Aur JCO Hai, Hum Bharat Varash Ke Employee Hain Yahan Par Dil Karega Bathengi". Shri PC Das again raised his hands to hit Nb Sub RC Nath and said "AAP Chor Ho, Aur FIP Ka Palao Khaya Hai". He made a gesture to hit Nb Sub RC Nath with both hands but Nb Sub RC Nath ducked and saved himself.

2. Shri PC Das while working as Vehicle Mechanic in 306 Stn Wksp EME did not perform any duty on all working days from 01 Feb 2001 to 01 Jun 2001, through he used to be present in the workshop. He kept sitting in the civilian rest room. Thus he remained absent from place of work for 23 days in Feb 2001, 25 days in Mar 2001, 17 days in Apr 2001, 23 days in May 2001.

3. T.No 169 Veh Mech PC Das did not obey the orders of I/C Shop floors from 01 Feb 2001 to 01 Jun 2001 on all working days when he was told to proceed to shop floor and remained sitting in civilian rest room or kept moving aimlessly. Nb Sub Jai Prakasan and Nb Sub MDC Ahmed tried their best to order him to move to shop floor but he refused and told them that he will go to shop floor whenever he feel like.

4. Thus T.No 169 Veh Mech Shri PC Das violated the provisions of rules 3 of CCS (Conduct) Rules 1964, Committed Offences as under :-

(i) On 01 Jun 2001 at about 0935h created a riotous and disorderly situation in the civilian rest room while being told to go the shop floor by JC-750768X Nb Sub RC Nath.

(ii) Assaulting JC-750768X Nb Sub RC Nath by raising both his hands to hit on 01 Jun 2001 at about 0935h. Nb Sub RC Nath, a Junior Commissioned Officer saved himself by ducking.

T.No 169 Veh Mech Shri PC Das used abusive and filthy language on 01 Jun 2001 at 0935h against JC-750768X Nb Sub RC Nath, a Junior Commissioned Officer and used words "AAP Chor Ho, Apne Bahut Chori Ki Hai Aur FIP Ka Paise Khaya Hai". He further said "Hum Bharat Varash Ke Empllyee Hain, Yahun Dil Karega Bathenge,"

(iv) Shri PC Das had been reporting for duty from 01 Feb 2001 to 31 May 2001 but did not report for duty at place of work and failed to perform and duty. Thus he remained absent from place of work in the shop floor for 23 days in Feb 2001, 25 days in Mar 2001, 17 days in Apr 2001 and 23 days in May 2001.

(v) T.No 169 Veh Mech PC Das did not obey the orders of section I/C shop floors from 01 Feb 2001 to 01 Jun 2001 for proceeding to place of duty on all working days when he was present in the unit.

Annexure III


1. List of documents by which the articles of charge framed against T.No 169 Trade Vehicle Mechanic Shri PC Das are proposed to be sustained.

- (a) Complaint given by JC-750768X Nb Sub RC Nath dt 01 Jun 2001
- (b) Reports of disobedience and no output given by Section incharges.

Annexure IV

1. List of witnesses by whom the article of charges framed against T.No 169 Veh Mech Shri PC Das are proposed to be sustained.

- (a) No 14577561N Nk Puran Singh
- (b) JC-750768X Nb Sub RC Nath
- (c) 14591478F Nk SC Singh
- (d) 14581821L Hav J Kushwaha
- (e) 14558493W Hav Lalan Sah
- (f) 14624820Y Nk D Palani
- (h) JC-753913P Nb Sub Jai Prakash
- (j) JC-750236Y Nb Sub (Now Sub) MDC Ahmed
- (k) JC-754018W Nb Sub UP Mishra


(JS Bains)
Lt Col
Officer Commanding
(Disciplinary Authority)

tation : C/O 99 APO

dated : 11 Jul 2001

To
Officer Commanding
306 Sth Wksp EME
C/O 99 APO

DISOBEDIENCE OF ORDERS AND NO OUTPUT

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
1	169	1m	PC Das	Feb 2001	23

Dated : 28 Feb 2001

[Signature]
IC Section
Rt Sub Md. C. Ahmed

Officer Commanding
306 Stn Wksp EME
C/O 99 APO


DISOBEDIENCE OF ORDERS AND NO OUTPUT

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
1.	169	Ym.	P.C. Das	Mar 2001	25

Dated : 31 Mar 2001


I/C Section
N/S-Md-C. Ahmed

To: ✓

Officer Commanding
306 Sth Wksp EME
C/O 99 APO

DISOBEDIENCE OF ORDERS AND NO OUTPUT

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
1	169	RM-	P. C. Das	Apr	17

Dated : 01 May - 2001


I/C Section

N/S. Md C Ahmed

Officer Commanding
306 Stn Wksp EME
C/O 99 APO

DISOBEDIENCE OF ORDERS AND NO OUTPUT

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
------	-----------	-------	------	-------	--------------------

1.	169	rm	P.C. Das	May 2001	23
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Dated : 31 May 2001

IC Section

NS R. R. Ahmed

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Annexure-VII

Regd by Post

306 Stn Wksp EME
C/O 99 APO

09 Apr 2002

Tele : 6177

10401/169/Civ/Inq

T/No 169 Civ VM (MV)
Shri PC Das
Qtr No DM-30/4
Deodgen Line
Shillong Cantt

**DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 169
VM SHRI PC DAS UNDER RULE 14 OF CCS (CCA) RULES 1965**

1. The following Daily Order Sheets alongwith deposition of the state witness are forwarded herewith for your information and necessary action :-

(a) Daily Order Sheet No 10401/169/Civ/Inq dated 17 Jan 2002.

(b) Daily Order Sheet No 10401/169/Civ/Inq dated 06 Feb 2002 alongwith copies of deposition made by SW-2 on 06 Feb 2002.

(c) Daily Order Sheet No 10401/169/Civ/Inq dated 12 Mar 2002 alongwith copies of deposition made by SW-3 on 12 Mar 2002.

(d) Daily Order Sheet No 10401/169/Civ/Inq dated 18 Mar 2002 alongwith copies of deposition made by SW-4 on 18 Mar 2002.

(e) Daily Order Sheet No 10401/169/Civ/Inq dated 21 Mar 2002 alongwith copies of deposition made by SW-4 on 21 Mar 2002.

(f) Daily Order Sheet No 10401/169/Civ/Inq dated 30 Mar 2002 alongwith copies of deposition made by SW-5 on 30 Mar 2002.

(g) Daily Order Sheet No 10401/169/Civ/Inq dated 04 Apr 2002 alongwith copies of deposition made by SW-5 on 04 Apr 2002.

2. The next date of hearing has been fixed on 23 Apr 2002 at 1100 hrs in my court. The evidence on behalf of Disciplinary Authority has been closed. The proceedings will be resumed on 23 Apr 2002 for having defence evidence, after the submission of written statement of defence by charged official. You are advised to present your self on above date alongwith list of defence witness, if any.

B. P.
(Bidyot Panging)

INQUIRY REPORT**ON****THE DEPARTMENTAL ENQUIRY HELD AGAINST****T/NO 169 CIV VM SHRI P C DAS****OF****306 STATION WORKSHOP EME**

Submitted by

Inquiry officer

Vide letter No 10401/Civ/169/Inq

Dated : - 07 Jul 2003

LIST OF EXHIBITED DOCUMENTS

S - 1 Daily attendance and output register of 'B' Veh section of 306 Station Workshop EME.

LIST OF WITNESSES

SW-1	JC-750768X Nb Sub (Now Sub) R C Nath
SW-2	14577561N NK Puran Singh
SW-3	JC-753913P Nb Sub Jayaprakashan K
SW-4	14591478F NK S C Singh
SW-5	14581821L Hav J Kushwah

B.P. -

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INQUIRY REPORT

In the case against
T/No 169 Civ VEH MECH Shri P C DAS
of 306 Station Workshop EME

1. Introduction

(a) Under sub-rule 2 of 14 of CCS (CC&A) Rules 1965, I was appointed by the Officer Commanding, 306 Station Workshop EME, C/O 99 APO as Inquiry Authority to inquire into the charges framed against T/No 169 Civ VM Shri P C Das vide his Memo No 21208/169/Est-Ind/LC dated 11 Jul 2001. I have since completed the inquiry and on the basis of documentary and oral evidences adduced before me prepared my Inquiry Report as under: -

(i) A copy of appointment of Presenting Officer under Sub Rule 5 (c) of Rule 14 of CCS Rule 1965 was sent to JC-722950F Nb SKT(MT) Amar Singh of 306 Station Workshop EME, T/No 169 Civ VM Shri P C Das, charged official and the undersigned vide 306 Station Workshop EME letter No 10401/169/Civ dated 30 Aug 2001

(ii) Order for change of Presenting Officer JG-722950F Nb SKT(MT) Amar Singh due to retirement was issued vide 10401/169/Civ dated 04 Apr 2001 and copies of the same were sent to JC-755107F Nb Sub SKT R I Kanwar of 306 Station Workshop EME and T/No 169 Civ VM Shri P C Das through registered letter.

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(iii) Date of hearing are as under:-

S.No	Date	Remarks
(i)	20 Sep 2001	The charged official has been directed to appear for preliminary hearing on 09 Oct 2001.
(ii)	09 Oct 2001	The inquiry proceedings could not proceed, as T/No 169 Civ VM Shri P C Das, charged official was absent.
(iii)	22 Oct 2001	Adjourned because the charged official was absent
(iv)	16 Nov 2001	Charged official was absent, inquiry started ex-parte. Statement of State Witness No 1 - JC-750768X Nb Sub (now Sub) R C Nath has been taken.
(v)	17 Jan 2002	Adjourned, since the charged official was absent and no witnesses has been produced.
(vi)	06 Feb 2002	Statement of No 14577561N Nk Puran Singh, State Witness (SW-2) has been recorded. Charged official is still absent.
(vii)	12 Mar 2002	Statement of JC-753913P Nb Sub K Jaya Prakasan, State Witness (SW-3) has been recorded. Charged official is still absent.
(viii)	14 Mar 2002	T/No 169 Civ VM Shri P C Das, charged official came for the first time for hearing with an application for reconsidering the appointment of Defence Assistance from outside Shillong. The application has been considered by the inquiry officer and has been rejected. Charged official has been advised to engage a defence assistance from Shillong and told him to attend the hearing regularly since ex-parte inquiry has already been started. The statements of State Witnesses recorded so far in the earlier hearings were shown to the charged official but he refused to see the statements without defence assistance. Deposition by JC-753913P Nb Sub K Jaya Prakasan, State Witness (SW-3) has been recorded.
(ix)	18 Mar 2002	Charged Official left the place of hearing just before its start saying "I will not attend the inquiry proceedings". Statement of 14591478f NK S C Singh, SW-4 has been recorded Cross examination by Defence

		Assistance/Charged Official was not done and questions by the inquiry officer was postponed to the next hearing
(x)	21 Mar 2002	Charged official was absent and No 14591478F NK S C Singh (SW-4) was again produced by the presenting officer for questioning by the inquiry officer. The presenting officer sought permission for production daily register maintain by section in charge 'B' veh, which reference was made in the cross examination of SW-3 and SW-3 has been cited as a witness only to prove the allegations through the said daily register. Permission has been granted to produce the same in the next hearing.
(xi)	30 Mar 2002	Presenting officer submitted the daily register of 'B' veh section. Same has been inspected by the inquiry officer and was brought on record as Exhibit S-1. Statement of No 14581821L Hav J Kushwaha, SW-5 has been recorded. Cross examination by Defence Assistance/Charged Official was not done and questions by the inquiry officer was postponed to the next hearing
(xii)	04 Apr 2002	Charged official was absent and No 14581821L Hav J Kushwaha, SW-5 was again produced by the presenting officer for questioning by the inquiry officer. Presenting officer declared that he has produced sufficient state witnesses to prove the charges against the charged official and remaining state witnesses need not to be produced for inquiry. Evidence on behalf of Disciplinary Authority was closed.
(xiii)	23 Apr 2002	The charged official was told to submit his written statement of defence by 23 Apr 2002 vide my registered letter no 10401/169/Civ/INQ dated 09 Apr 2002. but the charged official was failed to submit the same. He was given one more opportunity to submit his written statement of defence by 03 Jun 2002, failing which the evidence on behalf of T/No 169 Civ VM Shri P C Das will be treated as closed.

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(xiv)	03 Jun 2002	T/No 169 Civ VM Shri P C Das, charged official was failed to submit his written statement of defence and also failed to appear in person before the inquiry officer. The evidence on behalf of the charged official was closed. The Presenting Officer was directed to submit his written brief so as to reach me before 15 Jun 2002 and he will also endorse a copy of the brief to the Charged Official. In turn the Charged Official has to submit his written brief by 29 Jun 2002. The case was declared closed.
-------	-------------	---

(iv) 30 Aug 2002 : - Presenting Officer submitted his written brief and copy of the same has been forwarded to T/No 169 Civ VM Shri P C Das by the undersigned vide registered letter no 10401/169/Civ/INQ dated 24 Oct 2002. Vide this letter the charged official was also directed to submit his written brief so as to reach on or before 11 Nov 2002.

(v) 02 Sep 2002 : - T/No 169 Civ VM Shri P C Das filed a appeal dated 02 Sep 2002 to the Directorate General of EME for review against the Order No 10401/169/Civ dt.05 Aug 2002 and No 10401/169/Civ dt 09 Aug 2002 issued by the Officer Commanding , 306 Stn Wksp EME C/O 99 APO, rejecting his representation dt 29 Apr 2002, dt 18 May 2002 and dt 20 Jun 2002, against the appointment of Inquiry Officer on the grounds of bias and pray for fresh appointment of another person as Inquiry Officer.

(vi) 07 Feb 2003 : - The charged official was directed by the Army HQ to approach MG EME, HQ Eastern Command, who is the Appellate Authority in this case.

(vii) 25 Jun 2003 : - The appeal dated 02 Sep 2002 filed by T/No 169 Civ VM Shri P C Das was rejected by Maj Gen UK Jha, MG EME, HQ Eastern Command and ordered to proceeds with the inquiry.

2. Charges that were framed - As per memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001, T/No 169 Civ VM Shri P C Das while functioning as

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Civilian Vehicle Mechanic in 306 Station Workshop EME during the period 01 Feb 2001 to 01 Jun 2001 committed the following offences :-

(a) On 01 Jun 2001 at about 0935 h created a riotous situation in the rest room while being instructed to go to the shop floor by JC-750768X Nb Sub (now Sub) R C Nath

(b) Assaulting JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.

(c) An act, subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (now Sub) R C Nath, a Junior Commissioned Officer.

(d) Continual and wilful neglect of duty from 01 Feb 2001 to 01 Jun 2001 on all working days.

(e) Continual and wilful disobedience of orders for refusing to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of Government Servant and committed offences violating the provisions of Rule 3 of CCS (Conduct) Rule 1964."

3. Charges that were admitted or dropped or not pressed :-

(a) Charged official did not admit any charge vide his letter No Nil dated 28 Jul 2001.

(b) No charges have been dropped.

(c) All charges mentioned in charge sheet have been pressed.

4. Charges actually inquired into – All the charges mentioned in Para 2

(a) to 2 (e) above have been inquired into.

5. Brief statement of the case of disciplinary authority in respect of the charges inquired into :-

(a) Disciplinary authority through Presenting Officer has produced the following witnesses on the dates shown against each :-

- | | | | |
|------|--------------------------------------|-------------|------|
| (i) | JC-750768X Nb Sub (Now Sub) R C Nath | 16 Nov 2001 | SW-1 |
| (ii) | 14577561N NK Puran Singh | 06 Feb 2002 | SW-2 |

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- | | | | |
|-------|-----------------------------------|-------------|------|
| (iii) | JC-753913P Nb Sub Jayaprakashan K | 12 Mar 2002 | SW-1 |
| | | & 14 Mar | |
| | | 2002 | |
| (iv) | 14591478F NK S C Singh | 18 Mar 2002 | SW-4 |
| | | & 21 Mar | |
| | | 2002 | |
| (v) | 14581821L Hav J Kushwah | 30 Mar 2002 | SW-5 |
| | | & 04 Apr | |
| | | 2002 | |

(b) The presenting Officer through SW-1, SW-2, SW-4 and SW-5 has brought out that T/No 169 Civ VM Shri P C Das on 01 Jun 2001 at about 0930 h refused to obey the orders of JC-750768X Nb Sub (Now Sub) R C Nath. T/No 169 Civ VM Shri P C Das became violent and used abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath. Had the JCO not pacified the accompanying Jawans, there would have been a very serious problem due to violent behaviors of T/No 169 Civ VM Shri P C Das.

(c) Witness No Sw-1, SW-3, SW-4 and SW-5 through their statements and cross examination have brought out that T/No 169 Civ VM Shri P C Das used abusive language and assaulted JC-750768X Nb Sub (Now Sub) R C Nath. T/No 169 Civ VM Shri P C Das raised his hands to hit JC-750768X Nb Sub (Now Sub) R C Nath. T/No 169 Civ VM Shri P C Das made a gesture to hit JC-750768X Nb Sub (Now Sub) R C Nath but he saved himself by ducking being a soldier otherwise he would have been hit. T/No 169 Civ VM Shri P C Das also said "Yahan par sabhi gandu officer and JCO hain, Hum Bhart Varsh ke Employee hain, Jahan par dil karenga bethengr".

(d) T/No 169 Civ VM Shri P C Das had been willfully neglecting duty, absented from place of work and disobedient of orders from 01 Feb 2001 to 01 Jun 2001. SW-1, SW-2, SW-3, SW-4 and SW-5 have brought out the continual wilful neglect of duty and absence from place of work and disobedience of orders. T/No 169 Civ VM Shri P C Das had been reporting to 306 Station Workshop EME, marked his presence but did not report to place of work and kept sitting and roamed in the workshop from 01 Feb 2001 to 01 Jun 2001.

6. Brief Statement of facts and documents admitted - The brief statement of facts and documents submitted by PO (Presenting Officer) are as under :-

(a) T/No 169 Civ VM Shri P C Das of 306 Station Workshop EME was served with a memorandum by Officer Commanding, 306 Station Workshop EME vide memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001 under Rule 14 (2) of CCS (Classification, Control and Appeal) Rule 1965. He was charged with the following offences i.e. Gross misconduct :-

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(i) On 01 Jun 2001 at about 0935 h created a riotous situation in the rest room while being instructed to go to the shop floor by JC-750768X Nb Sub (now Sub) R C Nath

(ii) Assaulting JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.

(iii) An act, subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (now Sub) R C Nath, a Junior Commissioned Officer.

(iv) Continual and willful neglect of duty from 01 Feb 2001 to 01 Jun 2001 on all working days.

(v) Continual and willful disobedience of orders for refusing to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of Government Servant and committed offences violating the provisions of Rule 3 of CCS (Conduct) Rule 1964."

(b) The list of documents by which the articles of charges framed against T/No 169 C/v VM Shri P C Das were to be sustained were as under :-

(i) Complaint given by JC-750768X Nb Sub (Now Sub) R C Nath dated 01 Jun 2001.

(iii) Report of disobedience and no output given by section in-charges.

(c) That the list of witnesses by whom the article of charges were proposed to be sustained were as under :-

(i) No 14577561N NK Puran Singh

(ii) JC-750768X Nb Sub (now Sub) R C Nath

(iii) No 14591478F NK S C Singh

(iv) No 14558493W Hav Lalan Sah

(v) No 14581821L Hav J Kushwaha

(vi) No 14624820Y NK D Palani

(vii) JC-753913P Nb Sub Jayaprakasan K

(viii) JC-750236Y Nb Sub (Now Sub) MDC Ahmed

(ix) JC-754018W Nb Sub U P Mishra

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7. Points for determination and issues to be decided - The following issues needs to be decided:-

- (a) Whether T/No 169 Civ VM Shri P C Das created a riotous like situation in rest room of civilians on 01 Jun 2001 at 0930 h when being instructed by JC-750768X Nb Sub (Now Sub) R C Nath ?
- (b) Did T/No 169 Civ VM Shri P C Das assaulted JC-750768X Nb Sub (Now Sub) R C Nath on 01 Jun 2001 at 0930 h approximately ?
- (c) Whether T/No 169 Civ VM Shri P C Das used abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath ?
- (d) Was T/No 169 Civ VM Shri P C Das continually neglecting duty, absence from place of work from 01 Feb 2001 to 01 Jun 2001 ?
- (e) The issue of disobedience of orders from 01 Feb 2001 to 01 Jun 2001 given by supervisory staff from 01 Feb 2001 to 01 Jun 2001.

8. Brief statement of case of Govt Servant :-

- (a) T/No 169 Civ VM Shri P C Das was presented with a memorandum by Officer Commanding, 306 Station Workshop EME vide their registered letter No 21208/169/Est-Ind/LC dated 11 Jul 2001.
- (b) Inquiry Officer and Presenting Officer were appointed vide 306 Station Workshop EME registered letter No 10401/169/Civ dated 30 Aug 2001 and of even No-dated 30 Aug 2001 respectively.
- (c) T/No 169 Civ VM Shri P C Das was intimated by me vide registered letter No 10401/169/Inq dated 20 Sep 2001 (registered No 4449 dated 21 Sep 2001) for preliminary hearing on 09 Oct 2001 at 1100 h in Office of Workshop Officer at 306 Station Workshop EME. He was also intimated to give particulars of defence assistance by 01 Oct 2001.
- (d) T/No 169 Civ VM Shri P C Das vide his letter No Nil dated 27 Sep 2001 intimated that he is unable to manage defence assistance within a short span and asked for 30 days more time to arrange for defence assistance.
- (e) T/No 169 Civ VM Shri P C Das was given fresh date of preliminary hearing on 22 Oct 2001 at 1100 h at the Office of Workshop Officer of 306 Station Workshop EME. He was also intimated to give particulars of defence assistance if any. Registered letter No 10401/Civ/169/Inq dated 03 Oct 2001 refers.

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(f) T/No 169 Civ VM Shri P C Das vide his letter No Nil dated 13 Oct 2001 requested for common proceedings with T/No 169 Civ Elect(MV) Shri Bihari Singha and requested for engaging a civil lawyer.

(g) Officer Commanding, 306 Station Workshop EME, the Disciplinary Authority, vide registered letter No 10401/Civ/169 dated 19 Oct 2001 rejected the plea of common proceedings as all the charges were not common. He also rejected the plea of Charged Official for employ a lawyer as defence assistance since the Presenting Officer was not a legally qualified officer.

(h) T/No 169 Civ VM Shri P C Das was advised by the undersigned to attend the inquiry and resist from delaying tactics vide registered letter No 10401/Civ/169 dated 20 Oct 2001 (Registered No 176 dated 23 Oct 2001). He was also informed that if he continues to use delaying tactics, the inquiry will start ex-parte.

(j) Next date of hearing was fixed on 16 Nov 2001 at 1100 in 306 Station Workshop EME and T/No 169 Civ VM Shri P C Das was intimated vide registered letter No 10401/Civ/169/Inq dated 23 Oct 2001 sent through registered post No 243 dated 25 Oct 2001. The charged official was also intimated that if he fails to appear in person on 16 Nov 2001, ex-parte inquiry would be started.

(k) Since the charged official was remained absent on 16 Nov 2001, ex-parte inquiry were started and statement of JC-750768X Nb Sub R C Nath, state witness no 1 was recorded.

(l) T/No 169 Civ VM Shri P C Das requested for 15 days more time to engage a defence assistance vide his letter dated 23 Nov 2001.

(m) Next date of hearing was fixed on 17 Jan 2002 at 1100 in the Office of 306 Station Workshop EME vide registered letter No 10401/Civ/169/Inq dated 21 Dec 2001 (Registered No 5666 dated 22 Dec 2001). Charged Official was also intimated that since ex-parte inquiry has been started from 16 Nov 2001, charged official was once again advised to attend inquiry which will be held on every alternative day except Sundays and Holidays with effect from 17 Jan 2002.

(n) T/No 169 Civ VM Shri P C Das continued delaying tactics by engaging in infructuous correspondence. His letters dated 07 Dec 2001 and 24 Dec 2001 refers.

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(o) T/No 169 Civ VM Shri P C Das returned back registered letter No 10401/Civ/169/Inq dated 21 Dec 2001 did not accept the letter and letter was returned back undelivered by Postal Authority with the remark "Refused to Accept". The letter was for fixing next date of hearing on 17 Jan 2002.

(p) T/No 169 Civ VM Shri P C Das gave the name of UDC, Shri M P Singha of 222 ABOD at Guwahati for engaging the defence assistance vide his letter No Nil dated 21 Jan 2002.

(q) T/No 169 Civ VM Shri P C Das was intimated vide registered letter No 10401/Civ/169/Inq dated 08 Feb 2002 that all his letters have been replied. He was also intimated that he has not forwarded the consent of Shri M P Singha, UDC of 222 ABOD at Guwahati, whom he wanted to engage as defence assistance. He was also intimated vide registered letter No 10401/Civ/169/Inq dated 08 Feb 2002 (registered No 931 dated 09 Feb 2002) that he was again trying to delay the proceedings as he has not attached the consent of UDC, Shri M P Singha of 222 ABOD at Guwahati, which is at a distance of more than 100 Kms. His request for engaging a defence assistance from outside station was not agreed to due to long distance between place of inquiry and place of posting of the defence assistance. He was advised to engage a defence assistance from one of the local unit as sufficient time has already been given to him and ex-parte proceedings have been started.

(r) T/No 169 Civ VM Shri P C Das in connivance with Postal Authorities received the registered letters written by Inquiry Officer after one month at a distance of 1 Kilometer and tried to project that delay has been due to late receipt of letters.

(s) A registered letter No 10401/Susp/Civ dated 13 Feb 2002 was written to T/No 169 Civ VM Shri P C Das by Disciplinary Authority that he has been delaying the inquiry by delaying tactics and not receiving the registers letters in time or not accepting these letters. He was again advised to attend the inquiry.

(t) T/No 169 Civ VM Shri P C Das was intimated vide letter No 10401/Civ/169/Inq dated 22 Feb 2002 (registered No 2575 dated 22 Feb 2002) that he has been given five opportunities on 09 Oct 2001, 22 Oct 2001, 16 Nov 2001, 17 Jan 2002 and 06 Feb 2002. He was given one more chance to report to Inquiry Officer on 12 Mar 2002 at 1100 h in office of 306 Station Workshop EME.

(u) T/No 169 Civ VM Shri P C Das vide his letter dated 09 Mar 2002 stated that no suitable Central Govt worker is available in Shillong for

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defence Assistance and he be permitted to engage Shri M P Singha, UDC of 222 ABOD at Guwahati.

(v) T/No 169 Civ VM Shri P C Das vide his letter dated 18 Mar 2002 and 21 Mar 2002 addressed to appointing authority requested to permit engage a defence assistance from outside Shillong.

(w) Disciplinary authority of 306 Station Workshop EME vide letter No 10401/Civ/169 dated 04 Apr 2002 (registered No 3557 dated 05 Apr 2002) rejected the appeal of charged official for engaging a defence assistance from outside station due to long distance. The charged official was also intimated in detail the delaying tactics adopted by him since starting of inquiry. He was advised to engage a defence assistance from about 1000 Central Govt Workers located at Shillong. The disciplinary authority upheld the decision of Inquiring Authority for rejecting the defence assistance from outside Shillong.

(x) T/No 169 Civ VM Shri P C Das after a lapse of 9 months after receiving the memorandum again wrote to Disciplinary Authority for some documents of appointment of inquiring authority, Presenting Officer. He further asked the Inquiring authority for security check at the gate. His letter dated 21 Mar 2002 refers.

(y) Similar letters were again written on 23 Mar 2002 and 26 Mar 2002.

(z) Disciplinary authority vide letter No 10401/169/Civ dated 17 Apr 2002 (registered No 3956 dated 19 Apr 2002) intimated the charged official that copies of the appointment of inquiry officer and presenting officers were sent to the charge official by Registered AD post and the same was returned by the postal authority with a remarked that "Refused to accept". As per Govt of India instruction to Rule 30 of CCS (CCA) Rules 1965, documents sent by Registered AD Post, if not accepted by the addressee and is returned by the post office to the sender, further, action may be taken as if the documents has been served. He had been corresponding with inquiring authority from the very beginning and was fully aware of who is the inquiring authority. He had also attended the inquiry on 14 Mar 2002 and 18 Mar 2002 as is evident from the gate passes. However, zerox copies of detailment of Inquiry Officer, Presenting Officer were again sent to him.

(aa) T/No 169 Civ VM Shri P C Das vide his letter dated 29 Apr 2002 again raised the following issue just to delay the procedures :-

(i) That he does not know the detailment of Inquiry Officer and Presenting Officer.

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(ii) That he received the letters of appointment of Inquiry Officer on 27 Apr 2002 after a lapse of 8 months.

(iii) That Inquiry Officer is connected with all matters and is subordinate to disciplinary authority, he can not be inquiry officer.

(ab) T/No 169 Civ VM Shri P C Das again raised the same issues vide letter dated 20 Jun 2002.

(ac) Officer Commanding, 306 Station Workshop EME vide registered letter No 10401/169/Civ dated 05 Aug 2002 (registered No 3131 dated 05 Aug 2002) replied and the gist is as under: -

(i) That charged official was supplied with the copies of Appointment of Inquiry Officer and Presenting Officer vide letter No 140101/169/Civ dated 30 Aug 2001 through registered letter. Charged Official was also mentioned that he had been corresponding with inquiry officer and have actually attended the inquiry on 14 Mar 2002 and 18 Mar 2002.

(ii) As that charged official was told that he has no authority to reject inquiry officer and no bias has been mentioned by him. The inquiry officer was not even present on 01 Jun 2001 in the workshop as he was on temporary duty at 311 Stn Wksp EME wef 07 May to 09 Sep 2001.

(iii) The appeal of the charged official for bias against the inquiry officer was also rejected vide para 3 of the aforesaid letter.

(iv) That JC-722950F Nb Sub SKT (MT) Amar Singh was replaced as Presenting Officer by JC-755107F Nb Sub SKT RK Kanwar due to retirement of JC-722950F Nb Sub SKT (MT) Amar Singh.

(v) Charged official was also intimated to collect his subsistence allowances which he has not been collecting.

(vi) He was also advised to appoint a defence assistance.

(ad) T/No 169 Civ VM Shri P C Das again wrote a letter on 05 Jul 2002 with the same old allegations and delaying tactics.

(ae) T/No 169 Civ VM Shri P C Das vide registered letter No 10401/169/Civ dated 09 Aug 2002 (registered No 3336) was intimated the following by Officer Commanding, 306 Station Workshop EME :-

- (i) That plea of charged official has already been rejected as no bias has been mentioned. Moreover, the inquiry officer was not even present in the unit on 01 Jun 2001 as he was on temp duty at 311 Stn Wksp EME wef 07 May 2001 to 09 Sep 2001. The plea of staying the inquiry was also rejected.
- (ii) That the change of appointment of presenting officer has already been intimated to charged official vide 10401/Civ/169 dated 04 Apr 2002 and of even No dated 05 Aug 2002.
- (iii) That charged official was told to engage a defence assistance from about 1000 Central Govt Workers located at Shillong.
- (iv) That charged official was also intimated that he had been attending the inquiry on 14 Mar 2002, and 18 Mar 2002 and has been absenting after 21 Mar 2002.
- (af) That Daily Order Sheets were regularly sent to charged official vide registered letter Nos :-
- (i) 10401/169/Civ/Inq dated 23 Oct 2001.
 - (ii) 10401/169/Civ/Inq dated 04 Jan 2001.
 - (iii) 10401/169/Civ/Inq dated 09 Apr 2002.
 - (iv) Daily Order Sheet dated 14 Mar 2002 was received by the charged official by hand after the proceedings.
 - (v) 10401/Civ/169/INQ dated 24 Oct 2002.
- (ag) That Charged Official continued making representation to inquiry office, Disciplinary Authority and DGEME, Army Headquarters, New Delhi. The main gist has been rejection of inquiry officer.
- (ah) T/No 169 Civ VM Shri P C Das was intimated to submit his written brief by 11 Nov 2002 vide letter No 10401/169/Civ/Inq dated 24 Oct 2002. The copy of brief of presenting officer was also sent to him.
- (aj) That no reply regarding written brief has been recd.
- (ak) That T/No 169 Civ VM Shri P C Das sent a copy of appeal addsd to DGEME dated 02 Sep 2002. The gist of appeal was 'Bias against inquiry officer'.
- (al) That Army Headquarters vide letter No 21892/24/EME Civ-3 dated 07 Feb 2003 intimated the charged official to send the appeal to MGEME East Command, Kolkata.

(am) Charged Official did not send the appeal to MG EME, Eastern Command, the appellate authority.

(an) The appeal of bias against the inquiry officer was rejected by Brig SK Kakar, offg MG EME, East Comd vide order no 332230/2/PCD/EME Civ dated 23 May 2003.

(ao) The order was however cancelled vide HQ East Comd letter No 332230/2/PCD/EME Civ dated 09 Jun 2003.

(ap) Maj Gen UK Jha, MG EME, East Comd, the appellate authority rejected the appeal of charged official vide order no 332230/2/PCD/EME Civ dated 23 Jun 2003.

9. Assessment of Evidence in respect of each point -- Assessment of evidence in respect of each point is discussed below in respect of T/No 169 Civ VM Shri P C Das:-

(a) T/No 169 Civ VM Shri P C Das was charged for "Gross Misconduct" as per sub clause (i) of Article-I ie "On 01 Jun 2001, at about 0935 h created a riotous situation in the rest room while being instructed to go to shop floor by JC-750768X Nb Sub (now Sub) R C Nath". The main point of the charge is creating a riotous situation in the rest room. The meaning of word 'riot' as given in the dictionary is disorder, uproar, disturbance of peace & noisy festivity. Presenting Officer through SW-1, SW-2, SW-4 and SW-5 has amply proved disorderly and riotous situation in the workshop on 01 Jun 2001 at about 0935 h. T/No 169 Civ VM Shri P C Das refused to obey the orders of JC-750768X Nb Sub (Now Sub) R C Nath and became violent and used abusive language against the JCO. The violent behavior of T/No 169 Civ VM Shri P C Das would have created more serious situation had the JCO not pacified the accompanying jawans. T/No 169 Civ VM Shri P C Das had become so violent as he even started abusing the officers and JCOs and used words like "Yaha par sob gandu officer our JCO hain". The above has been brought out by all the above witnesses. T/No 169 Civ VM Shri P C Das did not attend the inquiry on one pretext or the other except attending it on 14 Mar 2002 and 18 Mar 2002. He signed the proceedings on 14 Mar 2002 but refused to sign on 18 Mar 2002. Charged official did not cross examine any witnesses.

(b) The next charge against T/No 169 Civ VM Shri P C Das was assaulting JC-750768X Nb Sub (Now Sub) R C Nath on 01 Jun 2001 at about 0935 h approximately. The dictionary meaning of word assault is hostile attack, a rush against, to make a violent attack. The presenting officer through SW-1, SW-2, SW-4 & SW-5 has brought out that T/No 169 Civ VM Shri P C Das raised his hand to hit JC-750768X Nb Sub (Now

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Sub) R C Nath and made a gesture to hit him. The JCO saved himself by ducking being a soldier; otherwise, he would have been hit. The charge of assault on JC-750768X Nb Sub (Now Sub) R C Nath has been sufficiently proved by above witnesses. T/No 169 Civ VM Shri P C Das did not offer any defence and absented himself from the inquiry proceedings except attending the inquiry on 14 Mar 2002 & 18 Mar 2002. He refused to cross examine any witnesses.

(c) The next charge on T/No 169 Civ VM Shri P C Das is "an act subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath. Presenting Officer through witness No SW-1, SW-2, SW-4 & SW-5 has brought out that T/No 169 Civ VM Shri P C Das used abusive language against the JCO and used words like "Aap Chor hain aur FIP ka paisa khaya hai", "Yahan par sabhi gandhu officer aur JCO hain". The use of such filthy language by /No 169 Civ VM Shri P C Das has been proved by above witnesses. T/No 169 Civ VM Shri P C Das did not offer any defence and did not attend the inquiry except on 14 Mar 2002 but refused to cross-examine any witnesses.

(e) Continual and wilful neglect of duty and absence from place of work from 01 Feb 2001 to 01 Jun 2001 has been amply proved by the statements of SW-1, SW-2, SW-3, SW-4 & SW-5. JC-753913P Nb Sub Tech 'B' Veh K Jaya Prakasan, SW-2 has brought out that T/No 169 Civ VM Shri P C Das had been absent from place of work from 01 Feb 2001 to 01 Jun 2001 after marking his presence. The charged official has been roaming around in the workshop or sitting in rest room all this time. The same is also clear from the attendance register produced by the Presenting Officer on 30 Mar 2002. As the charged official has been absenting from place of work on all working days from 01 Feb 2001 to 01 Jun 2001, his out put has been shown nil in the register. The register has been marked as an Exhibit S-1. The presenting officer has thus amply proved by above witnesses the continual and wilful neglect of duty and absence from 01 Feb 2001 to 01 Jun 2001 on all working days.

(f) Continual wilful disobedience of orders given by supervisory staff to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 has also been proved by SW-1 & SW-2. JC-753913P Nb Sub Tech 'B' Veh K Jaya Prakasan, SW-2 has been continually ordering the charged official to proceed to place of work but he always refused making excuses. The JCO has been maintaining a register of output of all workers working under him. The charged official did not attend the inquiry even after giving him sufficient time except attending 14 Mar 2002. The register has been attached as Exhibit S-1.

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FINDING OF EACH CHARGES

10. In view of the assessment of evidence on each point, statement of witnesses, cross examination of each witness and brief submitted by the Presenting Officer, the findings on each charge are record as under :-

(a) T/No 169 Civ VM Shri P C Das of 306 Station Workshop EME is found guilty of "Gross Misconduct" i.e

(i) Creating a riotous situation in the rest room of civilian workers of 306 Station Workshop EME on 01 Jun 2001 at about 0935 h when ordered to go to shop floor by JC-750768X Nb Sub (Now Sub) R C Nath of the same workshop.

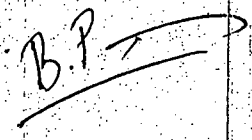
(ii) Assaulting JC-750768X Nb Sub (Now Sub) R C Nath of 306 Station Workshop EME on 01 Jun 2001 at about 0935 h in civilian rest room of 306 Station Workshop EME.

(iii) An act subversive to discipline, in that using abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath of 306 Station Workshop EME.

(v) Continual wilful neglect pf duty and absence form place of work on all working days wef 01 Feb 2001 to 01 Jun 2001.

(vi) Continual and wilful disobedience of orders of supervisory staff to proceed to place of work on all working days form 01 Feb 2001 to 01 Jun 2001.

On the basis of documentary and oral evidence adduced in the case before me and in view of the reasons given above, I hold that all the six charges against T/No 169 Civ VM Shri P C Das.


(Bidyot Panging)
Inquiry Officer

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 150 of 2003.

Date of Order : This the 20th Day of November, 2003.

The Hon'ble Mrs. Lakshmi Swaminathan, Vice-Chairman.

The Hon'ble Mr S.K. Naik, Administrative Member.

1. Sri Bihari Singha,
son of Late Kunjeswar Singha,
Qtr. No. MRS - 93/2 Deodgenline,
Shillong Cantt.,
Shillong, Meghalaya.

2. Sri Prabhat Ch. Das,
son of late Gopal Chandra Das,
resident of Qtr. No. DF 18/1&2,
Burma Line, Shillong Cantt.,
Shillong, Meghalaya.

...Applicants

By Advocate S/Sri S. Dasgupta, S. Chakraborty.

- Versus -

1. Union of India,
represented by the Secretary to the
Govt. of India, Ministry of Defence,
New Delhi.

2. Director General FME,
Master General of Ordinance Branch,
Army Head Quarters,
HQ P.O. New Delhi-110011.

3. MG FME (Major General Electrical
Mechanical Engineering),
Head Quarters,
Eastern Command (FME Branch),
Fort William, Kolkata-21.

Officer Commanding,
306 Station Workshop FME,
C/o 99 APO.

5. A F E,
306 Station Workshop FME,
C/o 99 APO,
(Inquiry Officer).

...Respondents

By Shri A. Deb Roy, Sr. C.G.S.C.

O R D E R (ORAL)MRS LAKSHMI SWAMINATHAN (V.C)

In this application the applicants have prayed for
the following main reliefs :

i) Set aside and quash the exparte enquiry proceeding
held against the applicants.

ii) Set aside and quash the appointment of Inquiry
Officer.

iii) Direct the respondents to conduct a fresh enquiry by appointing a new Inquiry Officer.

iv) Direct the respondents to pay the due subsistence allowance to the applicants alongwith the arrears.

2. During the hearing, learned counsel for the applicants has submitted that he does not press prayer in clause (iv). He has submitted that in pursuance of Tribunal's order dated 25.7.2003, the applicants have since received the due subsistence allowance from the respondents. We have heard Mr S. Chakrabarty, learned counsel for the applicants. It is also relevant to note that the submissions of Mr A. Deb Roy, learned Sr. G.C.S.C. for the respondents that the amount due to the applicants as subsistence allowance was not paid to the applicants earlier, not due to the fault of the respondents but the applicants did not accept the same. However, we note the submissions of both the learned counsel that this part of the prayer no longer survives.

3. With regard to the main claims of the applicants, two main grounds have been taken by the learned counsel for the applicants, namely, (i) that the appointment of the Enquiry Officer, Sri Bidyut Panging, had never been informed to the applicants. They have also submitted that as he is the officer in charge of maintaining the Daily Register of Attendance and was the Supervisory Officer of the applicants, he is biased and therefore, unfit to be appointed as the Enquiry Officer. In this regard, learned counsel for applicants has submitted that the applicants had submitted a number of representations to the respondents to change the Enquiry Officer and has submitted that the applicants have no objection if the proceedings are continued by any other

officer. The second ground taken by the learned counsel for the applicants is that they have been unfailry denied the assistance of one Sri M.P. Singha, UDA, who is admittedly working in 222 ABOD, Narengi, Guwahati. The learned counsel has submitted that it was only for the first time on 8.2.2002 that the respondents had informed the applicants that their request for availing of the service of Sri M.P. Singha, as Defence Assistant had been turned down on the ground that the officer's consent had not been attached with the letter and there was a long distance from the place of enquiry i.e., Shillong and the place of posting of the Defence Assistant at Guwahati. He was, therefore, advised to engage one of the officers at Shillong as Defence Assistant on the ground that sufficient time had already been granted to him and ex parte proceeding had already been started.

The respondents have controverted the averment made by the applicants. Sri A. Deb Roy, learned Sr. C.G.S.C. has drawn our attention to the averments made in the written statement and in particular, Paragraphs 10, 11 and 13. He has submitted that the contentions of the applicants that they were not informed about the commencement of the enquiry proceeding is not at all correct. He has submitted that they were intimated by registered letters at their residential addresses on 31.8.2001 about the same but these letters were returned undelivered by the postal authorities with the remarks "Refused". They have also annexed the copies of the letters sent by registered post to the applicants, including Annexures Q-1 and Q-2. He has also relied on the relevant instructions issued by the Government of India under Rule 38 of the CCS (CCA) Rules 1965.

According to the respondents, the enquiry proceeding was started by the enquiry officer on 29.1.2001 and applicant No. 1 had attended the enquiry on 11.3.02, 13.3.02, 15.3.02 and 20.3.02. Applicant No. 2 had attended the enquiry proceeding on 14.3.02 and 18.3.02. Learned counsel for the applicants has not denied these facts but has submitted that applicant No. 1 has attended the enquiry proceedings on various dates in March 2002, only on receipt of the information to attend the enquiry proceedings from the Enquiry Officer but has repeatedly contended that at that time, they had not received the letter from the disciplinary authority informing them of the appointment of the Enquiry Officer and Presenting Officer dated 30.8.2001. Learned counsel for the respondents has also stressed on the fact that the Enquiry Officer, Sri Bidyut Panging, does not maintain the Attendance Register which is kept at the main gate and maintained by the Gate NCO, who is the Supervisory-in-charge. In the circumstances, the learned counsel has submitted that there is no infirmity either in the appointment of the enquiry officer or proceeding held ex parte against the applicants after they stopped attending the enquiry. According to the respondents, the applicants were deliberately trying to delay the proceedings which fact has been denied by the learned counsel for the applicants in the oral reply, though no written rejoinder has been filed.

5. We have carefully considered the pleadings, the submissions made by the learned counsel for the parties as well as the relevant documents on record.

6. It is noted from the submissions made by the learned counsel for the applicants that they do not deny receipt of the letter from the disciplinary authority dated 18.4.2002

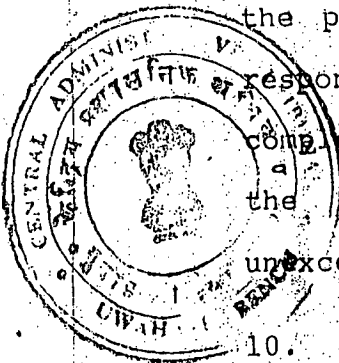
Contd...5

11.7.2001 against them. In the circumstances of the case, the contention of the learned counsel for the applicants that they were not intimated about the appointment of the enquiry officer is baseless and contentions to the contrary are accordingly rejected.

7. In the circumstances of the case, we are also unable to agree with the contentions of the learned counsel for the applicants that the explanation given by the respondents that as the enquiry officer is not the person who is to make the entries in the Daily Attendance Register he should be replaced by another Enquiry Officer. The reasons given by the respondents for rejecting the request of the applicants for change of enquiry officer cannot be held to be either unreasonable or arbitrary to justify any interference in the matter at this stage. In the circumstances of the case this contention of the applicants is rejected.

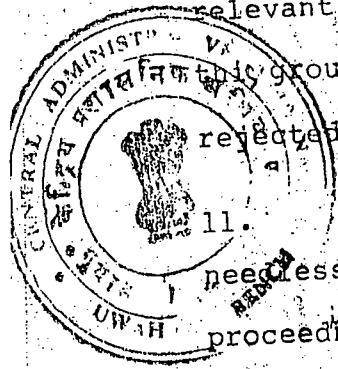
8. With regard to the appointment of the defence assistant to assist the applicants in the enquiry proceeding, we also find the reasons given by the respondents neither arbitrary nor illegal to set aside that decision. They have stated, inter alia, that the applicants should nominate any other defence assistant from the same Station where the applicants are posted, i.e., Shillong. We do not find any merit in the submission of the learned counsel for the applicants that merely because there is only a distance of 100 Kms between Shillong and Guwahati, the stand taken by the respondents is any way unjustified in the circumstances of the case. Besides no prejudice has been shown to be caused to the applicants.

9. According to the learned counsel for applicants, against the order passed by the disciplinary authority rejecting their request for appointment of another enquiry officer in place of Sri Bidyut Panging, A.E., the applicants had submitted an appeal before the appellate authority, which was also rejected by the order dated 23.5.2003. Admittedly, the applicants did not file any appeal against the rejection by the disciplinary authority of their request for appointment of M.P. Singha as defence assistant. Apparently, they have also not made any further request for appointing ~~or~~ any other officer from the same Station to assist them in the pending enquiry proceedings inspite of reminders from the respondents that they ought not to delay the pending proceedings. We find the stand taken by the respondents that the pending enquiry proceedings should be completed, in accordance with rules expeditiously, in which the co-operation of the applicants have been sought unexceptionable.



10. From the documents on record we are unable to come to the conclusion whether after the rejection of the applicants' request for appointment of a defence assistant in the enquiry proceedings from what date the ex parte proceedings were continued. It is seen from the letter issued by the respondents dated 8.2.2002 that they had again advised the applicants to engage a defence assistant from one of the local units to avoid further delay in the enquiry proceedings. It is further relevant to note that this O.A. itself was filed in the Tribunal on 26.6.2003 i.e. more than one year after the rejection letter issued by the respondents on 8.2.2002. It is also relevant to note that the applicants have not filed any appeal before the higher authority with regard to replacement of the defence assistant

in place of Sri M.P. Singha. Therefore, in the circumstances of the case, it appears that the applicants even after being informed that their request to engage Sri M.P. Singha as defence assistant was rejected did not take any further steps in the matter in accordance with the rules. In this view of the matter the further ex parte proceedings, if any, held by the respondents cannot be held to be arbitrary or against the relevant rules as sufficient opportunity of hearing had been afforded to the applicants which they chose not to avail. In the facts and circumstances of the case, we are unable to come to the conclusion that there has been any violation of the principles of natural justice or the relevant rules to warrant any interference in the matter on this ground also. Therefore, this ground also fails and is rejected.



11. In the facts and circumstances of the case, it is needless to add that the aforesaid pending disciplinary proceedings against the applicants should be completed in accordance with law, rules and instructions as expeditiously as possible and the applicants should also co-operate in the same.

12. In the result, for the reasons given above, we find no merit in the application. The O.A. accordingly fails and is dismissed. No order as to costs.

Sd/ VICE-CHAIRMAN
Sd/ MEMBER (A)

Certified to be true Copy
प्रमाणित प्रतिलिपि

Section Officer (J)
C.A.T. GUWAHATI BANCH
Guwahati-781005

22/12/03
22/12

Handwritten etc

Annexure - X

READ BY POST MAN

INDIA GOVERNMENT SERVICE

PREVENT TUBERCULOUS TAKE
BY VACCINATION

NO. 169 CV/74

SHRI PC DAS

OH NO. 04/30/74

DUGGON, 10/15

SILIGONG, GARO

Despatch Clerk
Post Station W/sep Bm

30/08/2001

3507

10/169/74

STATION WORKS

10/169/74

30/08/2001



10401/Civ/169/INQ

20 Sep 2001

Annexure-XI

T.No 169 Veh Mech
Shri PC Das
Qtr No DM 30/4
Dudgeon Lines
Shillong

**DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED
AGAINST SHRI T.NO 169 VEH MECH PC DAS UNDER RULE
14 OF CCS (CCA) RULES 1965**

1. I have been appointed as Inquiring authority to conduct inquiry in the case above cited, vide Order No 10401/169/Civ dt 30 Aug 2001 issued by Lt Col JS Bains, OC of this unit, a copy of which has been endorsed to you.
2. Accordingly, a preliminary hearing of the case will be held by me on 09 Oct 2001 at 1100h at Office of Workshop Officer 306 Stn Wksp EME, C/O 99 APO. You should present yourself alongwith your defence assistant, if you so desire, in time to attend the preliminary hearing and wait until further directions. In case you fail to appear at the appointed date and time, proceeding will be taken ex-parte.
3. Instructions for getting your Defence Assistance relieved will be issued if his particulars and willingness to work as such alongwith the particulars of his controlling authority are received by me before 01 Oct 2001.
4. While nominating a Government servant as Defence Assistance the instructions on the subject should be kept in view.
5. Receipt of this notice may please be acknowledged.

B. P.
(Bidyot Panging)

AEE

Inquiring Authority

Copy to :-

JC-722950F Nb Sub/SKT(MT) Amar Singh
Presenting Officer
306 Stn Wksp EME
C/O 99 APO

He is also requested to attend the
preliminary hearing at appointed date
and time alongwith all listed documents
in Original.

B. P.
(Bidyot Panging)

Tele : 6177

51

REGD POST
306 Sln Wksp EME
C/O 99 APO

(8) ✓

03 Oct 2001

10401/Civ/169/INQ

PC Das
T.No 169 Veh Mech
Qtr No DM 30/4
Dudgeon Line,
Shillong

Annexure - XII

**DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED
AGAINST T.NO 169 VEH MECH SHRI PC DAS UNDER RULE
14 OF CCS (CCA) RULES 1965**

1. Refer to your letter No Nil dated 27 Sep 2001.
2. Your contention of granting one month time for managing the defence assistance is not agreed to. The intimation of appointment of inquiry officer was issued vide 306 Station Workshop EME, C/O 99 APO Order No 10401/172/Civ dated 30-Aug 2001 and you should have arranged your defence assistance.
3. However you are given one more opportunity and preliminary hearing of the case will now be held on 22 Oct 2001 at 1100h at office of Workshop Officer 306 Station Workshop EME, C/O 99 APO. You should in time to attend the preliminary hearing alongwith you defence assistance, if you so desire. In case you fail to appear at the appointed date and time, proceedings will be taken ex-parte.
4. Instructions for getting your defence assistance relieved will be issued if his particulars and willingness to work as such alongwith the particulars for his controlling authority are received by me before 15 Oct 2001.
5. Receipt of this notice may please be acknowledged.

B.P.
(Bidyot Panging)
AEE
Inquiring Authority

Copy to :-

JC-722950F Nb/Sub/SKT(MT)
Amar Singh

for info wrt our letter No 10401/Civ
/169/INQ dt 20 Sep 2001.

प्राप्ति-स्वीकृति (रसीद)/आदि भव/Acknowledgement

★ एक रजिस्ट्री पत्र/पोस्टकार्ड/पैकेट/पार्सल प्राप्त हुआ
 * (लेटर/पोस्टकार्ड/पैकेट/पार्सल/पार्सल आदि भव)
 Received a Registered Letter/Postcard/Packet/Parcel

पाने वाले का नाम
 Addressed to (name) } **Shri V. C. Das**
 आगस्त नाम ठिकाना
 Addressed to (name) } **T. No 169, V. K. N. Ch.**
 वी. के. का मूल्य (रुपयों में)
 Insured for Rupees } **STR No DM 30/4**
 वी. के. का अर्थ अतिमान
 Insured for Rupees } **Dudhcom Lines**
 वितरण तारीख
 Date of delivery } **Swarnag Cantt**
 वितरण जति
 Date of delivery } **19**

पाने वाले के हस्ताक्षर/आगस्त नरि/Signature of addressee
 वी. के. का मूल्य (रुपयों में) / Score out the matter not required
 वी. के. का मूल्य (रुपयों में) / For insured articles only

क्रमांक
 नं.
 No. 10401/CIV/169/IMP
 01-03-10101

Received
 18/10/2001
 P. K.

CONFIDENTIAL

Annexure - XIV

27

Tele 6177

READ BY Post

306 Str Wksp EME

C/O 99 APO

13

10401/169/Civ/INQ

23 Oct 2001

Str PC Dns

T No 169 Civ/VM

Qtr No MES 30/4

Dodge on Lane

Shillong Cantt

**DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED
AGAINST T. NO 169 VM PC DAS UNDER RULE
14 OF CCS (CCA) RULES 1965**

1. Refer to

(a) My letter No 10401/Civ/169/INQ dt 20 Sep 2001.

(b) My letter No 10401/Civ/169/INQ dt 03 Oct 2001.

(c) 306 Str Wksp EME letter No 10401/Civ/169 dt 19 Oct 2001.

(d) My letter No 10401/Civ/169/INQ dt 20 Oct 2001.

2. The next date of preliminary hearing will take place on 16 Nov 2001 at 1100h in my office in 306 Str Wksp EME. You are hereby advised to report for inquiring on the above date and time. It is for your info that after 16 Nov 2001, inquiring proceedings will be held on every alternative day except Sundays and holidays.

3. Daily order Sheet of 20 Sep, 09 Oct and 23 Oct 2001 are also enclosed.

B.P.

(Bidyot Pruzing)

AEE

Inquiring Authority

Copy to

Officer Commanding

306 Str Wksp EME

C/O 99 APO

for info

R-722950P Nb Sub/SE(TMT)

Amar Singh

306 Str Wksp EME

for info alongwith daily order sheet as mentioned above.

CONFIDENTIAL

CONFIDENTIAL

Tele : 6177

Regd by Post306 Stn Wksp EME
C/O 99 APO

10401/169/Civ/Inq

21 Dec 2001

T/No 169 Civ VM (MV)...
Shri PC Das
Qtr No DM-30/4
Deodgen Line
Shillong Cantt**DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 169
VM SHRI PC DAS UNDER RULE 14 OF CCS (CCA) RULES 1965**

1. Refer to :-

(a) My letter No 10401/169/Civ/INQ dated 23 Oct 2001.

(b) Your letter No nil dated 23 Nov 2001 received on 29 Nov 2001.

2. After considering your request for 15 days time to search for a defence assistance, the next date of hearing is fixed on 17 Jan 2002 at 1100 h in my Office at 306 Station Wksp EME. However, ex party inquiry has been started on 16 Nov 2001. You are hereby advised to report for inquiry on the above date and time. It is for your information that after 17 Jan 2002, inquiry proceedings will be held on every alternative day except Sunday and Holidays.

(Signature)
(Bidyot Panging)
AEE
Inquiring Authority.

Copy to :-

Officer Commanding
306 Station Wksp EME
C/O 99 APO

JC-722950F Nb Sub SKT (MT)
Amar Singh
306 Station Wksp EME
C/O 99 APO

For info.

CONFIDENTIAL

55
CONFIDENTIAL

719 79
Registered Post

Tele : 6177

306 Stn Wksp EME
C/O 99 APO

10401/169/Civ/Inq

24 Jan 2002

T/No 169 Civ VM
Shri P C Das
Qtr No DM 30/4
Deodgen Line
Shillong Cantt

Annexure - XVI

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 169
CIV VM (MV) SHRI P C DAS UNDER RULE 14 OF CCS (CCA) RULES 1965

1. Refer to :-
 - (a) My Registered letter No 10401/169/Civ/Inq dated 23 Oct 2001.
 - (b) Your letter No Nil dated 23 Nov 2001, recd on 29 Nov 2001.
 - (c) My Registered letter No 10401/169/Civ/Inq dated 21 Dec 2001. (Returned back unaccepted on 16 Jan 2002).
2. On your request vide letter at Para 1 (b) above, you have been given sufficient time to search for a defence assistance and date of hearing was fixed on 17 Jan 2002 which was intimated to you vide our Registered letter No 10401/169/Civ/Inq dt 21 Dec 2001. But this letter was returned undelivered because you had refused to accept the registered letter on 11 Jan 2002, as per remarks endorsed on the letter by the postal authority.
3. It seems that you are trying to delay the inquiry. However, it is for your information that exparte inquiry has already been started on 16 Nov 2001 (which was intimated to you vide our letter ref at Para 1 (c) above. You are hereby given one more chance to report for inquiry on 06 Feb 2002 at 1100 h in my Office.

I

B.P.
(B Panging)
AEE
Inquiring Authority

Copy to :-

Officer Commanding
306 Station Wksp EME
C/O 99 APO

JC-722950F Nb Sub SKT (MT)
Amar Singh
306 Station Wksp EME
C/O 99 APO

For info.

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57
CONFIDENTIAL

Annexure 17/XVIII

Regd by Post

306 Stn Wksp EME
C/O 99 APO

22 Feb 2002

6177

01/Civ/169//INQ

To 169 Civ VM (MV)
ri P C Das
r No DM 30/4
eodgen Line
hillong Cantt

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 169 CIV
VM (MV) SHRI P C DAS UNDER RULE 14 OF CCS (CCA) RULES 1965

1. Further to our letter No 10401/169/Civ/INQ dated 12 Feb 2002.
2. You have already been given five opportunities on 09 Oct 2001, 22 Oct 2001, 16 Nov 2001, 17 Jan 2002 and 06 Feb 2002, but you were absent on all the above dates. It seems that you are trying to delay the inquiry with one excuse or the other.
3. Beside that exparte inquiry has already been started on 16 Nov 2001 (which was intimated to you vide our registered letter No 10401/169/Civ/INQ dt 21 Dec 2001 and registered letter No 10401/169/Civ/INQ dt 24 Jan 2002), you are hereby given another chance to report for inquiry on 12 Mar 2002 at 1100hrs in my Office. It is for your information that after 12 Mar 2002, the inquiry proceedings will be held on every alternative day except Sunday and Holidays at 1100hrs in my Office. If the date of inquiry is falls on Sunday or Holidays, these will be held on next working day at same time and place.

B P
(B Panging)
AEE
Inquiry Authority

NOO

Officer Commanding
306 Station Wksp EME

JC-722950E Nb Sub SKT(MT)
Amar Singh
306 Station Wksp EME

For information

CONFIDENTIAL

CONFIDENTIAL

REGISTERED BY POST

306 Station Workshop EME
C/O 99 APO

Tele : 6177

10401/Sus/Civ

21 Nov 2003

T/No 169 Civ VM (Mate)
Shri P C Das
Qtr No DF 18/1 - 2
Burma Line
Shillong Cantt

FORWARDING OF INQUIRY REPORT : DISCIPLINARY PROCEEDINGS
UNDER RULE 14 OF CCS (CC & A) RULE 1965 AGAINST
T/NO 169 CIV VM (NOW VM/MATE) SHRI P C DAS

1. Refer to :-

- (a) Memorandum of Charge Sheet bearing No 21208/169/Est/Ind/LC dated 11 Jul 01.
- (b) Our letter No 10401/169/Civ dated 30 Aug 01.
- (c) Rule 15 (2) of CCS (CC&A) Rule 1965.

2. A copy of inquiry report submitted by the Inquiry Officer is forwarded herewith for your information. You are hereby directed to submit your representation, if any within 15 days of receipt of inquiry report.

Encls : 17 Pages


(J S Bains)
Lt Col
Officer Commanding

FINDINGS OF DISCIPLINARY AUTHORITY ON THE DEPARTMENTAL
INQUIRY HELD AGAINST T/NO 169 CIV /VM(NOW VM MATE)
SHRI PC DAS OF 306 STATION WORKSHOP EME

1. Having gone through the Inquiry Officer's report, record of Inquiry and representation received from the Charged Official, the findings of the disciplinary authority on each article of charge are as under :-

(a) T/No 169 Civ/VM (Now VM Mate) was charged for "Gross Misconduct" as per sub clause (i) of Article (I) i.e "One 01 Jun 2001, at about 0935h created a riotous and disorderly situation in the civilian rest room while being told to go to shop floor by JC-750768X Nb Sub (Now Sub) RC Nath". Inquiry Officer through the statements of SW-1, SW-2, SW-4 and SW-5 has come to the conclusion that Charged Official refused to obey the orders of JC-75068X Nb Sub (Now Sub) RC Nath. It has been brought out by SW-1, SW-2, SW-4 and SW-5 that Charged Official used abusive language against the JCO. From the records of Inquiry it reveals that situation would have become serious, had the JCO not pacified the accompanied Jawans. Charged Official through his representation dated 29 Nov 03 has not brought out any defence for disobeying the orders and creating a riotous situation. In view of above T/No 169 Civ/VM (Now VM Mate) Shri PC Das is thus found guilty of the said charge. He has also not opted to cross examine witness No SW-1, SW-2, SW-4 and SW-5.

(b) The next charge against the Charged Official was "Assaulting Junior Commission Officer JC-750768X Nb Sub (Now Sub) RC Nath of the same workshop on 01 Jun 2001 at about 0935h in civilian rest room of 306 Station Workshop EME". Inquiry Officer on the basis of statements of SW-1, SW-2, SW-4 and SW-5 has come to the conclusion that Charged Official tried to hit the JCO with his hands but he saved himself by ducking being a soldier. The Charged Official did not offer any defence during the inquiry as well as in his representation dated 29 Nov 03. He has also not cross examined witness No SW-1, SW-2, SW-4 and SW-5.

(c) The next charge against the Charged Official was "An act subversive of discipline in that using abusive and filthy language against JC - 750768X Nb Sub (Now Sub) RC Nath". The Inquiry Officer on the basis of statements of SW-1, SW-4, SW-5 has found the Charged Official guilty of the charge. The Charged Official did not brought out any point in his defence in his representation dated 29 Nov 03 and has also not cross examined witnesses. Therefore, T/No 169 Civ/VM (Now VM Mate) is found guilty of said charge.

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CONFIDENTIAL

2

(d) The next charge against the Charged Official was "Continual and willful absence from place of work on all working days wef 01 Feb 2001 to 01 Jun 2001." The Inquiry Officer on the basis of statements of SW-1, SW-2, SW-3, SW-4 and SW-5 has found the Charged Official guilty of the above charge. From the records of Inquiry, it reveals that Charged Official has been found absent from place of work on all working days from 01 Feb 2001 to 01 Jun 2001 even though he has been reporting to the workshop but kept roaming around or kept sitting in rest room. The Charged Official has not brought any point in his defence in the representation dated 2 Nov 03 and he has also not cross examined any witnesses. T/No 169 Civ/VM (Now VM Mate) is thus found guilty of the said charge.

(e) The next charge against the Charged Official was "Continual and willful disobedience of orders given by supervisory staff from 01 Feb 2001 to 01 Jun 2001 on all working days." The Inquiry Officer has found the Charged Official guilty of the said charge and Charged Official has also not brought any point in his defence in his representation dated 29 Nov 03. In view of all above, T/No 169 Civ/VM (Now VM Mate) is found guilty of the said charge.

2. In addition to forwarding representation on above charges, the Charged Official has raised other points which are being disposed off by the undersigned as follows:

(a) The Charged Official has been given ample opportunity as per the CCS (CCA) Rules but from the inquiry report and other documents it reveals that he has been using dilatory tactics. He has been seen returning the registered letters which have been returned back by Postal Authorities with the remarks "Refused to Accept". Charged Official attended the Inquiry on 14 Mar 2002 but refused to cross examine the witness inspite of giving fair opportunity by the Inquiry Officer. As per records he has refused to co-operate with the Inquiry Officer and kept insisting that he has not received the registered letter. Returning the registered letters to Postal Authorities with the remarks "Refused to accept" proves his intentions of not co-operating with the Inquiry Officer.

(b) The Inquiry has been ordered as per CCS (CCA) Rules 1965. The Charged Official was given ample opportunity to defend himself as per the CCS (CCA) Rules but his aim has been not to co-operate with the Inquiry Officer. During the progress of inquiry the charged official was found forwarding repeated representation with a view to delaying it. However the disciplinary authority decided the same on merit by giving due weightage to his points.

— 64 —

25

CONFIDENTIAL

3

(c) The presenting officer has been changed due to the retirement of JC-722950F Nb Sub/SKT(MT) Amar Singh and charged official has been intimated through a registered letter about the change.

(d) The Charged Official represented against Inquiry Officer after 8 months and his appeal was rejected first by Disciplinary Authority and then by Reviewing Authority as no bias was found.

(e) The Inquiry Officer has given his findings based on the statements of witnesses presented by Presenting Officer. It was upto the Presenting Officer to present his witnesses as were sufficient to prove charge. Accordingly the other witness who were not required by Presenting Officer were not required to be heard. However the charged officer had all the liberty to call any of such witness for his defence side which actually he has not produced before the Inquiring Officer.

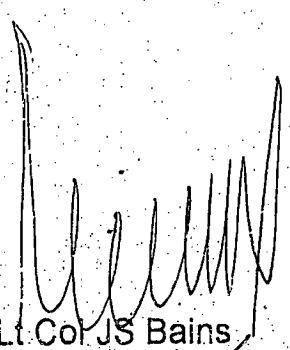
(f) The Inquiry was conducted exparte after giving sufficient time to the Charged Official and as per CCS(CCA) Rules, 1965.

(g) The record shows that the dates were fixed by Inquiry Officer who had given adequate and sufficient time to the charged official to attend the Inquiry. All the letters were sent through registered posts.

(h) The proceedings of the Inquiry have been forwarded to Charged Official by the Inquiry Officer through registered letter No 10401/Sus/Civ (i) dated 21Nov 2003 and all daily order statements have been found forwarded by the Inquiry Officer.

Station : C/O 99 APO

Dated : 27 Dec 2003


Lt Col JS Bains
Officer Commanding
Disciplinary Authority

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, RAJGARH ROAD
BHANGAGARH, GUWAHATI- 5.
O.A. No. 134 of 2006

Shri Prabhat Chandra Das

Applicant(S)

- Versus -

U.O. I & Ors.

Respondent(s)

Memo No. 2539

Dated 19-5-09

To,

1. Shri Prabhat Chandra Das, S/o Late Gopal Chandra Das, Qtr. No. 30/4, Deodgenline, Shillong Cantt, Shillong.
2. The Union of India, represented by the Secretary to the Govt. of India, Ministry of Defence, South Block, New Delhi- 110011.
3. The Director General (Civ), Master General of Ordnance Branch, Army Headquarters, DHQ Post, New Delhi- 110011.
4. Major General, Electrical Mechanical Engineering (MGEME), HQ Eastern Command (EME Branch), Fort William, Kolkata- 21.
5. Station Commander, Station Headquarters, EME, Shillong.
6. Office Commanding, 306 Station Workshop, EME, C/o 99 APO.
7. Asstt. Executive Engineer (AEE), 306 Station Workshop EME.

Please find enclosed herewith a copy of the order dated 27.3.09 passed in O.A./~~R.A./M.P./E.P./C.P.~~ No.134/2006 by this Tribunal and do needful.

Encl: As above

By Order

SECTION OFFICER (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.134 of 2006.

Date of Order : This, the 27th day of March, 2009.

THE HON'BLE MR. A.K.GAUR, JUDICIAL MEMBER
THE HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Prabhat Chandra Das
S/o Late Gopal Chandra Das
Qtr. No.DM 30/4
Deodgenline
Shillong Cantt.
Shillong

...Applicant.

By Advocates: Mr.M.Chanda. Mr.S.Nath & Mr.G.N.Chakraborty

- Versus -

1. The Union of India represented by the
Secretary to the Govt. of India
Ministry of Defence, South Block
New Delhi - 110 001.

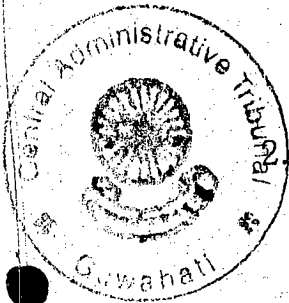
The Director General (Civ)
Master General of Ordnance Branch
Army Headquarters, DHQ Post
New Delhi - 110 011.

3. Major General
Electrical Mechanical Engineering (MGEME)
HQ Eastern Command (EME Branch)
Fort William
Kolkata-21.

4. Station Commander
Station Headquarters, EME
Shillong.

5. Officer Commanding
306 Station Workshop
EME, C/o 99 APO..

6. Asstt. Executive Engineer (AEE)
306 Station Workshop EME



C/o 99 APO.

7. Lt. Col JS Bains
Officer Commanding
306 Station Workshop EME
C/o 99 APO.
8. Shri R.C.Nath
Subedar
JC-750768X
306 Station Workshop EME
C/o 99 APO.

... Respondents.

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

ORDER (ORAL)



A.K.GAUR, MEMBER (J) :

We have heard M.Chanda, learned counsel for the Applicant and Mr. M.U.Ahmed, learned Addl. Standing counsel for the Government of India.

2. It has been argued by the learned counsel for the Applicant that the order passed by the appellate authority is not a reasoned and speaking order and the appellate authority has passed the said order dated 08.05.2006 in a most casual and perfunctory manner without application of mind without considering all the grounds taken in the appeal dated 06.12.2005. To support his contention, learned counsel for the Applicant has placed reliance on the following Supreme Court decisions in order to buttress the contention that it is the bounden duty of the appellate authority to consider each and every ground raised in the memorandum of appeal:-

- (i) 2006 SCC L&S 840 (Narinder Mohan Arya. vs. United Insurance Co. Ltd & Others);
- (ii) AIR 1986 SC 1173 (Ram Chander vs. Union of India & Others)
- (iii) (2005) 7 SCC 597 (National Fertilizers Ltd. and Another vs. P.K.Khanna; and lastly

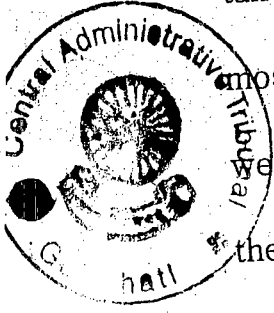
- (iv) 2006 (11) SCC 147 (Director of Indian Oil Corporation vs. Santosh Kumar)

3. We have given our anxious thought to the arguments advanced by the counsel for the parties. In view of the aforesaid decisions, we are fully satisfied that the appellate authority had not at all considered the grounds taken in the appeal dated 06.12.2005, the appellate order has been passed in a most casual and perfunctory manner without application of mind. Accordingly, we quash and set aside the appellate order dated 08.05.2006 and remit back the matter to the appellate authority to reconsider the appeal of the Applicant by passing a reasoned and speaking order in accordance with the provisions of rules, within a period of three months from the date of receipt of a copy of this order.

4. With the above observations and direction, the O.A. is disposed of as above.

Sd/- Member (J)
Sd/- Member (A)

TRUE CO
प्रतिलिपि
29/4/09
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
29/4/09



ORDER SHEET

1. Original Application No. _____
2. Misc Petition No. 53.167 in OA 134/06
3. Contempt Petition No. _____
4. Review Application No. _____
Applicant(s) Prabhat Ch. Das vs Union of India & Ors

Advocate for the Applicant(s) M. Chanda
Mr. S. Nath, Mrs. S. Pruthi
Mr. H. C. Sharma

Advocate for the Respondent(s) Asst Case

Notes of the Registry Date _____ Order of the Tribunal

25.6.07

The Misc. Petition has been filed by the petitioner challenging the order dated 14.6.07 (Annexure D) wherein the direction was given by the respondents to vacate the quarter within 30 days of the date of publication of this order. It appears that in Annexure D order dated 14.6.07 is different cause of action and the consequential relief cannot be granted in which the applicant has been relief sought challenging the O.A.

M.P. is dismissed/disposed of accordingly. However, liberty is given to the applicant to approach this Tribunal with appropriate forum.



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प्रतिलिपि

[Signature]

अनुमान अधिकारी/25/07
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
GUWAHATI BENCH
गुवाहाटी-5

SD/ VICE CHAIRMAN

[Signature]
11/7

-67-

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99 APO.

7. Col JS Bains
Officer Commanding
306 Station Workshop SME
C/o 99 APO.

8. Shri R.C.Nath
Subedar
IC-750768X
306 Station Workshop SME
C/o 99 APO.

... Respondents.

By 1. M.U.Ahmed, Addl. C.G.A.C.

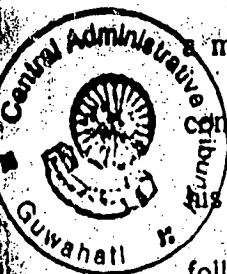
ORDER (ORAL)

A.K.GAUR, MEMBER (J) :

We have heard M.Chanda, learned counsel for the Applicant and Mr. M. Ahmed, learned Addl. Standing counsel for the Government of India.

2. It has been argued by the learned counsel for the Applicant that the order passed by the appellate authority is not a reasoned and speaking one and the appellate authority has passed the said order dated 08.05.2005 in a most casual and perfunctory manner without application of mind without considering all the grounds taken in the appeal dated 06.12.2005. To support his contention, learned counsel for the Applicant has placed reliance on the following Supreme Court decisions in order to buttress the contention that it is the burden duty of the appellate authority to consider each and every ground raised in the memorandum of appeal:-

- (i) 2006 SCC L&T 840 (Narinder Mohan Arya. vs. United India Insurance Co. Ltd & Others);
- (ii) AIR 1986 SC 1173 (Ram Chander vs. Union of India & Others)
- (iii) (2005) 7 SCC 97 (National Fertilizers Ltd. and Another vs. P.K.Khanna; & lastly



(iv) 2006 (11) SCC 147 (Director of Indian Oil Corporation vs. Santosh Kumar)

3. We have given our anxious thought to the arguments advanced by the counsel for the parties. In view of the aforesaid decisions, we are fully satisfied that the appellate authority had not at all considered the grounds taken in the appeal dated 06.12.2005, the appellate order has been passed in a most casual and perfunctory manner without application of mind. Accordingly we quash and set aside the appellate order dated 08.05.2006 and remit back the matter to the appellate authority to reconsider the appeal of the Applicant by passing a reasoned and speaking order in accordance with the provisions of rule within a period of three months from the date of receipt of a copy of this order.

4. With the above observations and direction, the O.A. is disposed of as above.



SD Member (B)
SD Member (A)

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प्रतिलिपि
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
गुवाहाटी/Guwahati

11/27/09

- 69 -

06/5

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F.A.

04/5
URGENT

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To.

The Major General
Electrical Mechanical Engineering (MCEME)
(Appellate Authority)
Fort William, Kolkata- 21.

Sub: - Intimation regarding judgment and order dated 27.03.2009 in O.A No. 134/2006 (Shri Prabhut Chandru Das Vs. U.O.I & Ors.) passed by the Hon'ble CAT, Guwahati Bench; compliance of

Sir,

Most humbly I beg to state that being aggrieved with the penalty order bearing letter No. 10401/169/Civ dated 15.04.2005, issued by the disciplinary authority as well as against the impugned appellate order dated 08.05.2006, I had approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati through O.A No. 134/2006. In the said Original Application, I also prayed for a direction upon the authority to reinstate me in service at least from the date of dismissal of service. However, the Hon'ble Tribunal vide judgment and order dated 27.03.2009 pleased set aside the Appellate order bearing No. 332229/2/EME Civ 09.05.2008 and further directed to consider appeal of the undersigned with the provisions of law. Hence this appeal before Your Honour with the prayer to consider the following facts and to drop the penalty order dated 15.04.2005 and to reinstate me in service at least from the date of dismissal of service.

1. That Sir, while I was working as Vehicle Mechanic (Motor Vehicle), in the 306 Station Workshop EME, C/o 99 APO, I was holding the post of Vice-President of the Station Workshop, Civilian Workers Union, Shillong.
2. That Sir, during tea break on 01.06.2001 in the Civilian Recreation Room in between 1030 hrs to 1045 hrs where the undersigned (Vice President) and Shri Bihari Singha, the General Secretary were busy with the most important works of the Union, mainly on the issue of long standing medical reimbursement claims of the members of the Union, which was initiated by Asstt. Labour Commissioner (Central), Guwahati. In the nick of time all of a sudden, the Officer Commanding (Lt. Col. JS Bains) along with Nb Sub RC Nath and the staff car driver Nk. Purn Singh rushed into the said Civilian

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No. 169 Shri PC Das left for the work. They were going through some files. Shri PC Das shouted at Nab Sub RC Nath and said "Hamara Koi Claim Pass Nahi Hota, Yahan Par Sab Gandu Offr Aur JCO Hai, Hum Bharat Varash Ke Employee Hain Yahan Par Dil Karega Bathengi". Shri PC Das again raised his hands to hit Nb Sub RC Nath and said "AAP Chor Ho. FIP Ka Paisa Khaya Hai". He made a gesture to hit Nb Sub RC Nath with both hands but Nb Sub RC Nath ducked and saved himself."

On a mere reading of the article of charge it appears that the Officer Commanding Lt. Col. JS Bains has issued the memorandum of charge sheet with whom the alleged incident has taken place on 01.06.2001 since Lt. Col. JS Bains, Officer Commanding is involved in the instant alleged incident on 1st June 2001 as such Lt. Col. JS Bains should not have issued the memorandum of charge sheet since he is an interested party and at his instance the applicant was placed under suspension and further departmental proceeding has been initiated. In the statement of imputation of misconduct the said disciplinary authority tactfully alleged that the incident has taken place in between the applicant and Nab Sub RC Nath without referring his name and his presence at the time of alleged incidence on 1st June 2001. In fact the alleged incident was created by Shri JS Bains himself but in order to impose major penalty in a well planned manner Shri JS Bains tactfully did not show his presence at the place of incidence rather terror was created by Shri Bains alone and on that score alone the memorandum of charge sheet bearing letter No. 21208/169/EST-IND/LC dated 11.07.2001 is liable to be dropped.

That Sir, I beg to say that on a mere reading of the Article of charge, more particularly the charge alleged in Sl. No. 4 and 5 of the article of charge that the I was continuously and willfully neglecting my duty from 1st February 2001 to 1st June 2001 on all working days and continuously and willfully disobedience of order for refusing to proceed to place of work from 1st Feb' 2001 to 1st June 2001 on all working days. Therefore, it appears that the concerned sectional in-charge deliberately did not take any action against me from 1st Feb' 2001 to 1st June 2001 and the allegation of non-performing of

Recreational Room (at around 1045 hrs) compelling all other Defence Civilians, present therein, instantly to scuttle away from the said room out of fear except the undersigned and Shri Bihari Singha, the General Secretary. Having seen both of us in such an un-staggered position there, the Officer Commanding (Lt. Col. JS Bains) seemed to have lost his temper beyond his control, for reasons best known to him only. However, both I and Shri Bihari Singha, while wishing Officer Commanding, Lt. Col. Shri JS Bains, politely informed him about the aforesaid burning issues of the Union and at the same time, tried to show him a letter received from the ALC (Central), Guwahati out of the Union file in this regard. But ironically, instead of reciprocating it, the said Officer Commanding started behaving like a person not commensurate with his official status and that was evident from his unparliamentary and un-ethical words, like, "Go to Hell your Union", "Abhi tum log ko suspend karta hoan" etc. and in no time he threw away the said Union file and practically he did what he uttered i.e. both the undersigned and Shri Bihari Singha, the General Secretary were instantly placed under suspension on this very day of 1st June 2001. Only God knows, how things could so happen and that too, so quickly, if there was no preponderance.

3. That Sir, thereafter memorandum of charge sheet bearing No. 21208/169/EST-IND/LC dated 11.07.2001 was served upon me. In the said memorandum of charge sheet in as much as 5 allegations is brought against me as follows:

"1. On 01 Jun 2001, JC-750768X Nb Sub RC Nath of 306 Str Wksp EME went to civilian rest room at 0830h and requested the workers to come to the shop floor for work. T. No. 172 Shri Bihari Singha and T. No. 169 Shri PC Das informed that they will not come out as they wanted to discuss about the picketing by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub RC Nath returned back and waited for them for about one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub RC Nath again went to the civilian rest room along with Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Lalan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T. No. 172 Shri Bihari Singha and T.

duties has not reported to the higher authorities by the Section In-Charge and assuming but not admitting that the undersigned has refused to perform the assigned duties than a duty cast on the Section In-Charge to report the matter immediately to the higher authority and in the instant case higher authority is Officer Commanding i.e. Lt. Col. J S Bains and the disciplinary authority ought to have taken action against me on the alleged ground of non-performing his duties for such a long period i.e. about 5 months, whereas no memo or show cause was issued at any point of time since February 2001 to 1st June 2001 rather I was paid full salary since February 2001 to 1st June 2001. As such, it can rightly be presumed that all the charges labeled against me are false, concocted and baseless not based on any record as because the entire allegation or charges were based on only two lists of documents.

5. That Sir, the disciplinary authority by the impugned letter bearing No. 10401/169/Civ/INQ/2005 dated 15.04.2005, forwarded the impugned penalty order to me. The disciplinary authority by the order dated 15.04.05 imposed the extreme penalty of dismissal from service w.e.f. 15.04.05, interestingly in the penalty order the disciplinary did not consider any of the grounds raised by me in my representation dated 29.11.03 but mechanically followed the inquiry report submitted by the inquiry officer.

6. That Sir, the contention of the disciplinary authority to the effect that the charged official neither opted to cross-examine any witness nor submitted any defence thereof is categorically denied; rather the charged official has been denied reasonable opportunity to advance his defence in the inquiry proceeding in the following manner:

(i) Firstly, the applicant was not intimated regarding appointment of the inquiry officer as well as appointment of presenting officer by the disciplinary authority as required under the rule, however the same was intimated to the applicant by the disciplinary authority much after the commencement of the proceeding.

(ii) Listed documents relied upon by the disciplinary authority to substantiate the charges contained in the memorandum of charge sheet has not been supplied to the applicant along with the memorandum of charge sheet even those listed documents also not supplied at any stage of the inquiry proceeding in spite of specific request and thereby reasonable opportunity has been denied to the applicant to take adequate defence to the charges.

(iii) That the inquiry authority deliberately and willfully did not intimate the date of hearing on many occasion when ex parte proceeding was held and in some occasion the inquiry officer deliberately send the intimation of hearing after the expiry of the schedule dates of hearing. The details of delayed communication of hearing dates as well as non-communication of hearing dates are quoted below for perusal since the inquiry proceeding conducted ex parte.

Schedule date of hearing	Date on which intimation of hearing received	Non-receipt of intimation regarding hearing.
20.09.2001	26.09.2001	
09.10.2001	21.11.2001	
22.10.2001	21.11.2001	
16.11.2001	21.11.2001	
17.01.2002	04.03.2002	Since letter dated 22.02.02 received by the applicant on 04.03.02, wherein it is directed to the applicant to appear inquiry on every alternative day.
06.02.2002	04.03.2002	
12.03.2002	04.03.2002	I went to the office but gate was closed due to holiday of Shiv Ratri.
14.03.2002		I appeared in the proceeding.
18.03.2002		I appeared in the proceeding.
20.03.2002		I appeared but it is informed that there is no sitting of inquiry.
21.03.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed me to appear on every alternative day before the inquiry proceeding but inquiry

		held in violation programme fixed by letter dated 22.02.02 that too without intimation.
30.03.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
04.02.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed to me appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
23.04.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
03.06.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.

- (iv) It is categorically submitted that the intimation regarding date of hearing on 20.09.01 has been intimated to the applicant at a later stage after the inquiry was over on the schedule date. Moreover, in terms of the letter dated 22.02.2002 received by the applicant on 04.03.2002, wherein it has been instructed that the proceeding will be held on every alternate day. The applicant thereafter as per instruction appeared on 14.03.02, 18.03.02 and participated in the inquiry proceeding in spite of inhuman torture and humiliation as indicated in preceeding paragraph. Again he went to attend inquiry on 20.03.02

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but it was informed by the security personal at the gate that there was no sitting of the inquiry proceeding whereas as per order dated 22.02.02 hearing is supposed to take place on every alternative date but it appears that hearing has been conducted on 21.03.02, 30.03.02, 23.04.02, 03.06.02 in violation of the instructions contained in the letter dated 22.02.02 that too without any intimation to the applicant and thereby denied reasonable opportunity to the applicant.

(v) That the documents relied upon by the disciplinary authority has not been examined as required under the rule.

(vi) Out of 9 listed witnesses only stereotype deposition of 5 interested state witnesses has been recorded more or less on the similar fashion on the dictation of the inquiry authority as well as of the higher authority. But the remaining 4 state witnesses have not been examined for the reasons best known to the authority.

(vii) That the statement of deposition of the interested witnesses has been prepared and got signed by them through Nb Sub Shri RC Nath.

(viii) That the charge of continual and willful disobedience of the order of supervisory staff and non-performing of duties w.e.f. 01.02.01 to 01.06.01 has held to be proved by the inquiry officer without examining any evidence on record and also without examining the listed documents but on the basis of deposition of the interested witnesses which was confirmed by the disciplinary authority without any discussion of evidence in his impugned order of penalty dated 15.04.05.

(ix) That the inquiry officer failed to give any specific finding as to whether charge is proved or not in his inquiry report dated 07.07.03 which was forwarded to the applicant vide letter dated 21.11.03 that is after lapse of about more than 4 months.

(x) That the disciplinary authority did not consider any of the grounds raised by me in my representation dated 29.11.03 and surprisingly the

disciplinary authority did not discuss a single evidence in the impugned order of penalty dated 15.04.05 whereby major penalty have been imposed mechanically without application of mind and also without taking into consideration the record of the inquiry proceeding.

- (xi) That the complain lodged by Nb R.C.Nath listed document (a) relied upon by the disciplinary authority neither supplied to the applicant nor examined in ex parte inquiry proceeding but relied upon by the inquiry officer and the D.A. passed the order of penalty on the alleged ground of creating a riotous and disorderly situation in the rest room on 1st June, 2001.
- (xii) Listed document no. (b) whereby allegation of continual and willful absence from work place w.e.f. 01.02.01 to 01.06.01 neither supplied to me nor examined in ex parte inquiry proceeding which is heavily relied upon by the disciplinary authority.
- (xiii) Findings of the I.O and P.O without considering the listed documents relied upon by the D.A is not sustainable in the eye of law.
- (xiv) No show cause notice or warning or memo given to the applicant for alleged continuous willful absence from the place of work w.e.f. 01.02.01 to 01.06.01 by the supervisory officer as alleged even in the list of document (b) which is relied upon by the disciplinary authority as an evidence for alleged absence not even supplied to the applicant in spite of repeated request nor it was examined in the inquiry proceeding.
- (xv) Listed documents relied upon by the D.A not supplied to the applicant in spite of his specific request.
- (xvi) I.O failed to give any specific findings as to whether charge is proved or not in his inquiry report dated 07.07.03.
- (xvii) Col. J.S. Bains, disciplinary authority personally involved in the alleged incident on 01.06.01 who attacked the charged official on

Guwahati Bench
24 FEB 2010
Guwahati Bench
Guwahati Bench

Alister
(Advocate)

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CONFIDENTIAL

ANNEXURE 2

ORDERS BY THE APPELLATE AUTHORITY IN RESPECT OF APPEAL
FILED BY T/NO 169 CIV VM(MV) SHRI PC DAS

Tele Mil : 2790

Headquarters
Eastern Command (EME Branch)
Fort William, Kolkata-21

332230/2/PCD/EME Civ

Feb 10

ORDER

1. I have examined the appeal dated 01 Apr 2009 filed by Shri T/No 169/VM (Now Mate) Civ Shri PC Das of Stn Wksp EME, Shillong against the order passed by the disciplinary Authority for dismissing the services of T/o 169 Civ/VM (Now Mate) Shri PC Das and his prayer for setting aside the dismissal order No 10401/169//Civ/Inq/05 date 15 Apr 2005 and for re-instating T/No 169 Civ/VM (Now Mate) Shri PC Das with effect from the date of dismissal.

2. I have also examined the order (Oral) 27th March 2009 of the Hon'ble Mr AK Gaur, Judicial Member and the Hon'ble Mr Khoshiraw, Judicial Member Central Administrative Tribunal, Guwahati Bench for reconsidering the appeal of T/No 169 Shri PC Das for passing a reasoned speaking order in accordance with the provisions of rule within three months from the date of receipt of the copy of this order.

3. The appellant has prayed for the following redressals :-

(a) To set aside and quash the order of disciplinary auth issued vide case No 10401//169/Civ/Inq/05 dt 15 Apr 2005 being illegal and arbitrary and to re-instate the appellant/petitioner with consequent benefit.

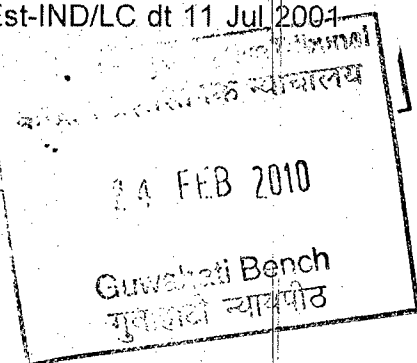
(b) To review the case and pass suitable orders.

4. A perusal of letter No 10401/169/Civ/Inq/05 dated 15 Apr 05 shows that said disciplinary authority had examined all the issues involved therein at great length and disposed off all issues deliberately in detail. I have examined the contentions of the appellant against the order of the disciplinary authority in the light of connected records of the case and I find it being devoid of merit and warrants no interference at this count as the impugned order dated 15 Apr 05 is comprehensive and entail no illegality. The procedure was followed in accordance with the provisions of law affording all the applicable privileges and rights to the appellant. The order was preceded by a detail inquiry, recommendation of inquiry officer, application of mind on the part of disciplinary authority and consideration of commensurating punishment under the provisions of Rule 11 (5) of CCS (CCA) 1965 in shape of major penalty of dismissal from the service.

5. Further the contention of the appellant that Lt Col JS Bains, Officer Commanding, Stn Wksp EME, Shillong and disciplinary authority was involved in the instant incident on 01 Jun 2001 is second thought a blatant lie and primarily aimed at misleading the proceedings. The memorandum of charge sheet bearing letter No 21208/169/Est-IND/LC dt 11 Jul 2004 is just fair and does not warrant any re-consideration.

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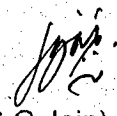
Attested
(Advocate)



6. I have perused the records of the case and am of the considered opinion that the process of disciplinary case against T/No 169 Civ/VM(Now Mate) Shri PC Das has been carried out in fairness and by adopting correct procedures as per provisions of CCS (CCA) Rules 1965 and the representation is found to be unjustified, devoid of merit and does not warrant any consideration.

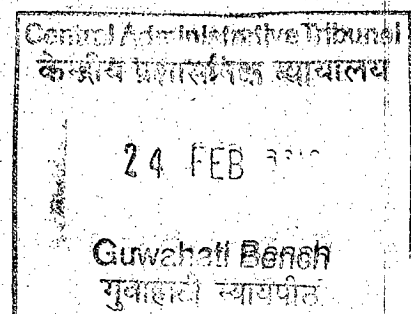
7. The contention of the appellant that consideration has not been given to his representation dated 29 Nov 2003 is wrong and baseless. On the contrary, adequate evidence exists on record to show that he is a habitual offender. Offender takes law in his own hands and has been showing disobedience to the supervisory staff throughout his service career.

8. I have perused the inquiry officers report, record of the inquiry and representation received from the charged official and the evaluation of the disciplinary authority on each article of charge and the subsequent order issued vide letter no 10401/169/Civ/Inq/05 dt 15 Apr 05 and I am of the opinion that the process of disciplinary case against T/No 169 Civ/VM Shri) PC Das has correctly been followed as per provisions of CCS(CCA) Rules 1965 and the findings of guilty are consistent to the evidence and are thus just and legal and the representation being devoid of merit does not warrant any consideration. Hence the appeal is rejected in the interest of Govt service.


(S-C Jain)
Maj Gen
MGEME
Appellate Authority

Copy to :-

T.No 169 Civ VM(MV)
Shri PC Das
Qtr No D-181/2
Burmia Lines
Shillong Cantt

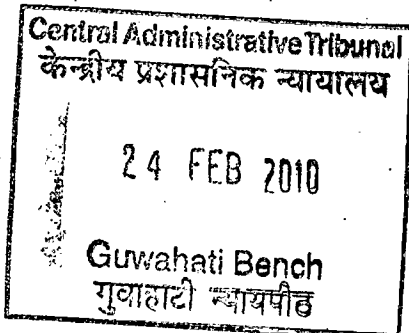


CONFIDENTIAL

Attended
(Advocate)

File in Court on... 24/2/10
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH



IN THE MATTER OF:

C.P NO.01/2010

In O.A. No. 134/06

-AND-

IN THE MATTER OF :

Sri Prabhat Chandra Das,
Son of Late Gopal Chandra Das
Qtr. No DF-18/2
Burma Line, Shillong Cantt.
Shillong (Meghalaya)

... Petitioner

-Vs-

1. Shri Pradeep Kumar, IAS
Secretary to the Government of India
Ministry of Defence, South Block
New Delhi- 110001.

2. Lt Gen A.K.S. Chandela
Director General of EME (DGEME)
Master General of Ordnance Branch
Army Headquarters
DHQ Post New Delhi- 110011

3. Maj Gen S.C. Jain, Major General
Electrical and Mechanical Engineering (MGEME)
HQ Eastern Command (EME Branch)
Fort William, Kolkata-21

4. Brig Harvijay Singh
Station Commander
Station Headquarters, Shillong

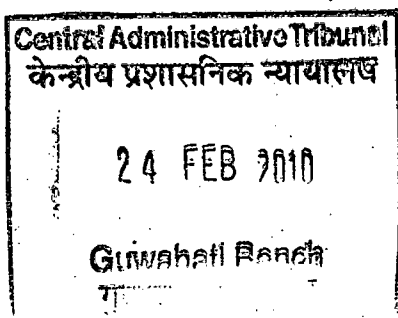
5. Col G.S. Cheema
Officer Commanding
306 Station Workshop EME
C/O 99 APO

... Alleged Contemnors/ Respondents

Filed by Respondent No 9
Through S.N. Tamuli
Advocate 24/2/2010. 103

Received
Dutta
29.02.10

Gundam



-AND-

IN THE MATTER OF:

An Affidavit/compliance report on behalf of the alleged
Contemnor/Respondent No. 5 to the C.P. No. 15/06 10

(AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 5)

I, Col. G.S.Cheema. S/o. (late) Col. I.S. Cheema.....
aged about 50.. years presently working as Officer Commanding, 306
Station Workshop, EME, C/O 99 APO, Shillong. do hereby solemnly affirm and
state as follows :-

1. That I am the Officer Commanding, 306 Station Workshop, EME, C/O 99 APO, Shillong. In the above contempt petition, I have been impleaded as Party Respondent /Contemnor no. 5. The said contempt petition was moved in this the Hon'ble Tribunal, *inter alia*, praying for issuing show cause notice to the respondent contemnors and taking appropriate action for willful ad intentional violation of the order dated 27.03.09 passed by this Hon'ble Tribunal in O.A. No. 134/06.

2. That the humble deponent begs to state that this Hon'ble Tribunal vide order dated 12.01.2010 was pleased to issue notice to the Respondent. The copy of the notice was served upon the humble deponent. I have gone through the copy of the contempt petition and have under stood the contents thereof.

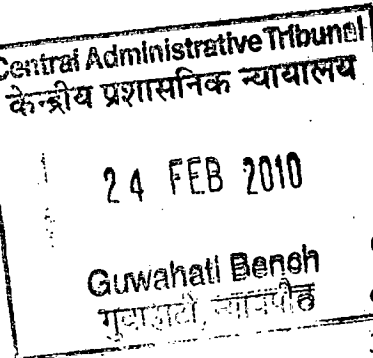
3. That I do not admit any of the statements save and except which are specifically admitted hereinafter and the same are deemed as denied.

4. That with regard to the statements made in paragraphs 1 & 2 of the contempt petition; the humble deponent begs to offer no comment. However he does not admit any statement which are contrary to record.

5. That with regard to the statements made in paragraph 3 & 4 of the contempt petition, the humble deponent begs to state that immediately on receipt of the judgment and order dated 27.03.09 along with the representation dated 01.04.09 made by the petitioner the humble deponent prepared the para-wise comment to the representation dated 01.04.09 submitted by the petitioner and forwarded the same to the H.Q. Eastern Command (EME), Kolkota vide office letter no 20201/Civ/EME dated

Gurinder

19.05.09 for approval of the competent authority as the local head office at shillong is not competent to pass any order as per the direction of the Hon'ble Tribunal without prior approval of the aforesaid H.Q, through departmental procedure. It is humbly submitted that as the matter was forwarded to the HQ for due approval there was some unavoidable and unintentional delay in complying with the aforesaid order dated 27.03.09 of the Hon'ble Tribunal.



Copy of the letter dated 19.05.09 is annexed herewith and marked as **ANNEXURE-1**

6. That with regard to the statements made in paragraph 5 of the contempt petition, the humble deponent begs state that vide order no 332230/PCD/EME Civ. dated 06.02.2010 the Major General, Electrical and Mechanical Engineering (MCEME), HQ Eastern Command (EME Branch), Fort William, Kolkata-21 passed an speaking order as per the direction of the Hon'ble Tribunal rejecting the appeal of the petitioner. Hum'ble deponent most respectfully begs to state that Respondents/alleged Contemnors started the process of implementation of the aforesaid order of the Hon'ble Tribunal immediately on receipt of the order and representation dated 01.04.09. as stated in para 5 above and as such there is no intentional, willful and deliberate violation of the order dated 27.03.09 passed by this Hon'ble Tribunal.

Copy of the order dated 06.02.2010 is annexed herewith and marked as Annexure-2

7. That the humble deponent begs to state that there is no lapse or negligence on the part of the respondent authorities to comply with the Hon'ble Tribunal's order.

8. That the humble deponent respectfully begs to pray that in view of the above facts and circumstances, this contempt petition may be closed.

9. That the humble deponent begs to tendered unconditional apology for delay in complying with the Hon'ble Tribunals order dated 27.03.09.

Guwahati

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AFFIDAVIT

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
24 FEB 2010
Guwahati Bench
गुवाहाटी न्यायालय

I, Col. G.S.Cheema. S/o. (Late) Col. 15. Cheema
aged about 50 years Officer Commanding, 306 Station Workshop, EME,
C/O 99 APO, Shillong. do hereby solemnly affirm and state as follows :-

1. That I have been impleaded as the alleged contemnor no. 5 in
the instant case and fully conversant with the facts and circumstances of the
case.

2. That the statements made in this affidavit and in paragraphs
3, 4, and 7 are true to my knowledge and
those made in paragraphs 1, 2, 5, and 6 being
matters of records of the case derived therefrom which I believe to be true
and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this the 19 day of February, 2010 at
Guwahati.

Identified by:-

P. K. Rana
Advocate.

Gurinder
DEPONENT

Tel: 6147

20201/Civ/EME

HQ Eastern Comd (EME)
Pin -908542
C/O 99 APO

Annexure 1	
Mukhalaya 101 Area	
HQ 101 Area (EME)	
Pin -908101	
C/O 99 APO	

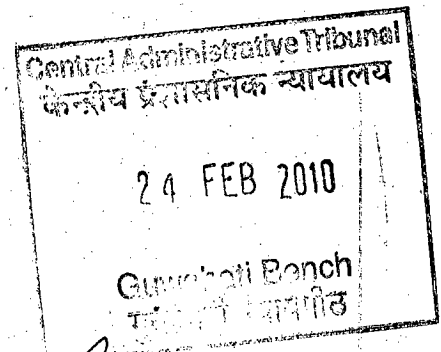
19 May 2009

INTIMATION REGARDING JUDGMENT AND ORDER DATED 27 MAR 2009 IN O.A NO 134/2006 (SHRI PRABHAT CHANDRA DAS VS - U.O.I & ORS) PASSED BY THE HON'BLE CAT, GUWAHATI BENCH, COMPLIANCE OF

1. Please refer your HQ letter No 332229/2/EME Civ dated 19 Apr 2009.

Parawise comments on appeal submitted by Shri Prabhat Chandra Das received from Stn Wksp EME, Shillong ; as asked vide your HQ letter referred above are fwd herewith alongwith following documents :-

- (a) Brief of the court case - One folder
- (b) Draft Appellate Order - One folder



(MK Bhardwaj)
Col
Col EME

cl : As above

Copy to :-

Stn Wksp EME, Shillong -

for info wrt your letter No 10401/134/PCD dt 15 May 2009.

You are requested to fwd one more copy of the for our record.

What is reqd.

Attested
(Advocate)

10401/134/PCD

HQ 101 Area (EME)

PIN-908101

C/O 99 APO

15 May 2009

24 FEB 2010

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

INTIMATION REGARDING JUDGMENT AND ORDER DATED 27 MAR 2009 IN OA NO 134/2006 (SHRI PRABHAT CHANDRA DAS VS - UOI & ORS) PASSED BY THE HON'BLE CAT GUWAHATI BENCH, COMPLIANCE OF

1. Please refer to :-

- (a) Your HQ letter No 20201/Civ/EME dated 23 Apr 2009.
- (b) Copy of appeal submitted by T/No 169 Civ Shri PC Das dated 01 Apr 2009.

2. Para wise comments on the appeal submitted by Shri PC Das as appended below :-

Para No - 01 . No comments.

Para No - 02 : The contention of the appellant that Lt Col JS Bains, Officer Commanding had gone to the Civilian Recreation Room is wrong. The actual fact is that on 01 Jun 2001, JC-750768X Nb Sub (Now Sub) RC Nath of Station Workshop EME went to civilian rest room at 0830h and requested to the workers to come to the shop floor for work. T/No 172 Shri Bihari Singha and T/No 169 Civ PC Das informed that they will not come out as they wanted to discuss about the picketing by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub (Now Sub) RC Nath returned back and waited for them for one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub (Now Sub) RC Nath again went to the civilian rest room along with Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Lalan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilians, he noticed that all other workers except T/No 172 Shri Bihari Singha and T/No 169 Civ Shri PC Das left for the work. These two were going through some files. Shri PC Das shouted at Nb Sub RC Nath and said "Hamara Koi Claim Pass Nahi Hota, Yahan Par Sab Gandu Offr Aur JCO Hai, Hum Bharat Varash Ke Emppoyee Hain Yahan Par Dil Karega Bathenge". Shri PC Das again raised his hands to hit Nb Sub RC Nath and said "AAP Chor Ho, Aur FIP Ka Paise Khaya Hai". He made a gesture to hit Nb Sub RC Nath with hand but Nb Sub RC Nath ducked and saved himself. It is pertinent to bring out that Lt Col JS Bains, OC 306 Stn Wksp, EME never went to the recreation room. The acusition is thus false and a blatant lie. Inquiry report had amply clarified the same.

Para - 3: The statement made by the appellant that Lt Col JS Bains was present at the place of incident is false and intended to divert the focus of authorities. The incident was informed by JC-750768X Nb Sub (Now Sub) RC Nath vide letter dated 01 Jun 2001 (**Annexed as Annexure - I**) to Officer Commanding, Lt Col JS Bains on 01 Jun 2001. Lt Col JS Bains, being disciplinary authority served a charge sheet vide Office Memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001 for violations of Rule 3 and 7 of CCS (Conduct) Rules and directed for inquiry to be held under Rule 14 of CCS (CCA) Rules 1965 (**Annexed as Annexure II**)

Para - 4: The statement made by appellant is wrong. T/No 169 Civ Shri PC Das was willfully showing disobedience of order for refusing to proceed to place of works from 01 Feb 2001 to 01 Jun 2001. In this regards Section Incharge Nb Sub Md C Ahmed had intimated to Officer Commanding through letters dated 28 Feb 01, 31 Mar 01, 01 May 01, 31 May 01 (**Annexed as Annexure - III, IV, V, VI**) regarding disobedience of orders and no output in respect of T/No 169 Civ Shri PC Das.

Para - 5 : The evidence on behalf of Disciplinary Authority has been closed and the same has been intimated to the applicant vide letter No 10401//169/Civ/Inq dated 09 Apr 2002. (Annexed as Annexure -VII). Departmental Inquiry report is self explanatory (Annexed as Annexure - VIII)

Para - 6 : The contention of the appellant that defence was denied to him is wrong. The inquiry had been ordered as per Rule 14 of CCS (CCA) Rules 1965. The charge sheets have been given to the applicant as per Rule 14 of CCS (CCA) Rule 1965 for violations of Rule 3 and 7 of CCS (Conduct) Rules by the applicant. The applicant was served charge sheet vide Office memorandum No 21208/169/Est-Ind/LC dt 11 Jul 2001. This aspect was also referred in OA 150/2003 submitted by the appellant in the Hon'ble CAT, Guwahati. The Hon'ble CAT had dismissed OA No 150/2003 of the applicant and up held the procedure followed by the department. (Copy Hon'ble Court Order is Annexed as Annexure - IX).

Para - 6 (i) : Inquiry was ordered as per CCS (CCA) Rules, 1965 against the applicant. Shri Bidyot Panging, AEE of this Workshop was appointed as Inquiry Officer vide order dated 30 Aug 2001. Shri Amar Singh the Presenting Officer vide 10401/169/Civ dated 30 Aug 2001. The letters had been dispatched duly registered but these letters were not accepted by the applicant and returned back by postal authorities on 15 Sep 2001 with the remarks "Refused". (Annexed as Annexure - X).

Para - 6 (ii) : The charge sheets have been given to the applicant as per Rule 14 of CCS (CCA) Rule 1965 for violations of Rule 3 and 7 of CCS (Conduct) Rules by the applicant. The applicant was asked to see the statements of State Witnesses recorded so far in the earlier hearings during the hearing on 14 Mar 2001. However the applicant refused without defence assistance.

Para - 6 (iii) : The statement of the appellant is false that the ex-parte inquiry proceedings were held and sufficient time was not given to the applicant. On the contrary the applicant was using dilatory tactics for not attending the inquiries. The applicant was given sufficient time for attending the hearing schedules. Dates of hearing schedules are given below:-

Ser No	Date of hearing	Remarks
(a)	20 Sep 2001	The applicant has been directed to appear for preliminary hearing on 09 Oct 2001 vide letter No 10401/Civ/169/Inq dt 20 Sep 2001. <u>(Annexed as Annexure - XI)</u>
(b)	09 Oct 2001	The inquiry proceedings could not proceed, as the applicant was absent. An intimation was issued vide letter No 10401/Civ/169/INQ dt 03 Oct 2001 <u>(Annexed as Annexure - XII)</u> regarding the next hearing date on 22 Oct 2001 and the same letter had been received by the applicant on 15 Oct 2001. Photo copy of Postal Acknowledgment is attached as <u>Annexure - XIII</u>
(c)	22 Oct 2001	Adjourned because the applicant was absent and next hearing date on 16 Nov 2001 has intimated vide letter No 10401/169/Civ./INQ dt 23 Oct 2001 through registered letter against RL No 243 also been intimated that the inquiry proceedings will be held on every alternative day except Sundays and holidays. (Photo copy of Register Receipt is att as <u>Annexure - XIV</u>)
(d)	16 Nov 2001	The applicant was absent. Inquiry was held ex-parte. Statement of State Witness No 1- JC-750768X Nb Sub (Now Sub) RC Nath has been taken.

24 FEB 2010
Guwahati Bench
24 FEB 2010

(e)	17 Jan 2002	An intimation was issued to attended next inquiry on 17 Jan 2002 vide letter No 10401/169/Civ/Inq dt 21 Dec 2002 and the letter was returned undelivered because the applicant had "Refused" to accept the registered letter on 11 Jan 2002, as per remarks endorsed on the letter by the Postal authority. copy att as <u>Annexure - XV</u>
(f)	06 Feb 2002	A letter was issued to attend the inquiry on 06 Feb 2002 vide letter No 10401/169/Civ/Inq. dt 24 Jan 2002(<u>Annexed as Annexure- XVI</u>) through registered letter and the same has receipt by the applicant on 14 Feb 2002 (Photo copy Postal Acknowledgement is att as <u>Annexure - XVII</u>)
(g)	12 Mar 2002	The applicant was absent, hence statement of JC-753913P Nb Sub K Jaya Prakasan, State Witness (SW-3) has been recorded under the provisions.
(h)	14 Mar 2002	Applicant came for the first time for hearing with an application for reconsidering the appointment of Defence Assistance from outside Shillong. The application had been considered by the inquiry officer and rejected. Applicant has been advised to engage a defence assistance from Shillong. He was also told him to attend the hearing regularly since ex-parte inquiry has already been started. The statements of State Witnesses recorded so far in the earlier hearings were shown to the applicant. However, he refused to see the statements without defence assistance. Deposition by JC-753913P Nb Sub K Jaya Prakasan, State Witness has been recorded.
(j)	18 Mar 2002	The applicant left the place of hearing just before its start saying "I will not attend the inquiry proceedings". Hence, proceedings of the inquiry continued and the Statement of 145991478F Nk SC Singh, SW-4 was recorded. Cross examination by Defence Assistance/Charged official was not done and questions by the inquiry officer were postponed to the next hearing.
(k)	21 Mar 2002	The Inquiry was proceeded as per the direction contained in the letter dated 22 Feb 02 (<u>Annexed as Annexure - XVIII</u>). Since the applicant was absent No 14591478F Nk SC Singh (SW-4) was again produced by the Presenting Officer for questioning by the inquiry officer. The Presenting Officer sought permission for production of daily register maintained by section in charge 'B' Veh of which reference was made in the cross examination SW-3 and SW-3 has been cited as a witness only to prove the allegations through the said daily register. Permission has been granted to produce the same in the next hearing.
(l)	30 Mar 2002	Presenting officer submitted the daily register of 'B' veh section. Same has been perused by the inquiry officer and was brought on record as Exhibit S-1. Statement of No 14581821L Hav J Kushwaha, SW-5 has been recorded. Cross examination by Defence Assistance/Charged Official was not done and questions by the inquiry officer were postponed to the next hearing.

(m)	04 Apr 2002	The applicant was absent and No 14581821L Hav J Kushwaha, SW-5 was again produced by the presenting officer for questioning by the inquiry officer. Presenting officer declared that he has produced sufficient state witnesses to prove the charges against the charged official and remaining state witnesses need not to be produced for inquiry. Evidence on behalf of Disciplinary Authority was closed.
(n)	23 Apr 2002	The charged official was told to submit his written statement of defence by 23 Apr 2002 vide registered letter No. 10401/169/Civ/INQ dated 09 Apr 2002 (<u>Annexed as Annexure - VII</u>) but the applicant had failed to submit the same. He was given one more opportunity to submit his written statement of defence by 03 Jun 2002, failing which the evidence on behalf of T/No 169 Civ VM Shri PC Das will be treated as closed.
(o)	03 Jun 2002	The applicant had failed to submit his written statement of defence and also failed to appear in person before the Inquiry Officer. The evidence on behalf of the charged official was closed. The Presenting Officer was directed to submit his written brief so as to reach Inquiry Officer before 15 Jun 2002 for intimation to the Charged Official. In turn the Charged Official has to submit his written brief by 29 Jun 2002. The case was declared closed.

Para - 6 (iv) : The contention of the appellant is wrong. Protracted corres regarding intimation of the proceeding in the form of registered letters is on record. It was intimated in person also that proceedings will be held on every alternative day except Sunday and Holiday and if the date of inquiry is falls on Sunday & Holiday these will be held on next working day at same time and place. Accordingly the inquiry proceeding was also conducted. Photo copies of Inquiry Report against the applicant is att as Annexure - XIX.

Para - 6 (v) : The inquiry proceeding had been conducted as per CCS (CCA) Rules 1965 and all the documents were produced in the inquiry proceedings but the applicant "Refused" to see without defence assistance from outside Shillong which was refused by the disciplinary authority.

Para - 6 (vi) : Recorded Statements of the 5 witnesses had proved that the accusations made were absolutely correct. Since the accused never turned up and he was found guilty further proceedings were closed. Copies of Departmental Inquiry are annexed as Annexure - VIII.

Para - 6 (vii) : This statement is false and misconstrued.

Para - 6 (viii) : The statement is false. On 14 Mar 2002 the applicant came for the first time for hearing and was asked to see the statements of State Witnesses recorded so far in the earlier hearing but he "Refused" without defence assistance.

Para - 6 (ix) : The statement is false. Inquiry Officer had brought out holdings of all charges very explicitly against T/No 169 Civ Shri PC Das in the Findings of the Inquiry Report. (Copies of Findings of Inquiry is annexed as Annexure - XX).

Para - 6 (x) : The statement is false. Application dt 29 Nov 2003 of the appellant was perused in detail by the disciplinary authority.

Para - 6 (xi) : It is incorrect that the applicant had come for the first time on 14 Mar 2001 for hearing the inquiry proceeding. The statements of State Witnesses recorded so far in the earlier hearings were shown to the applicant but he refused to see the statements without defence assistance.

Para - 6 (xii) : All the witness documents during the ex-part inquiry proceeding were shown to applicant but he denied to see the documents.

Para - 6 (xiii) : The statement is false and illogical.

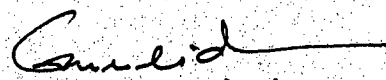
Para - 6 (xiv) : Appellant was coming to the wksp but was continuously absent from the place of work wef 01 Feb 02 to 01 Jun 2001. Attendance Register of Veh Sec is self explanatory. and letters dated 28 Feb 01, 31 Mar 01, 01 May 01, 31 May 01 from Section IC Nb Sub Md C Ahmed regarding disobedience of orders and no output was intimated to the Officer Commanding.

Para - 6 (xv) : The statement of the appellant is false. He was asked to see all the documents but he "Refused".

Para - 6 (xvi) : The statement by the appellant is false. The inquiry officer who enquired into the matter and the proceedings conducted during 20 Sep 2001 to 25 Jun 2003 which has been duly recorded in detail consisting of statement of witnesses, exhibits, correspondence details, details appeals and its disposal thereof and the findings arrived at by the inquiry wherein the applicant was found guilty of all the five charges by the inquiry officer.

Para - (xvii) : It is false statement. Lt Col JS Bains, disciplinary authority was informed of the incident by JC-750768X Nb Sub (Now Sub) RC Nath vide letter dated 01 Jun 2001.

Encl : As above



(GS Cheema)
Col
Officer Commanding

Annexure - I

From,

JC-750768XNb Sub RC Nath

306 Stn Wksp EME

C/O 99 APO

To,

Officer Commanding

306 Stn Wksp EME

C/O 99 APO

Complaint :- Mis-Conduct and Mis-behaviour by T No. 172 Electrician Shri Bihari Singha and T.No 169 Veh Mech Shri PC Das

Sir,

Respectfully I beg to state the following few lines for your consideration and taking necessary action.

On 01 Jun 2001, I was performing the duties of Wksp JCO and R&I JCO of 306 Station Workshop. In the morning I used to distribute the duties to all Comb and Civilian Mechanics. No civilian mech reported at the shop floors till 0830h and were sitting in the recreation/rest room. I went to the recreation/rest room where Shri Bihari Singha, Shri PC Das, Shri PK Das, Shri SN Das, Shri SR Borah and Shri SD Lakhar were sitting and reading newspaper. I told them to report to shop floor for work as it was already 0830h. They told me that since there is picketing tomorrow, we will come after some time. I went back and waited for them for one hour. Again I went to recreation room and advised them to come to the shop floor. They kept quiet and kept sitting and ignored me. I again told them to come to the shop floor but no body came.

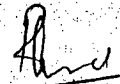
I, then again went to recreation room alongwith 2-3 more men so that no untoward incident takes place. I took Nk Puran Singh, Nk SC Singh, Hav J Khushwaha and Hav Lalan Shah with me and went to recreation room again. At that time Shri Bihari Singh (Electrician), Veh Mech Shri PC Das, Veh Mech Shri PK Das and Shri SR Borah and Armr Shri SD Lakhar were all sitting there. All other pers except Shri Bihari Singha and Shri PD Das left the recreation room. I advised Shri Bihari Singha and Shri PC Das to move to the shop floor but they refused. Shri Bihari Singha got up and picked up a file and told me that you are telling us to do work but I have to do lot of Union work and our welfare is not being looked after. He took out a file where a letter signed by Lt Col Nk Tiwari Ex OC Wksp was there. He said "Ye Col Tiwari Gandu Officer Tha, Jisne Is Letter Ko Sign Kiya Hai, Hamare Medical Claim Pass Nahi Hote" and the words to that effect. Shri PC Das also repeated that "Hamara Koi Claim Pass Nahi Hote Raha Hai, Hum Kam Nahi Karenga, Yaha Par Sab Gandu Officer Aur JCO Hai, Hum Bharat Varash Ke Employee Hai, Yahan Par Dil Karega Bethenge". Shri PC Das again raised his hand to hit me and said that "AAP Chor Ho, Apne Bahut Chori Ki Hai, Aur FIP Ka Paise Khaya Hai". He made a gesture to hit me but I ducked and went back. Meanwhile Shri Bihari Singha made a violent gesture with both hands to hit me and then hit the table with both hands repeatedly to show anger and violent behaviour. All of a sudden he started crying and came out to express his violent behaviour.

113
You are requested to initiate necessary disciplinary action to save our honour and avoid humiliation. I have not seen such a behaviour through out my service. These two civilian workers have not been obeying orders of Section incharges and not performing any duty for the last many months. Whenever we tell them to go to shop floor they have been refusing and do not perform any duty.

I will be grateful if strict disciplinary action is initiated immediately against these individuals other wise it will be difficult for the supervisory staff to get work from civilian staff.

Thanking You,

Your Sincerely


(RE Nath)

Nb Sub

Dated : 01 Jun 2001


CONFIDENTIALSTANDARD FORM FOR CHARGE SHEET FOR MAJOR PENALTIES
(UNDER RULE 14 OF CCS (CC & A) RULES, 1965)BY REGD POST
306 Stu Wksp EME
C/O 99 APO

21208/169/EST-IND/LC

Jul 2001

MEMORANDUM

1. The undersigned proposes to hold an Inquiry against T.No 169 Trade Veh Mech Name Shri PC Das under Rule 14 of the Central Civil Services (Classification and Appeal) Rules, 1965. The substance of the imputations of mis-conduct, or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of charge (Annexure I). A statement of the imputations of mis-conduct or mis-behaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and list of witnesses by whom, the article of charges are proposed to be sustained are also enclosed (Annexure III & IV).
2. Shri PC Das is directed to submit within 10 days of the receipt of this memorandum, a written statement of his defence and also to state whether he desires to be heard in person.
3. He is informed that an inquiry will be held only in respect of those article of charge as are not admitted. He should therefore specifically admit or deny each article of charge.
4. Shri PC Das is further informed that if he does not admit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the Inquiring authority or otherwise fails or refuse to comply the provisions of Rule 14 of the CCS (CC & A) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the Inquiring Authority may hold the Inquiry against him ex-parte.
5. Attention of Shri PC Das is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt in these proceedings, it will be presumed that Shri PC Das is aware of such representation so that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.
6. The receipt of the Memorandum may be acknowledged.


 (JS Bhatia)
 Lt Col
 Officer Commanding
 (Disciplinary Authority)7

Encls :- Annexure I to IV

T.No/69 Trade Veh Mech
Shri PC Das Q/No DM 30/4, Dudgeon,
Lines ShillongCONFIDENTIAL

CONFIDENTIAL

-1-

Annexure I

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST T.NO 169 TRADE
VEHICLE MECHANIC NAME SHRI PC DAS OF 306 STATION WKSP EME. C/O 99 APO

ARTICLE OF CHARGE - I

That the said T.No 169 Shri PC Das while functioning as Veh Mech during the period Feb 2001 to Jun 2001 committed the following offences :-

"Gross misconduct" i.e

(i) On 01 Jun 2001, at about 0935h created a riotous and disorderly situation in the civilian rest room while being told to go to the shop floor by JC-750768X Nb Sub RC Nath.

(ii) Assaulting JC-750768X Nb Sub RC Nath by raising both his hands to hit him on 01 Jun 2001 at 0935hrs approximately.

(iii) An act, subversive of discipline in using abusive and filthy language against JC-750768X Nb Sub RC Nath, a Junior Commissioned Officer.

(iv) Continual and willful neglect of duty from 01 Feb 2001 to 01 Jun 2001 on all working days.

(v) Continual and willful disobedience of orders for refusing to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of a Government Servant and committed offences violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964."



Contd.....2/-

CONFIDENTIAL

(2)

STATEMENT OF IMPUTATION OF MIS-CONDUCT OR MIS-BEHAVIOUR IN SUPPORT
OF THE ARTICLE OF CHARGES FAMED AGAINST T.NO 169 TRADE VEH MECH
NAME SHRI PC DAS

ARTICLE OF CHARGE I

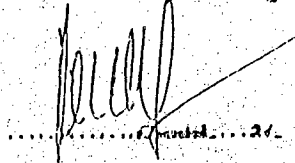
1. On 01 Jun 2001, JC-750768X Nb Sub RC Nath of 306 Stn Wksp EME went to civilian rest room at 0830h and requested the workers to come to the shop floor for work. T.No 172 Shri Bihari Singha and T.No 169 Shri PC Das informed that they will not come out as they wanted to discuss about the picketting by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub RC Nath returned back and waited for them for about one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub RC Nath again went to the civilian rest room alongwith Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Lalan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T.No 172 Shri Bihari Singha and T.No 169 Shri PC Das left for the work. They were going through some siles. Shri PC Das shouted at Nb Sub RC Nath and said "Humara Koi Claim Pass Nahi Hota, Yahan Par Sab Gendu Off Aur JCO Hai, Hum Bhurat Varash Ke Employee Hain Yahan Par Dil Karega Bathengi". Shri PC Das again raised his hands to hit Nb Sub RC Nath and said "AAP Chor Ho, Aur FIP Ka Paisa Khaya Hai". He made a gesture to hit Nb Sub RC Nath with both hands but Nb Sub RC Nath ducked and saved himself.

2. Shri PC Das while working as Vehicle Mechanic in 306 Stn Wksp EME did not perform any duty on all working days from 01 Feb 2001 to 01 Jun 2001, though he used to be present in the workshop. He kept sitting in the civilian rest room. Thus he remained absent from place of work for 23 days in Feb 2001, 25 days in Mar 2001, 17 days in Apr 2001, 23 days in May 2001.

3. T.No 169 Veh Mech PC Das did not obey the orders of I/C Shop floors from 01 Feb 2001 to 01 Jun 2001 on all working days when he was told to proceed to shop floor and remained sitting in civilian rest room or kept moving aimlessly. Nb Sub Jai Prakasan and Nb Sub MDC Ahmed tried their best to order him to move to shop floor but he refused and told them that he will go to shop floor whenever he feel like.

4. Thus T.No 169 Veh Mech Shri PC Das violated the provisions of rules 3 of CCS (Conduct) Rules 1964, Committed Offences as under :-

- (i) On 01 Jun 2001 at about 0935h created a riotous and disorderly situation in the civilian rest room while being told to go the shop floor by JC-750768X Nb Sub RC Nath.
- (ii) Assaulting JC-750768X Nb Sub RC Nath by raising both his hands to hit on 01 Jun 2001 at about 0935h. Nb Sub RC Nath, a Junior Commissioned Officer saved himself by ducking.



T.No 169 Veh Mech Shri PC Das used abusive and filthy language on 01 Jun 2001 at 0935h against JC-750768X Nb Sub RC Nath, a Junior Commissioned Officer and used words "AAP Chor Ho, Apne Bahut Chori Ki Hai Aur FIP Ka Paise Khaya Hai". He further said "Hum Bharat Varash Ke Empllyee Hain, Yahun Dil Karega Bathenge,"

(iv) Shri PC Das had been reporting for duty from 01 Feb 2001 to 31 May 2001 but did not report for duty at place of work and failed to perform and duty. Thus he remained absent from place of work in the shop floor for 23 days in Feb 2001, 25 days in Mar 2001, 17 days in Apr 2001 and 23 days in May 2001.

(v) T.No 169 Veh Mech PC Das did not obey the orders of section I/C shop floors from 01 Feb 2001 to 01 Jun 2001 for proceeding to place of duty on all working days when he was present in the unit.

Annexure III


1. List of documents by which the articles of charge framed against T.No 169 Trade Vehicle Mechanic Shri PC Das are proposed to be sustained.

- (a) Complaint given by JC-750768X Nb Sub RC Nath dt 01 Jun 2001
- (b) Reports of disobedience and no output given by Section incharges.

Annexure IV

1. List of witnesses by whom the article of charges framed against T.No 169 Veh Mech Shri PC Das are proposed to be sustained.

- (a) No 14577561N Nk Puran Singh
- (b) JC-750768X Nb Sub RC Nath
- (c) 14591478P Nk SC Singh
- (d) 14581821L Hav J Kushwaha
- (e) 14558493W Hav Lalan Sah
- (f) 14624820Y Nk D Palani
- (h) JC-753913P Nb Sub Jai Prakash
- (j) JC-750236Y Nb Sub (Now Sub) MDC Ahmed
- (k) JC-754018W Nb Sub UP Mishra


(JS Bains)
Lt Col
Officer Commanding
(Disciplinary Authority)

Station : C/O 99 APO

Dated : 11 Jul 2001

To

Officer Commanding
306 Sth Wksp EME
C/O 99 APO


DISOBEDIENCE OF ORDERS AND NO OUTPUT

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
1	169	lm	PC Das	Feb 2001	23

Dated : 28 Feb 2001


LC Section
R/Sd/- Md. C. Ahmed

Officer Commanding
306 Sth Wksp EME
C/O 99 APO

DISOBEDIENCE OF ORDERS AND NO OUTPUT

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
1.	169	RM.	P.C. Das	Mar 2001	25

Dated : 31 Mar 2001

LC Section

MS-Md. C. Ahmed

To:

Officer Commanding
306 Stu Wksp EME
C/O 99 APO

DISOBEDIENCE OF ORDERS AND NO OUTPUT

Sir,

It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
1	169	RM	P. C. Das	Apr	17

Dated : 01 May - 2001


I/C Section

NB. Md C Ahmed

Annexure - VI 121

Officer Commanding
306 Stn Wksp EME
C/O 99 APO

DISOBEDIENCE OF ORDERS AND NO OUTPUT

Sir,

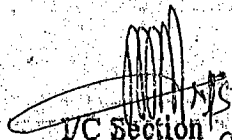
It is for your info that the following individual have not obeyed the orders to proceed to shop floor for work and have not carried out any work on the days shown against each :-

S.No	Ticket No	Trade	Name	Month	No of working days
------	-----------	-------	------	-------	--------------------

1.	169	rm	P.C. Das	May 2001	23.
----	-----	----	----------	----------	-----

Dated

: 31 May 2001


 DC Section
 NB No. 2/2001

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Regd by Post

306 Stn Wksp EME
C/O 99 APO

09 Apr 2002

Tele : 6177

10401/169/Civ/Inq

T/No 169 Civ VM (MV)
Shri PC Das
Qtr No DM-30/4
Deodgen Line
Shillong Cantt

**DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 169
VM SHRI PC DAS UNDER RULE 14 OF CCS (CCA) RULES 1965**

1. The following Daily Order Sheets alongwith deposition of the state witness are forwarded herewith for your information and necessary action :-

- (a) Daily Order Sheet No 10401/169/Civ/Inq dated 17 Jan 2002.
- (b) Daily Order Sheet No 10401/169/Civ/Inq dated 06 Feb 2002 alongwith copies of deposition made by SW-2 on 06 Feb 2002.
- (c) Daily Order Sheet No 10401/169/Civ/Inq dated 12 Mar 2002 alongwith copies of deposition made by SW-3 on 12 Mar 2002.
- (d) Daily Order Sheet No 10401/169/Civ/Inq dated 18 Mar 2002 alongwith copies of deposition made by SW-4 on 18 Mar 2002.
- (e) Daily Order Sheet No 10401/169/Civ/Inq dated 21 Mar 2002 alongwith copies of deposition made by SW-4 on 21 Mar 2002.
- (f) Daily Order Sheet No 10401/169/Civ/Inq dated 30 Mar 2002 alongwith copies of deposition made by SW-5 on 30 Mar 2002.
- (g) Daily Order Sheet No 10401/169/Civ/Inq dated 04 Apr 2002 alongwith copies of deposition made by SW-5 on 04 Apr 2002.

2. The next date of hearing has been fixed on 23 Apr 2002 at 1100 hrs in my presence. The evidence on behalf of Disciplinary Authority has been closed. The proceedings will be resumed on 23 Apr 2002 for having defence evidence after the submission of statement of defence by charged official. You are advised to present your self above date alongwith list of defence witness, if any.

B. P.
(Bidyot Pangning)

प्राप्ति-स्वीकृति (रसीद)/वाणिज्यिक ACKNOWLEDGMENT

पंजीकृत/नहीं पंजीकृत/लेटर/पोस्टकार्ड/पैकेट/पार्सल प्राप्त हुआ
* दस्तावेज/लेटर/पोस्टकार्ड/पैकेट/पार्सल/भारतीय डाक
* Received by Registered Insured Letter/Postcard/Packet/Parcel No. 1040/161 CIV LIND
पाने वाले का नाम } SWR P. L. Das
वाणिज्य नाम ठिकाना } STR/NO. DM 30/4
Addressed to (name) }
+ बीमा का मूल्य (रुपये में) DEODHEN LINE
+ बीमाकृत जहाज/शिपिंग SHILLON GANTT
+ Insured for Rupees
वितरण की तारीख } 19 पाने वाले के हस्ताक्षर/वाणिज्यिक/Signature of addressee
Date of delivery }
* अनावश्यक को काट दिया जाये/प्रशासकीय कार्य (कोटि पिन/Score out the matter not required)
+ केवल बीमा वस्तुओं के लिए/इस बीमा के तहत/For insured articles only.

15/4/2002
1045/161

INQUIRY REPORT

ON

THE DEPARTMENTAL ENQUIRY HELD AGAINST

T/NO 169 CIV VM SHRI P C DAS

OF

306 STATION WORKSHOP EME

Submitted by
Inquiry officer
Vide letter No 10401/Civ/169/Inq
Dated : - 07 Jul 2003

LIST OF EXHIBITED DOCUMENTS

S - 1 Daily attendance and output register of 'B' Veh section of 306 Station Workshop EME.

LIST OF WITNESSES

SW-1	JC-750768X Nb Sub (Now Sub) R C Nath
SW-2	14577561N NK Puran Singh
SW-3	JC-753913P Nb Sub Jayaprakashan K
SW-4	14591478F NK S C Singh
SW-5	14581821L Hav J Kushwah

B.P.

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INQUIRY REPORT

In the case against
T/No 169 Civ VEH MECH Shri P C DAS
of 306 Station Workshop EME

1. Introduction

(a) Under sub-rule 2 of 14 of CCS (CC&A) Rules 1965, I was appointed by the Officer Commanding, 306 Station Workshop EME, C/O 99 APO as Inquiry Authority to inquire into the charges framed against T/No 169 Civ VM Shri P C Das vide his Memo No 21208/169/Est-Ind/LC dated 11 Jul 2001. I have since completed the inquiry and on the basis of documentary and oral evidences adduced before me prepared my Inquiry Report as under: -

(i) A copy of appointment of Presenting Officer under Sub Rule 5 (c) of Rule 14 of CCS Rule 1965 was sent to JC-722950F Nb SKT(MT) Amar Singh of 306 Station Workshop EME, T/No 169 Civ VM Shri P C Das, charged official and the undersigned vide 306 Station Workshop EME letter No 10401/169/Civ dated 30 Aug 2001

(ii) Order for change of Presenting Officer JC-722950F Nb SKT(MT) Ama Singh due to retirement was issued vide 10401/169/Civ dated 04 Apr 2001 and copies of the same were sent to JC-755107F Nb Sub SKT R I Kanwar of 306 Station Workshop EME and T/No 169 Civ VM Shri P C Das through registered letter.

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(iii) Date of hearing are as under:-

S.No	Date	Remarks
(i)	20 Sep 2001	The charged official has been directed to appear for preliminary hearing on 09 Oct 2001.
(ii)	09 Oct 2001	The inquiry proceedings could not proceed, as T/No. 169 Civ VM Shri P C Das, charged official was absent.
(iii)	22 Oct 2001	Adjourned because the charged official was absent
(iv)	16 Nov 2001	Charged official was absent, inquiry started ex-parte. Statement of State Witness No 1 - JC-750768X Nb Sub (now Sub) R C Nath has been taken.
(v)	17 Jan 2002	Adjourned, since the charged official was absent and no witnesses has been produced.
(vi)	06 Feb 2002	Statement of No 14577561N Nk Puran Singh, State Witness (SW-2) has been recorded. Charged official is still absent.
(vii)	12 Mar 2002	Statement of JC-753913P Nb Sub K Jaya Prakasan, State Witness (SW-3) has been recorded. Charged official is still absent.
(viii)	14 Mar 2002	T/No 169 Civ VM Shri P C Das, charged official came for the first time for hearing with an application for reconsidering the appointment of Defence Assistance from outside Shillong. The application has been considered by the inquiry officer and has been rejected. Charged official has been advised to engage a defence assistance from Shillong and told him to attend the hearing regularly since ex-parte inquiry has already been started. The statements of State Witnesses recorded so far in the earlier hearings were shown to the charged official but he refused to see the statements without defence assistance. Deposition by JC-753913P Nb Sub K Jaya Prakasan, State Witness (SW-3) has been recorded.
(ix)	18 Mar 2002	Charged Official left the place of hearing just before its start saying "I will not attend the inquiry proceedings". Statement of 14591478F NK S C Singh, SW-4 has been recorded. Cross examination by Defence

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		Assistance/Charged Official was not done and questions by the inquiry officer was postponed to the next hearing
(x)	21 Mar 2002	Charged official was absent and No 14591478F NK S C Singh (SW-4) was again produced by the presenting officer for questioning by the inquiry officer. The presenting officer sought permission for production daily register maintain by section in charge 'B' veh, which reference was made in the cross examination of SW-3 and SW-3 has been cited as a witness only to prove the allegations through the said daily register. Permission has been granted to produce the same in the next hearing.
(xi)	30 Mar 2002	Presenting officer submitted the daily register of 'B' veh section. Same has been inspected by the inquiry officer and was brought on record as Exhibit S-1. Statement of No 14581821L Hav J Kushwaha, SW-5 has been recorded. Cross examination by Defence Assistance/Charged Official was not done and questions by the inquiry officer was postponed to the next hearing
(xii)	04 Apr 2002	Charged official was absent and No 14581821L Hav J-Kushwaha, SW-5 was again produced by the presenting officer for questioning by the inquiry officer. Presenting officer declared that he has produced sufficient state witnesses to prove the charges against the charged official and remaining state witnesses need not to be produced for inquiry. Evidence on behalf of Disciplinary Authority was closed.
(xiii)	23 Apr 2002	The charged official was told to submit his written statement of defence by 23 Apr 2002 vide my registered letter no 10401/169/Civ/INQ dated 09 Apr 2002. but the charged official was failed to submit the same. He was given one more opportunity to submit his written statement of defence by 03 Jun 2002, failing which the evidence on behalf of T/No 169 Civ VM Shri P C Das will be treated as closed.

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(xiv)	03 Jun 2002	T/No 169 Civ VM Shri P C Das, charged official was failed to submit his written statement of defence and also failed to appear in person before the inquiry officer. The evidence on behalf of the charged official was closed. The Presenting Officer was directed to submit his written brief so as to reach me before 15 Jun 2002 and he will also endorse a copy of the brief to the Charged Official. In turn the Charged Official has to submit his written brief by 29 Jun 2002. The case was declared closed.
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(iv) 30 Aug 2002 : - Presenting Officer submitted his written brief and copy of the same has been forwarded to T/No 169 Civ VM Shri P C Das by the undersigned vide registered letter no 10401/169/Civ/INQ dated 24 Oct 2002. Vide this letter the charged official was also directed to submit his written brief so as to reach on or before 11 Nov 2002.

(v) 02 Sep 2002 : - T/No 169 Civ VM Shri P C Das filed a appeal dated 02 Sep 2002 to the Directorate General of EME for review against the Order No 10401/169/Civ dt 05 Aug 2002 and No 10401/169/Civ dt 09 Aug 2002 issued by the Officer Commanding, 306 Stn Wksp EME C/O 99 APO, rejecting his representation dt 29 Apr 2002, dt 18 May 2002 and dt 20 Jun 2002, against the appointment of Inquiry Officer on the grounds of bias and pray for fresh appointment of another person as Inquiry Officer.

(vi) 07 Feb 2003 : - The charged official was directed by the Army HQ to approach MG EME, HQ Eastern Command, who is the Appellate Authority in this case.

(vii) 25 Jun 2003 : - The appeal dated 02 Sep 2002 filed by T/No 169 Civ VM Shri P C Das was rejected by Maj Gen UK Jha, MG EME, HQ Eastern Command and ordered to proceeds with the inquiry.

2. Charges that were framed - As per memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001, T/No 169 Civ VM Shri P C Das while functioning as

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Civilian Vehicle Mechanic in 306 Station Workshop EME during the period 01 Feb 2001 to 01 Jun 2001 committed the following offences :-

- (a) On 01 Jun 2001 at about 0935 h created a riotous situation in the rest room while being instructed to go to the shop floor by JC-750768X Nb Sub (now Sub) R C Nath
- (b) Assaulting JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.
- (c) An act, subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (now Sub) R C Nath, a Junior Commissioned Officer.
- (d) Continual and wilful neglect of duty from 01 Feb 2001 to 01 Jun 2001 on all working days.
- (e) Continual and wilful disobedience of orders for refusing to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of Government Servant and committed offences violating the provisions of Rule 3 of CCS (Conduct) Rule 1964."

3. Charges that were admitted or dropped or not pressed :-

- (a) Charged official did not admit any charge vide his letter No Nil dated 28 Jul 2001.
- (b) No charges have been dropped.
- (c) All charges mentioned in charge sheet have been pressed.

4. Charges actually Inquired Into – All the charges mentioned in Para 2 (a) to 2 (e) above have been inquired into.

5. Brief statement of the case of disciplinary authority in respect of the charges inquired into :-

(a) Disciplinary authority through Presenting Officer has produced the following witnesses on the dates shown against each :-

- | | | | |
|------|--------------------------------------|-------------|------|
| (i) | JC-750768X Nb Sub (Now Sub) R C Nath | 16 Nov 2001 | SW-1 |
| (ii) | 14577561N NK Puran Singh | 06 Feb 2002 | SW-2 |

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- | | | |
|-------|-----------------------------------|-----------------------------------|
| (iii) | JC-753913P Nb Sub Jayaprakashan K | 12 Mar 2002 SW-1
& 14 Mar 2002 |
| (iv) | 14591478F NK S C Singh | 18 Mar 2002 SW-4
& 21 Mar 2002 |
| (v) | 14581821L Hav J Kushwah | 30 Mar 2002 SW-5
& 04 Apr 2002 |

(b) The presenting Officer through SW-1, SW-2, SW-4 and SW-5 has brought out that T/No 169 Civ VM Shri P C Das on 01 Jun 2001 at about 0930 h refused to obey the orders of JC-750768X Nb Sub (Now Sub) R C Nath. T/No 169 Civ VM Shri P C Das became violent and used abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath. Had the JCO not pacified the accompanying Jawans, there would have been a very serious problem due to violent behaviors of T/No 169 Civ VM Shri P C Das.

(c) Witness No Sw-1, SW-3, SW-4 and SW-5 through their statements and cross examination have brought out that T/No 169 Civ VM Shri P C Das used abusive language and assaulted JC-750768X Nb Sub (Now Sub) R C Nath. T/No 169 Civ VM Shri P C Das raised his hands to hit JC-750768X Nb Sub (Now Sub) R C Nath. T/No 169 Civ VM Shri P C Das made a gesture to hit JC-750768X Nb Sub (Now Sub) R C Nath but he saved himself by ducking being a soldier otherwise he would have been hit. T/No 169 Civ VM Shri P C Das also said "Yahan par sabhi gandu officer and JCO hain, Hum Bhart Varsh ke Employee hain, Jahan par dil karenga bethengr".

(d) T/No 169 Civ VM Shri P C Das had been willfully neglecting duty, absented from place of work and disobedient of orders from 01 Feb 2001 to 01 Jun 2001. SW-1, SW-2, SW-3, SW-4 and SW-5 have brought out the continual wilful neglect of duty and absence from place of work and disobedience of orders. T/No 169 Civ VM Shri P C Das had been reporting to 306 Station Workshop EME, marked his presence but did not report to place of work and kept sitting and roamed in the workshop from 01 Feb 2001 to 01 Jun 2001.

6. Brief Statement of facts and documents admitted - The brief statement of facts and documents submitted by PO (Presenting Officer) are as under :-

(a) T/No 169 Civ VM Shri P C Das of 306 Station Workshop EME was served with a memorandum by Officer Commanding, 306 Station Workshop EME vide memorandum No 21208/169/Est-Ind/LC dated 11 Jul 2001 under Rule 14 (2) of CCS (Classification, Control and Appeal) Rule 1965. He was charged with the following offences i.e. Gross misconduct :-

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(i) On 01 Jun 2001 at about 0935 h created a riotous situation in the rest room while being instructed to go to the shop floor by JC-750768X Nb Sub (now Sub) R C Nath

(ii) Assaulting JC-750768X Nb Sub (now Sub) R C Nath on 01 Jun 2001 at 0935 h approximately.

(iii) An act, subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (now Sub) R C Nath, a Junior Commissioned Officer.

(iv) Continual and willful neglect of duty from 01 Feb 2001 to 01 Jun 2001 on all working days.

(v) Continual and willful disobedience of orders for refusing to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 on all working days.

"Thus he exhibited acts as unbecoming of Government Servant and committed offences violating the provisions of Rule 3 of CCS (Conduct) Rule 1964."

(b) The list of documents by which the articles of charges framed against T/No 169 C/v VM Shri P C Das were to be sustained were as under :-

(i) Complaint given by JC-750768X Nb Sub (Now Sub) R C Nath dated 01 Jun 2001.

(iii) Report of disobedience and no output given by section in-charges.

(c) That the list of witnesses by whom the article of charges were proposed to be sustained were as under :-

- (i) No 14577561N NK Puran Singh
- (ii) JC-750768X Nb Sub (now Sub) R C Nath
- (iii) No 14591478F NK S C Singh
- (iv) No 14558493W Hav Lalan Sah
- (v) No 14581821L Hav J Kushwaha
- (vi) No 14624820Y NK D Palani
- (vii) JC-753913P Nb Sub Jayaprakashan K
- (viii) JC-750236Y Nb Sub (Now Sub) MDC Ahmed
- (ix) JC-754018W Nb Sub U P Mishra

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7. Points for determination and issues to be decided - The following issues needs to be decided:-

- (a) Whether T/No 169 Civ VM Shri P C Das created a riotous like situation in rest room of civilians on 01 Jun 2001 at 0930 h when being instructed by JC-750768X Nb Sub (Now Sub) R C Nath ?
- (b) Did T/No 169 Civ VM Shri P C Das assaulted JC-750768X Nb Sub (Now Sub) R C Nath on 01 Jun 2001 at 0930 h approximately ?
- (c) Whether T/No 169 Civ VM Shri P C Das used abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath ?
- (d) Was T/No 169 Civ VM Shri P C Das continually neglecting duty, absence from place of work from 01 Feb 2001 to 01 Jun 2001 ?
- (e) The issue of disobedience of orders from 01 Feb 2001 to 01 Jun 2001 given by supervisory staff from 01 Feb 2001 to 01 Jun 2001.

8. Brief statement of case of Govt Servant :-

- (a) T/No 169 Civ VM Shri P C Das was presented with a memorandum by Officer Commanding, 306 Station Workshop EME vide their registered letter No 21208/169/Est-Ind/LC dated 11 Jul 2001.
- (b) Inquiry Officer and Presenting Officer were appointed vide 306 Station Workshop EME registered letter No 10401/169/Civ dated 30 Aug 2001 and of even No dated 30 Aug 2001 respectively.
- (c) T/No 169 Civ VM Shri P C Das was intimated by me vide registered letter No 10401/169/Inq dated 20 Sep 2001 (registered No 4449 dated 21 Sep 2001) for preliminary hearing on 09 Oct 2001 at 1100 h in Office of Workshop Officer at 306 Station Workshop EME. He was also intimated to give particulars of defence assistance by 01 Oct 2001.
- (d) T/No 169 Civ VM Shri P C Das vide his letter No Nil dated 27 Sep 2001 intimated that he is unable to manage defence assistance within a short span and asked for 30 days more time to arrange for defence assistance.
- (e) T/No 169 Civ VM Shri P C Das was given fresh date of preliminary hearing on 22 Oct 2001 at 1100 h at the Office of Workshop Officer of 306 Station Workshop EME. He was also intimated to give particulars of defence assistance if any. Registered letter No 10401/Civ/169/Inq dated 03 Oct 2001 refers.

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(f) T/No 169 Civ VM Shri P C Das vide his letter No Nil dated 13 Oct 2001 requested for common proceedings with T/No 169 Civ Elect(MV) Shri Bihari Singha and requested for engaging a civil lawyer.

(g) Officer Commanding, 306 Station Workshop EME, the Disciplinary Authority, vide registered letter No 10401/Civ/169 dated 19 Oct 2001 rejected the plea of common proceedings as all the charges were not common. He also rejected the plea of Charged Official for employ a lawyer as defence assistance since the Presenting Officer was not a legally qualified officer.

(h) T/No 169 Civ VM Shri P C Das was advised by the undersigned to attend the inquiry and resist from delaying tactics vide registered letter No 10401/Civ/169 dated 20 Oct 2001 (Registered No 176 dated 23 Oct 2001). He was also informed that if he continues to use delaying tactics, the inquiry will start ex-parte.

(j) Next date of hearing was fixed on 16 Nov 2001 at 1100 in 306 Station Workshop EME and T/No 169 Civ VM Shri P C Das was intimated vide registered letter No 10401/Civ/169/Inq dated 23 Oct 2001 sent through registered post No 243 dated 25 Oct 2001. The charged official was also intimated that if he fails to appear in person on 16 Nov 2001, ex-parte inquiry would be started.

(k) Since the charged official was remained absent on 16 Nov 2001, ex-parte inquiry were started and statement of JC-750768X Nb Sub R C Nath, state witness no 1 was recorded.

(l) T/No 169 Civ VM Shri P C Das requested for 15 days more time to engage a defence assistance vide his letter dated 23 Nov 2001.

(m) Next date of hearing was fixed on 17 Jan 2002 at 1100 in the Office of 306 Station Workshop EME vide registered letter No 10401/Civ/169/Inq dated 21 Dec 2001 (Registered No 5666 dated 22 Dec 2001). Charged Official was also intimated that since ex-parte inquiry has been started from 16 Nov 2001, charged official was once again advised to attend inquiry which will be held on every alternative day except Sundays and Holidays with effect from 17 Jan 2002.

(n) T/No 169 Civ VM Shri P C Das continued delaying tactics by engaging in infructuous correspondence. His letters dated 07 Dec 2001 and 24 Dec 2001 refers.

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(o) T/No 169 Civ VM Shri P C Das returned back registered letter No 10401/Civ/169/Inq dated 21 Dec 2001 did not accept the letter and letter was returned back undelivered by Postal Authority with the remark "Refused to Accept". The letter was for fixing next date of hearing on 17 Jan 2002.

(p) T/No 169 Civ VM Shri P C Das gave the name of UDC, Shri M P Singha of 222 ABOD at Guwahati for engaging the defence assistance vide his letter No Nil dated 21 Jan 2002.

(q) T/No 169 Civ VM Shri P C Das was intimated vide registered letter No 10401/Civ/169/Inq dated 08 Feb 2002 that all his letters have been replied. He was also intimated that he has not forwarded the consent of Shri M P Singha, UDC of 222 ABOD at Guwahati, whom he wanted to engage as defence assistance. He was also intimated vide registered letter No 10401/Civ/169/Inq dated 08 Feb 2002 (registered No 931 dated 09 Feb 2002) that he was again trying to delay the proceedings as he has not attached the consent of UDC, Shri M P Singha of 222 ABOD at Guwahati, which is at a distance of more than 100 Kms. His request for engaging a defence assistance from outside station was not agreed to due to long distance between place of inquiry and place of posting of the defence assistance. He was advised to engage a defence assistance from one of the local unit as sufficient time has already been given to him and ex-parte proceedings have been started.

(r) T/No 169 Civ VM Shri P C Das in connivance with Postal Authorities received the registered letters written by Inquiry Officer after one month at a distance of 1 Kilometer and tried to project that delay has been due to late receipt of letters.

(s) A registered letter No 10401/Susp/Civ dated 13 Feb 2002 was written to T/No 169 Civ VM Shri P C Das by Disciplinary Authority that he has been delaying the inquiry by delaying tactics and not receiving the registers letters in time or not accepting these letters. He was again advised to attend the inquiry.

(t) T/No 169 Civ VM Shri P C Das was intimated vide letter No 10401/Civ/169/Inq dated 22 Feb 2002 (registered No 2575 dated 22 Feb 2002) that he has been given five opportunities on 09 Oct 2001, 22 Oct 2001, 16 Nov 2001, 17 Jan 2002 and 06 Feb 2002. He was given one more chance to report to Inquiry Officer on 12 Mar 2002 at 1100 h in office of 306 Station Workshop EME.

(u) T/No 169 Civ VM Shri P C Das vide his letter dated 09 Mar 2002 stated that no suitable Central Govt worker is available in Shillong for

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defence Assistance and he be permitted to engage Shri M P Singha, UDC of 222 ABOD at Guwahati.

(v) T/No 169 Civ VM Shri P C Das vide his letter dated 18 Mar 2002 and 21 Mar 2002 addressed to appointing authority requested to permit engage a defence assistance from outside Shillong.

(w) Disciplinary authority of 306 Station Workshop EME vide letter No 10401/Civ/169 dated 04 Apr 2002 (registered No 3557 dated 05 Apr 2002) rejected the appeal of charged official for engaging a defence assistance from outside station due to long distance. The charged official was also intimated in detail the delaying tactics adopted by him since starting of inquiry. He was advised to engage a defence assistance from about 1000 Central Govt Workers located at Shillong. The disciplinary authority upheld the decision of Inquiring Authority for rejecting the defence assistance from outside Shillong.

(x) T/No 169 Civ VM Shri P C Das after a lapse of 9 months after receiving the memorandum again wrote to Disciplinary Authority for some documents of appointment of inquiring authority, Presenting Officer. He further asked the Inquiring authority for security check at the gate. His letter dated 21 Mar 2002 refers.

(y) Similar letters were again written on 23 Mar 2002 and 26 Mar 2002.

(z) Disciplinary authority vide letter No 10401/169/Civ dated 17 Apr 2002 (registered No 3956 dated 19 Apr 2002), intimated the charged official that copies of the appointment of inquiry officer and presenting officers were sent to the charge official by Registered AD post and the same was returned by the postal authority with a remarked that "Refused to accept". As per Govt of India instruction to Rule 30 of CCS (CCA) Rules 1965, documents sent by Registered AD Post, if not accepted by the addressee and is returned by the post office to the sender, further, action may be taken as if the documents has been served. He had been corresponding with inquiring authority from the very beginning and was fully aware of who is the inquiring authority. He had also attended the inquiry on 14 Mar 2002 and 18 Mar 2002 as is evident from the gate passes. However, zerox copies of detailment of Inquiry Officer, Presenting Officer were again sent to him.

(aa) T/No 169 Civ VM Shri P C Das vide his letter dated 29 Apr 2002 again raised the following issue just to delay the procedures :-

(i) That he does not know the detailment of Inquiry Officer and Presenting Officer.

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(ii) That he received the letters of appointment of Inquiry Officer on 27 Apr 2002 after a lapse of 8 months.

(iii) That Inquiry Officer is connected with all matters and is subordinate to disciplinary authority, he can not be inquiry officer.

(ab) T/No 169 Civ VM Shri P C Das again raised the same issues vide letter dated 20 Jun 2002.

(ac) Officer Commanding, 306 Station Workshop EME vide registered letter No 10401/169/Civ dated 05 Aug 2002 (registered No 3131 dated 05 Aug 2002) replied and the gist is as under: -

(i) That charged official was supplied with the copies of Appointment of Inquiry Officer and Presenting Officer - vide letter No 140101/169/Civ dated 30 Aug 2001 through registered letter. Charged Official was also mentioned that he had been corresponding with inquiry officer and have actually attended the inquiry on 14 Mar 2002 and 18 Mar 2002.

(ii) As that charged official was told that he has no authority to reject inquiry officer and no bias has been mentioned by him. The inquiry officer was not even present on 01 Jun 2001 in the workshop as he was on temporary duty at 311 Stn Wksp EME wef 07 May to 09 Sep 2001.

(iii) The appeal of the charged official for bias against the inquiry officer was also rejected vide para 3 of the aforesaid letter.

(iv) That JC-722950F Nb Sub SKT (MT) Amar Singh was replaced as Presenting Officer by JC-755107F Nb Sub SKT RK Kanwar due to retirement of JC-722950F Nb Sub SKT (MT) Amar Singh.

(v) Charged official was also intimated to collect his subsistence allowances which he has not been collecting.

(vi) He was also advised to appoint a defence assistance.

(ad) T/No 169 Civ VM Shri P C Das again wrote a letter on 05 Jul 2002 with the same old allegations and delaying tactics.

(ae) T/No 169 Civ VM Shri P C Das vide registered letter No 10401/169/Civ dated 09 Aug 2002 (registered No 3336) was intimated the following by Officer Commanding, 306 Station Workshop EME :-

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- (i) That plea of charged official has already been rejected as no bias has been mentioned. Moreover, the inquiry officer was not even present in the unit on 01 Jun 2001 as he was on temp duty at 311 Stn Wksp EME wef 07 May 2001 to 09 Sep 2001. The plea of staying the inquiry was also rejected.
- (ii) That the change of appointment of presenting officer has already been intimated to charged official vide 10401/Civ/169 dated 04 Apr 2002 and of even No dated 05 Aug 2002.
- (iii) That charged official was told to engage a defence assistance from about 1000 Central Govt Workers located at Shillong.
- (iv) That charged official was also intimated that he had been attending the inquiry on 14 Mar 2002, and 18 Mar 2002 and has been absenting after 21 Mar 2002.
- (af) That Daily Order Sheets were regularly sent to charged official vide registered letter Nos :-
- (i) 10401/169/Civ/Inq dated 23 Oct 2001.
 - (ii) 10401/169/Civ/Inq dated 04 Jan 2001.
 - (iii) 10401/169/Civ/Inq dated 09 Apr 2002.
 - (iv) Daily Order Sheet dated 14 Mar 2002 was received by the charged official by hand after the proceedings.
 - (v) 10401/Civ/169/INQ dated 24 Oct 2002.
- (ag) That Charged Official continued making representation to inquiry office, Disciplinary Authority and DGEME, Army Headquarters, New Delhi. The main gist has been rejection of inquiry officer.
- (ah) T/No 169 Civ VM Shri P C Das was intimated to submit his written brief by 11 Nov 2002 vide letter No 10401/169/Civ/Inq dated 24 Oct 2002. The copy of brief of presenting officer was also sent to him.
- (aj) That no reply regarding written brief has been recd.
- (ak) That T/No 169 Civ VM Shri P C Das sent a copy of appeal addsd to DGEME dated 02 Sep 2002. The gist of appeal was 'Bias against inquiry officer'
- (al) That Army Headquarters vide letter No 21892/24/EME Civ-3 dated 07 Feb 2003 intimated the charged official to send the appeal to MGEME East Command, Kolkata.

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(am) Charged Official did not send the appeal to MG EME, Eastern Command, the appellate authority.

(an) The appeal of bias against the inquiry officer was rejected by Brig SK Kakar, offg MG EME, East Comd vide order no 332230/2/PCD/EME Civ dated 23 May 2003.

(ao) The order was however cancelled vide HQ East Comd letter No 332230/2/PCD/EME Civ dated 09 Jun 2003.

(ap) Maj Gen UK Jha, MG EME, East Comd, the appellate authority rejected the appeal of charged official vide order no 332230/2/PCD/EME Civ dated 23 Jun 2003.

9. Assessment of Evidence in respect of each point - Assessment of evidence in respect of each point is discussed below in respect of T/No 169 Civ VM Shri P C Das -

(a) T/No 169 Civ VM Shri P C Das was charged for "Gross Misconduct" as per sub clause (i) of Article-I ie "On 01 Jun 2001, at about 0935 h created a riotous situation in the rest room while being instructed to go to shop floor by JC-750768X Nb Sub (now Sub) R C Nath". The main point of the charge is creating a riotous situation in the rest room. The meaning of word 'riot' as given in the dictionary is disorder, uproar, disturbance of peace & noisy festivity. Presenting Officer through SW-1, SW-2, SW-4 and SW-5 has amply proved disorderly and riotous situation in the workshop on 01 Jun 2001 at about 0935 h. T/No 169 Civ VM Shri P C Das refused to obey the orders of JC-750768X Nb Sub (Now Sub) R C Nath and became violent and used abusive language against the JCO. The violent behavior of T/No 169 Civ VM Shri P C Das would have created more serious situation had the JCO not pacified the accompanying jawans. T/No 169 Civ VM Shri P C Das had become so violent as he even started abusing the officers and JCOs and used words like "Yaha par sob gandu officer aur JCO hain". The above has been brought out by all the above witnesses. T/No 169 Civ VM Shri P C Das did not attend the inquiry on one pretext or the other except attending it on 14 Mar 2002 and 18 Mar 2002. He signed the proceedings on 14 Mar 2002 but refused to sign on 18 Mar 2002. Charged official did not cross examine any witnesses.

(b) The next charge against T/No 169 Civ VM Shri P C Das was assaulting JC-750768X Nb Sub (Now Sub) R C Nath on 01 Jun 2001 at about 0935 h approximately. The dictionary meaning of word assault is hostile attack, a rush against, to make a violent attack. The presenting officer through SW-1, SW-2, SW-4 & SW-5 has brought out that T/No 169 Civ VM Shri P C Das raised his hand to hit JC-750768X Nb Sub (Now

CONFIDENTIAL

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(Sub) R C Nath and made a gesture to hit him. The JCO saved himself by ducking being a soldier; otherwise, he would have been hit. The charge of assault on JC-750768X Nb Sub (Now Sub) R C Nath has been sufficiently proved by above witnesses. T/No 169 Civ VM Shri P C Das did not offer any defence and absented himself from the inquiry proceedings except attending the inquiry on 14 Mar 2002 & 18 Mar 2002. He refused to cross examine any witnesses.

(c) The next charge on T/No 169 Civ VM Shri P C Das is "an act subversive of discipline in that using abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath. Presenting Officer through witness No SW-1, SW-2, SW-4 & SW-5 has brought out that T/No 169 Civ VM Shri P C Das used abusive language against the JCO and used words like "Aap Chor hain aur FIP ka paisa khaya hai", "Yahan par sabhi gandhu officer aur JCO hain". The use of such filthy language by /No 169 Civ VM Shri P C Das has been proved by above witnesses. T/No 169 Civ VM Shri P C Das did not offer any defence and did not attend the inquiry except on 14 Mar 2002 but refused to cross-examine any witnesses.

(e) Continual and wilful neglect of duty and absence from place of work from 01 Feb 2001 to 01 Jun 2001 has been amply proved by the statements of SW-1, SW-2, SW-3, SW-4 & SW-5. JC-753913P Nb Sub Tech 'B' Veh K Jaya Prakasan, SW-2 has brought out that T/No 169 Civ VM Shri P C Das had been absent from place of work from 01 Feb 2001 to 01 Jun 2001 after marking his presence. The charged official has been roaming around in the workshop or sitting in rest room all this time. The same is also clear from the attendance register produced by the Presenting Officer on 30 Mar 2002. As the charged official has been absenting from place of work on all working days from 01 Feb 2001 to 01 Jun 2001, his out put has been shown nil in the register. The register has been marked as an Exhibit S-1. The presenting officer has thus amply proved by above witnesses the continual and wilful neglect of duty and absence from 01 Feb 2001 to 01 Jun 2001 on all working days.

(f) Continual wilful disobedience of orders given by supervisory staff to proceed to place of work from 01 Feb 2001 to 01 Jun 2001 has also been proved by SW-1 & SW-2. JC-753913P Nb Sub Tech 'B' Veh K Jaya Prakasan, SW-2 has been continually ordering the charged official to proceed to place of work but he always refused making excuses. The JCO has been maintaining a register of output of all workers working under him. The charged official did not attend the inquiry even after giving him sufficient time except attending 14 Mar 2002. The register has been attached as Exhibit S-1.

CONFIDENTIAL

FINDING OF EACH CHARGES

10. In view of the assessment of evidence on each point, statement of witnesses, cross examination of each witness and brief submitted by the Presenting Officer, the findings on each charge are record as under :-

(a) T/No 169 Civ VM Shri P C Das of 306 Station Workshop EME is found guilty of "Gross Misconduct" i.e

(i) Creating a riotous situation in the rest room of civilian workers of 306 Station Workshop EME on 01 Jun 2001 at about 0935 h when ordered to go to shop floor by JC-750768X Nb Sub (Now Sub) R C Nath of the same workshop.

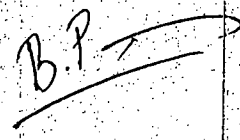
(ii) Assaulting JC-750768X Nb Sub (Now Sub) R C Nath of 306 Station Workshop EME on 01 Jun 2001 at about 0935 h in civilian rest room of 306 Station Workshop EME.

(iii) An act subversive to discipline, in that using abusive and filthy language against JC-750768X Nb Sub (Now Sub) R C Nath of 306 Station Workshop EME.

(v) Continual wilful neglect pf duty and absence form place of work on all working days wef 01 Feb 2001 to 01 Jun 2001.

(vi) Continual and wilful disobedience of orders of supervisory staff to proceed to place of work on all working days form 01 Feb 2001 to 01 Jun 2001.

On the basis of documentary and oral evidence adduced in the case before me and in view of the reasons given above, I hold that all the six charges against T/No 169 Civ VM Shri P C Das.


(Bidyot Panging)
Inquiry Officer

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 150 of 2003.

Date of Order : This the 20th Day of November, 2003.

The Hon'ble Mrs. Lakshmi Swaminathan, Vice-Chairman.

The Hon'ble Mr S.K. Naik, Administrative Member.

1. Sri Bihari Singha,
son of Late Kunjeswar Singha,
Qtr. No. MPS - 93/2 Deodgenline,
Shillong Cantt.,
Shillong, Meghalaya.

2. Sri Prabhat Ch. Das,
son of late Gopal Chandra Das,
resident of Qtr. No. DF 18/1&2,
Burma Line, Shillong Cantt.,
Shillong, Meghalaya.

...Applicants

By Advocate S/Sri S. Dasgupta, S. Chakraborty.

- Versus -

1. Union of India,
represented by the Secretary to the
Govt. of India, Ministry of Defence,
New Delhi.

2. Director General FME,
Master General of Ordinance Branch,
Army Head Quarters,
DHQ, P.O. New Delhi-110011.

3. MGEMF (Major General Electrical
Mechanical Engineering),
Head Quarters,
Eastern Command (FME Branch),
Fort William, Kolkata-21.

4. Officer Commanding,
306 Station Workshop FME,
C/o 99 ApO.

5. A E E,
306 Station Workshop FME,
C/o 99 APO,
(Inquiry Officer).

...Respondents

By Shri A. Deb Roy, Sr. C.G.S.C.

ORDER (ORAL)MRS LAKSHMI SWAMINATHAN (V.C)

In this application the applicants have prayed for
the following main reliefs :

i) Set aside and quash the exparte enquiry proceeding
held against the applicants.

ii) Set aside and quash the appointment of Inquiry
Officer.

contd..?

iii) Direct the respondents to conduct a fresh enquiry by appointing a new Inquiry Officer.


iv) Direct the respondents to pay the due subsistence allowance to the applicants alongwith the arrears.

2. During the hearing, learned counsel for the applicants has submitted that he does not press prayer in clause (iv). He has submitted that in pursuance of Tribunal's order dated 25.7.2003, the applicants have since received the due subsistence allowance from the respondents. We have heard Mr S. Chakrabarty, learned counsel for the applicants. It is also relevant to note that the submissions of Mr A. Deb Roy, learned Sr. G.C.S.C. for the respondents that the amount due to the applicants as subsistence allowance was not paid to the applicants earlier, not due to the fault of the respondents but the applicants did not accept the same. However, we note the submissions of both the learned counsel that this part of the prayer no longer survives.

3. With regard to the main claims of the applicants, two main grounds have been taken by the learned counsel for the applicants, namely, (i) that the appointment of the Enquiry Officer, Sri Bidyut Panging, had never been informed to the applicants. They have also submitted that as he is the officer in charge of maintaining the Daily Register of Attendance and was the Supervisory Officer of the applicants, he is biased and therefore, unfit to be appointed as the Enquiry Officer. In this regard, learned counsel for applicants has submitted that the applicants had submitted a number of representations to the respondents to change the Enquiry Officer and has submitted that the applicants have no objection if the proceedings are continued by any other

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officer. The second ground taken by the learned counsel for the applicants is that they have been unfailry denied the assistance of one Sri M.P. Singha, UDA, who is admittedly working in 222 ABOD, Narengi, Guwahati. The learned counsel has submitted that it was only for the first time on 8.2.2002 that the respondents had informed the applicants that their request for availing of the service of Sri M.P. Singha, as Defence Assistant had been turned down on the ground that the officer's consent had not been attached with the letter and there was a long distance from the place of enquiry i.e., Shillong and the place of posting of the Defence Assistant at Guwahati. He was, therefore, advised to engage one of the officers at Shillong as Defence Assistant on the ground that sufficient time had already been granted to him and ex parte proceeding had already been started.



The respondents have controverted the averment made by the applicants. Sri A. Deb Roy, learned Sr. C.G.S.C. has drawn our attention to the averments made in the written statement and in particular, Paragraphs 10, 11 and 13. He has submitted that the contentions of the applicants that they were not informed about the commencement of the enquiry proceeding is not at all correct. He has submitted that they were intimated by registered letters at their residential addresses on 31.8.2001 about the same but these letters were returned undelivered by the postal authorities with the remarks "Refused". They have also annexed the copies of the letters sent by registered post to the applicants, including Annexures Q-1 and Q-2. He has also relied on the relevant instructions issued by the Government of India under Rule 38 of the CCS (CCA) Rules 1965.

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According to the respondents, the enquiry proceeding was started by the enquiry officer on 29.1.2001 and applicant No. 1 had attended the enquiry on 11.3.02, 13.3.02, 15.3.02 and 20.3.02. Applicant No. 2 had attended the enquiry proceeding on 14.3.02 and 18.3.02. Learned counsel for the applicants has not denied these facts but has submitted that applicant No. 1 has attended the enquiry proceedings on various dates in March 2002, only on receipt of the information to attend the enquiry proceedings from the Enquiry Officer but has repeatedly contended that at that time, they had not received the letter from the disciplinary authority informing them of the appointment of the Enquiry Officer and Presenting Officer dated 30.8.2001. Learned counsel for the respondents has also stressed on the fact that the Enquiry Officer, Sri Bidyut Panging, does not maintain the Attendance Register which is kept at the main gate and maintained by the Gate NCO, who is the Supervisory-in-charge. In the circumstances, the learned counsel has submitted that there is no infirmity either in the appointment of the enquiry officer or proceeding held ex parte against the applicants after they stopped attending the enquiry. According to the respondents, the applicants were deliberately trying to delay the proceedings which fact has been denied by the learned counsel for the applicants in the oral reply, though no written rejoinder has been filed.

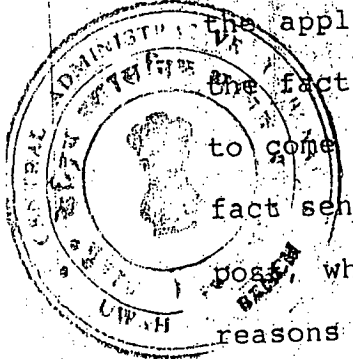
5. We have carefully considered the pleadings, the submissions made by the learned counsel for the parties as well as the relevant documents on record.

6. It is noted from the submissions made by the learned counsel for the applicants that they do not deny receipt of the letter from the disciplinary authority dated 18.4.2002

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(though the date does not appear in Annexure - E) which was repeatedly referred to by learned counsel for the applicants. In this letter, the respondents have clearly stated that Sri Bidyut Panging was appointed as Enquiry Officer vide order dated 30.8.2001. They have also submitted that the copies of the appointment of the Enquiry Officer and Presenting Officer were sent to the applicants vide registered post. It is also relevant to note that the applicants have admitted that on subsequent dates in March 2003, they have appeared before the Enquiry Officer, which according to them is on the intimation received from that Officer. The respondents have, on the other hand, clearly stated that they have sent the necessary communications to the applicant by registered post, which has been refused by the applicants as indicated by the postal authorities. In the facts and circumstances of the case, we have no reasons to come to the conclusion that the respondents have not in fact sent the communications to the applicants by registered post, which were not ^{refused} to be accepted by the applicants, for reasons best known to them. These facts have further been clarified in the aforesaid letters of respondents i.e., disciplinary authority, in which he has clearly stated in para 4 that "however, a xerox copy of appointment of EO and PO dated 30.8.2001 are again forwarded for information." He has also referred to the facts that the applicants had attended the enquiry proceedings on various dates in March 2002 and these facts are not denied by the applicants. It is further relevant to note from the copies of letters received by the applicants and annexed by themselves in O.A. show that time and again, the respondents have advised the applicants to co-operate with the enquiry officer for early finalisation of the enquiry proceedings initiated on



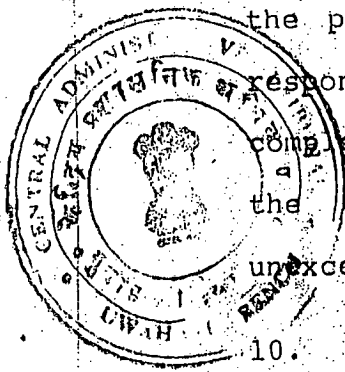
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11.7.2001 against them. In the circumstances of the case, the contention of the learned counsel for the applicants that they were not intimated about the appointment of the enquiry officer is baseless and contentions to the contrary are accordingly rejected.

7. In the circumstances of the case, we are also unable to agree with the contentions of the learned counsel for the applicants that the explanation given by the respondents that as the enquiry officer is not the person who is to make the entries in the Daily Attendance Register he should be replaced by another Enquiry Officer. The reasons given by the respondents for rejecting the request of the applicants for change of enquiry officer cannot be held to be either unreasonable or arbitrary to justify any interference in the matter at this stage. In the circumstances of the case this contention of the applicants is rejected.

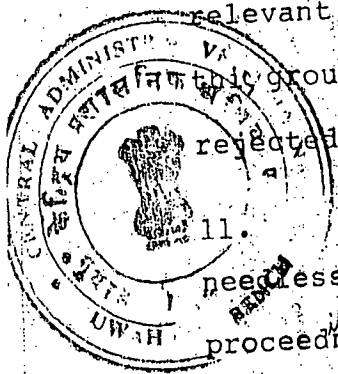
8. With regard to the appointment of the defence assistant to assist the applicants in the enquiry proceeding, we also find the reasons given by the respondents neither arbitrary nor illegal to set aside that decision. They have stated, inter alia, that the applicants should nominate any other defence assistant from the same Station where the applicants are posted, i.e., Shillong. We do not find any merit in the submission of the learned counsel for the applicants that merely because there is only a distance of 100 Kms between Shillong and Guwahati, the stand taken by the respondents is any way unjustified in the circumstances of the case. Besides no prejudice has been shown to be caused to the applicants.

9. According to the learned counsel for applicants, against the order passed by the disciplinary authority rejecting their request for appointment of another enquiry officer in place of Sri Bidyut Panging, A.E., the applicants had submitted an appeal before the appellate authority, which was also rejected by the order dated 23.5.2003. Admittedly, the applicants did not file any appeal against the rejection by the disciplinary authority of their request for appointment of M.P. Singha as defence assistant. Apparently, they have also not made any further request for appointing any other officer from the same Station to assist them in the pending enquiry proceedings inspite of reminders from the respondents that they ought not to delay the pending proceedings. We find the stand taken by the respondents that the pending enquiry proceedings should be completed, in accordance with rules expeditiously, in which the co-operation of the applicants have been sought unexceptionable.



10. From the documents on record we are unable to come to the conclusion whether after the rejection of the applicants' request for appointment of a defence assistant in the enquiry proceedings from what date the ex parte proceedings were continued. It is seen from the letter issued by the respondents dated 8.2.2002 that they had again advised the applicants to engage a defence assistant from one of the local units to avoid further delay in the enquiry proceedings. It is further relevant to note that this O.A. itself was filed in the Tribunal on 26.6.2003 i.e. more than one year after the rejection letter issued by the respondents on 8.2.2002. It is also relevant to note that the applicants have not filed any appeal before the higher authority with regard to replacement of the defence assistant

in place of Sri M.P. Singha. Therefore, in the circumstances of the case, it appears that the applicants even after being informed that their request to engage Sri M.P. Singha as defence assistant was rejected did not take any further steps in the matter in accordance with the rules. In this view of the matter the further ex parte proceedings, if any, held by the respondents cannot be held to be arbitrary or against the relevant rules as sufficient opportunity of hearing had been afforded to the applicants which they chose not to avail. In the facts and circumstances of the case, we are unable to come to the conclusion that there has been any violation of the principles of natural justice or the relevant rules to warrant any interference in the matter on this ground also. Therefore, this ground also fails and is rejected.



11. In the facts and circumstances of the case, it is needless to add that the aforesaid pending disciplinary proceedings against the applicants should be completed in accordance with law, rules and instructions as expeditiously as possible and the applicants should also co-operate in the same.

12. In the result, for the reasons given above, we find no merit in the application. The O.A. accordingly fails and is dismissed. No order as to costs.

Sd/ VICE-CHAIRMAN
Sd/ MEMBER (A)

Certified to be true Copy
प्रमाणित प्रतिलिपि

W. S. S. S.
22/12/53
Section Officer (J)
C.A.T. GUWAHATI BENCH
Guwahati-781005

168 22/12

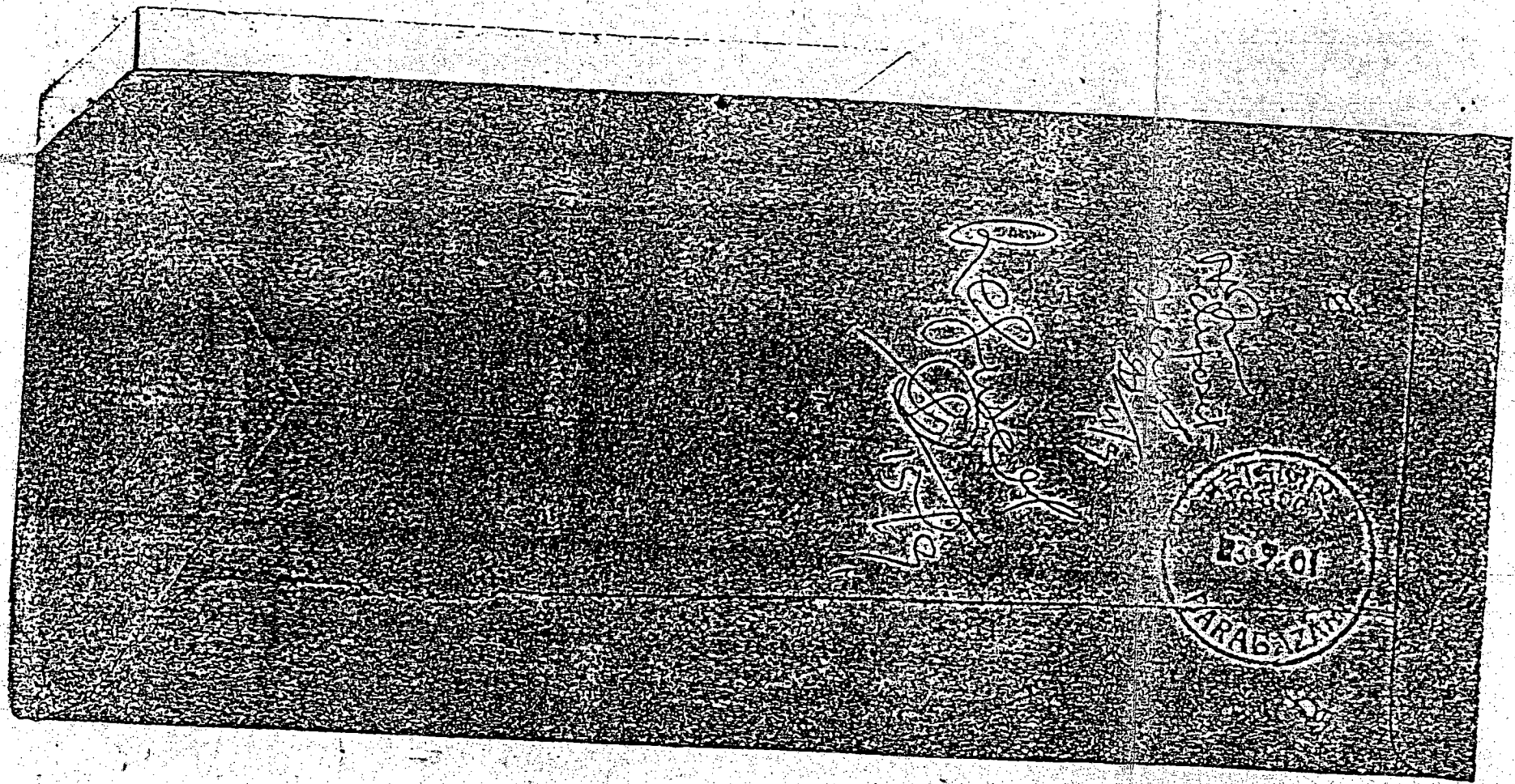
~~Annexure - X~~

Annexure - X



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10401/Civ/169/INQ

20 Sep 2001

Annexure-XI

T.No 169 Veh Mech
Shri PC Das
Qtr No DM 30/4
Dudgeon Lines
Shillong

**DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED
AGAINST SHRI T.NO 169 VEH MECH PC DAS UNDER RULE
14 OF CCS (CCA) RULES 1965**

1. I have been appointed as Inquiring authority to conduct inquiry in the case above cited, vide Order No 10401/169/Civ dt 30 Aug 2001 issued by Lt Col JS Bains, OC of this unit, a copy of which has been endorsed to you.
2. Accordingly, a preliminary hearing of the case will be held by me on 09 Oct 2001 at 1100h at Office of Workshop Officer 306 Stn Wksp EME, C/O 99 APO. You should present yourself alongwith your defence assistant, if you so desire, in time to attend the preliminary hearing and wait until further directions. In case you fail to appear at the appointed date and time, proceeding will be taken ex-parte.
3. Instructions for getting your Defence Assistance relieved will be issued if his particulars and willingness to work as such alongwith the particulars of his controlling authority are received by me before 01 Oct 2001.
4. While nominating a Government servant as Defence Assistance the instructions on the subject should be kept in view.
5. Receipt of this notice may please be acknowledged.

B.P.
(Bidyot Pangning)

AEE

Inquiring Authority

Copy to :-

JC-722950F Nb Sub/SKT(MT) Amar Singh
Presenting Officer
306 Stn Wksp EME
C/O 99 APO

He is also requested to attend the preliminary hearing at appointed date and time alongwith all listed documents in Original.

B.P.
(Bidyot Pangning)

Tele : 6177

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REGD POST
306 Stn Wksp EME
C/O 99 APO

(8)
152 ✓

10401/Civ/169/INQ

03 Oct 2001

PC Das
T.No 169 Veh Mech
Qtr No DM 30/4
Dudgeon Line,
Shillong

Annexure - XII

**DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED
AGAINST T.NO 169 VEH MECH SHRI PC DAS UNDER RULE
14 OF CCS (CCA) RULES 1965**

1. Refer to your letter No Nil dated 27 Sep 2001.
2. Your contention of granting one month time for managing the defence assistance is not agreed to. The intimation of appointment of inquiry officer was issued vide 306 Station Workshop EME, C/O 99 APO Order No 10401/172/Civ dated 30-Aug 2001 and you should have arranged your defence assistance.
3. However you are given one more opportunity and preliminary hearing of the case will now be held on 22 Oct 2001 at 1100h at office of Workshop Officer 306 Station Workshop EME, C/O 99 APO. You should in time to attend the preliminary hearing alongwith you defence assistance, if you so desire. In case you fail to appear at the appointed date and time, proceedings will be taken ex-parte.
4. Instructions for getting your defence assistance relieved will be issued if his particulars and willingness to work as such alongwith the particulars for his controlling authority are received by me before 15 Oct 2001.
5. Receipt of this notice may please be acknowledged.

B. P.
(Bidyot Panging)
AEE
Inquiring Authority

Copy to :-

JC-722950F Nb/Sub/SKT(MT)
Amar Singh

for info wrt our letter No 10401/Civ
/169/INQ dt 20 Sep 2001.

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No. 10401 CIV 169 INQ
 21-03-1010

प्राप्त वाले के हस्ताक्षर/थापन करि /Signature of addressee

निम्नलिखित को भरना आवश्यक है / Fill in the following details / Signature of addressee

गोचर/गोचर न होना आवश्यक है / Score our the matter not required

गोचर/गोचर न होना आवश्यक है / For Insured articles only

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Annexure - XIV

Tele 6177

RRAD BYPOST
306 Sth Wksp EME
C/O 99 APO

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10401/169/Civ/INQ

23 Oct 2001

Shri PC Das
T No 169 Civ/VM
Qtr No MES 30/4
Dudgeon Lane
Shillong Cantt

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED
AGAINST T. NO 169 VM PC DAS UNDER RULE
14 OF CCS (CCA) RULES 1965

1. Refer to -

- (a) My letter No 10401/Civ/169/INQ dt 20 Sep 2001.
- (b) My letter No 10401/Civ/169/INQ dt 03 Oct 2001.
- (c) 306 Sth Wksp EME letter No 10401/Civ/169 dt 19 Oct 2001.
- (d) My letter No 10401/Civ/169/INQ dt 20 Oct 2001.

2. The next date of preliminary hearing will take place on 16 Nov 2001 at 1100h in my office at 306 Sth Wksp EME. You are hereby advised to report for inquiring on the above date and time. It is for your info that after 16 Nov 2001, inquiring proceedings will be held on every alternative day except Sundays and holidays.

3. Daily order Sheet of 20 Sep, 09 Oct and 22 Oct 2001 are also enclosed.

B. P.

(Bidyot Prasing)
AEE
Inquiring Authority

Copy to -

Officer Commanding
306 Sth Wksp EME
C/O 99 APO

for info

IC-7229501 NB Sub/ST (MT)
Amar Singh
306 Sth Wksp EME

for info alongwith daily order sheet as mentioned above.

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Tele : 6177

Regd by Post306 Stn Wksp EME
C/O 99 APO

10401/169/Civ/Inq

21 Dec 2001

T/No. 169 Civ VM (MV)
Shri PC Das
Qtr No DM-30/4
Deodgen Line
Shillong Cantt**DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 169
VM SHRI PC DAS UNDER RULE 14 OF CCS (CCA) RULES 1965**

1. Refer to :-

(a) My letter No 10401/169/Civ/INQ dated 23 Oct 2001.

(b) Your letter No nil dated 23 Nov 2001 received on 29 Nov 2001.

2. After considering your request for 15 days time to search for a defence assistance, the next date of hearing is fixed on 17 Jan 2002 at 1100 h in my Office at 306 Station Wksp EME. However, ex party inquiry has been started on 16 Nov 2001. You are hereby advised to report for inquiry on the above date and time. It is for your information that after 17 Jan 2002, inquiry proceedings will be held on every alternative day except Sunday and Holidays.

(Bidyot Panging)
AEE
Inquiring Authority.

Copy to :-Officer Commanding
306 Station Wksp EME
C/O 99 APOJC-722950F Nb Sub SKT (MT)
Amar Singh
306 Station Wksp EME
C/O 99 APO

For info.

CONFIDENTIAL

CONFIDENTIAL

(19)
Registered Part

Tele : 6177

306 Stn Wksp EME
C/O 99 APO

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10401/169/Civ/Inq

24 Jan 2002

T/No 169 Civ VM
Shri P C Das
Qtr No DM 30/4
Deodgen Line
Shillong Cantt

Annexure - XVI

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 169
CIV VM (MV) SHRI P C DAS UNDER RULE 14 OF CCS (CCA) RULES 1965

1. Refer to :-

(a) My Registered letter No 10401/169/Civ/Inq dated 23 Oct 2001.

(b) Your letter No Nil dated 23 Nov 2001, recd on 29 Nov 2001.

(c) My Registered letter No 10401/169/Civ/Inq dated 21 Dec 2001. (Returned back
unaccepted on 16 Jan 2002).

2. On your request vide letter at Para 1 (b) above, you have been given sufficient time to search for a defence assistance and date of hearing was fixed on 17 Jan 2002 which was intimated to you vide our Registered letter No 10401/169/Civ/Inq dt 21 Dec 2001. But this letter was returned undelivered because you had refused to accept the registered letter on 11 Jan 2002, as per remarks endorsed on the letter by the postal authority.

3. It seems that you are trying to delay the inquiry. However, it is for your information that exparte inquiry has already been started on 16 Nov 2001 (which was intimated to you vide our letter ref at Para 1 (c) above. You are hereby given one more chance to report for inquiry on 06 Feb 2002 at 1100 h in my Office.

I

B.P.
(B Panging)
AEE
Inquiring Authority

Copy to :-

Officer Commanding
306 Station Wksp EME
C/O 99 APO

JC-722950F Nb Sub SKT (MT)
Amar Singh
306 Station Wksp EME
C/O 99 APO

For info.

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प्राप्ति-स्वीकृति (रसीद)/शुद्धि पत्र/ACKNOWLEDGMENT

पंजीकृत
संख्या पत्र/पोस्टकार्ड/पैकेट/पार्सल प्रोवादा पु अ
कमक 484
नं 787-22
* Received Registered Letter/Postcard/Packs/Parcel No 1640164 CIVILIAN
* Insured Insured
पाने वाले का नाम 150-69 CIV (VM)
आपका नाम/ठिकाना } SWY P L Dax
Addressed to (name) QTR/NO DM 35/4
+ वामे का मूल्य (रुपये में) Deodgen line
+ शीमकृत जयम भद्रिमान SWIONG Comt
* Insured for Rupees
वितरण की तारीख } 19 पाने वाले के हस्ताक्षर/आपका नाम/Signature of addressee
Date of delivery
* अनिवार्यक की कोट दिया जाये/अवश्यकता पर (नोट-पिन/Score out the matter not required)
+ लक्ष्य योग्य वस्तुओं के लिए/कमक शीमकृत (आवश्यकता पर) For insured articles only

CONFIDENTIAL

Annexure # XVIII

Regd by Post

306 Stn Wksp EME
C/O 99 APO

22 Feb 2002

6177

01/Civ/169/INQ

To 169 Civ VM (MV)
ri P C Das
r No DM 30/4
adgen Line
hillong Cantt

DEPARTMENTAL INQUIRY INTO THE CHARGES FRAMED AGAINST T/NO 169 CIV
VM (MV) SHRI P C DAS UNDER RULE 14 OF CCS (CCA) RULES 1965

1. Further to our letter No 10401/169/Civ/INQ dated 12 Feb 2002.
2. You have already been given five opportunities on 09 Oct 2001, 22 Oct 2001, 16 Nov 2001, 17 Jan 2002 and 06 Feb 2002, but you were absent on all the above dates. It seems that you are trying to delay the inquiry with one excuse or the other.
3. Beside that exparte inquiry has already been started on 16 Nov 2001 (which was intimated to you vide our registered letter No 10401/169/Civ/INQ dt 21 Dec 2001 and registered letter No 10401/169/Civ/INQ dt 24 Jan 2002), you are hereby given another chance to report for inquiry on 12 Mar 2002 at 1100hrs in my Office. It is for your information that after 12 Mar 2002, the inquiry proceedings will be held on every alternative day except Sunday and Holidays at 1100hrs in my Office. If the date of inquiry is falls on Sunday or Holidays, these will be held on next working day at same time and place.

B P
(B Panging)
AEE
Inquiry Authority

NOO

Officer Commanding
306 Station Wksp EME

JC-722950E Nb Sub SKT(MT)
Amar Singh
306 Station Wksp EME

For information

CONFIDENTIAL

CONFIDENTIAL

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Tele : 6177

REGISTERED BY POST

306 Station Workshop EME
C/O 99 APO

10401/Sus/Civ

21 Nov 2003

T/No 169 Civ VM (Mate)
Shri P C Das
Qtr No DF 18/1 - 2
Burma Line
Shillong Cantt

FORWARDING OF INQUIRY REPORT : DISCIPLINARY PROCEEDINGS
UNDER RULE 14 OF CCS (CC & A) RULE 1965 AGAINST
T/NO 169 CIV VM (NOW VM/MATE) SHRI P C DAS

1. Refer to :-

- (a) Memorandum of Charge Sheet bearing No 21208/169/Est/Ind/LC dated 11 Jul 01.
- (b) Our letter No 10401/169/Civ dated 30 Aug 01.
- (c) Rule 15 (2) of CCS (CC&A) Rule 1965.

2. A copy of inquiry report submitted by the Inquiry Officer is forwarded herewith for your information. You are hereby directed to submit your representation, if any within 15 days of receipt of inquiry report.

Encls : 17 Pages


(J S Bains)
Lt Col
Officer Commanding

**FINDINGS OF DISCIPLINARY AUTHORITY ON THE DEPARTMENTAL
INQUIRY HELD AGAINST T/NO 169 CIV /VM(NOW VM MATE)
SHRI PC DAS OF 306 STATION WORKSHOP EME**

1. Having gone through the Inquiry Officer's report, record of Inquiry and representation received from the Charged Official, the findings of the disciplinary authority on each article of charge are as under :-

(a) T/No 169 Civ/VM (Now VM Mate) was charged for "Gross Misconduct" as per sub clause (i) of Article (I) i.e "One 01 Jun 2001, at about 0935h created a riotous and disorderly situation in the civilian rest room while being told to go to shop floor by JC-750768X Nb Sub (Now Sub) RC Nath". Inquiry Officer through the statements of SW-1, SW-2, SW-4 and SW-5 has come to the conclusion that Charged Official refused to obey the orders of JC-75068X Nb Sub (Now Sub) RC Nath. It has been brought out by SW-1, SW-2, SW-4 and SW-5 that Charged Official used abusive language against the JCO. From the records of Inquiry it reveals that situation would have become serious, had the JCO not pacified the accompanied Jawans. Charged Official through his representation dated 29 Nov 03 has not brought out any defence for disobeying the orders and creating a riotous situation. In view of above T/No 169 Civ/VM (Now VM Mate) Shri PC Das is thus found guilty of the said charge. He has also not opted to cross examine witness No SW-1, SW-2, SW-4 and SW-5.

(b) The next charge against the Charged Official was "Assaulting Junior Commission Officer JC-750768X Nb Sub (Now Sub) RC Nath of the same workshop on 01 Jun 2001 at about 0935h in civilian rest room of 306 Station Workshop EME". Inquiry Officer on the basis of statements of SW-1, SW-2, SW-4 and SW-5 has come to the conclusion that Charged Official tried to hit the JCO with his hands but he saved himself by ducking being a soldier. The Charged Official did not offer any defence during the inquiry as well as in his representation dated 29 Nov 03. He has also not cross examined witness No SW-1, SW-2, SW-4 and SW-5.

(c) The next charge against the Charged Official was "An act subversive of discipline in that using abusive and filthy language against JC - 750768X Nb Sub (Now Sub) RC Nath". The Inquiry Officer on the basis of statements of SW-1, SW-4, SW-5 has found the Charged Official guilty of the charge. The Charged Official did not brought out any point in his defence in his representation dated 29 Nov 03 and has also not cross examined witnesses. Therefore, T/No 169 Civ/VM (Now VM Mate) is found guilty of said charge.

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(d) The next charge against the Charged Official was "Continual and willful absence from place of work on all working days wef 01 Feb 2001 to 01 Jun 2001." The Inquiry Officer on the basis of statements of SW-1, SW-2, SW-3, SW-4 and SW-5 has found the Charged Official guilty of the above charge. From the records of Inquiry, it reveals that Charged Official has been found absent from place of work on all working days from 01 Feb 2001 to 01 Jun 2001 even though he has been reporting to the workshop but kept roaming around or kept sitting in rest room. The Charged Official has not brought any point in his defence in the representation dated 2 Nov 03 and he has also not cross examined any witnesses. T/No 169 Civ/VM (Now VM Mate) is thus found guilty of the said charge.

(e) The next charge against the Charged Official was "Continual and willful disobedience of orders given by supervisory staff from 01 Feb 2001 to 01 Jun 2001 on all working days." The Inquiry Officer has found the Charged Official guilty of the said charge and Charged Official has also not brought any point in his defence in his representation dated 29 Nov 03. In view of all above, T/No 169 Civ/VM (Now VM Mate) is found guilty of the said charge.

2. In addition to forwarding representation on above charges, the Charged Official has raised other points which are being disposed off by the undersigned as follows:

(a) The Charged Official has been given ample opportunity as per the CCS (CCA) Rules but from the inquiry report and other documents it reveals that he has been using dilatory tactics. He has been seen returning the registered letters which have been returned back by Postal Authorities with the remarks "Refused to Accept". Charged Official attended the Inquiry on 14 Mar 2002 but refused to cross examine the witness inspite of giving fair opportunity by the Inquiry Officer. As per records he has refused to co-operate with the Inquiry Officer and kept insisting that he has not received the registered letter. Returning the registered letters to Postal Authorities with the remarks "Refused to accept" proves his intentions of not co-operating with the Inquiry Officer.

(b) The Inquiry has been ordered as per CCS (CCA) Rules 1965. The Charged Official was given ample opportunity to defend himself as per the CCS (CCA) Rules but his aim has been not to co-operate with the Inquiry Officer. During the progress of inquiry the charged official was found forwarding repeated representation with a view to delaying it. However the disciplinary authority decided the same on merit by giving due weightage to his points.

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112

CONFIDENTIAL

3

(c) The presenting officer has been changed due to the retirement of JC-722950F Nb Sub/SKT(MT) Amar Singh and charged official has been intimated through a registered letter about the change.

(d) The Charged Official represented against Inquiry Officer after 8 months and his appeal was rejected first by Disciplinary Authority and then by Reviewing Authority as no bias was found.

(e) The Inquiry Officer has given his findings based on the statements of witnesses presented by Presenting Officer. It was upto the Presenting Officer to present his witnesses as were sufficient to prove charge. Accordingly the other witness who were not required by Presenting Officer were not required to be heard. However the charged officer had all the liberty to call any of such witness for his defence side which actually he has not produced before the Inquiring Officer.


(f) The Inquiry was conducted exparte after giving sufficient time to the Charged Official and as per CCS(CCA) Rules, 1965.

(g) The record shows that the dates were fixed by Inquiry Officer who had given adequate and sufficient time to the charged official to attend the Inquiry. All the letters were sent through registered posts.

(h) The proceedings of the Inquiry have been forwarded to Charged Official by the Inquiry Officer through registered letter No 10401/Sus/Civ (i) dated 21Nov 2003 and all daily order statements have been found forwarded by the Inquiry Officer.

Station : C/O 99 APO

Dated : 27 Dec 2003


Lt. Col JS Bains
Officer Commanding
Disciplinary Authority

(2) - 62 -
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, RAJGARH ROAD
BHANGAGARH, GUWAHATI- 5.
O.A. No. 134 of 2006

Shri Prabhat Chandra Das

Applicant(S)

- Versus -

U.O. I & Ors.

Respondent(s)

Memo No. _____

2539

Dated 19-5-09

To,

1. Shri Prabhat Chandra Das, S/o Late Gopal Chandra Das, Qtr. No. 30/4, Deodgenline, Shillong Cantt, Shillong.
2. The Union of India, represented by the Secretary to the Govt. of India, Ministry of Defence, South Block, New Delhi- 110011.
3. The Director General (Civ), Master General of Ordnance Branch, Army Headquarters, DHQ Post, New Delhi- 110011.
4. Major General, Electrical Mechanical Engineering (MGEME), HQ Eastern Command (EME Branch), Fort William, Kolkata- 21.
5. Station Commander, Station Headquarters, EME, Shillong.
- ✓ 6. Office Commanding, 306 Station Workshop, EME, C/o 99 APO.
7. Asstt. Executive Engineer (AEE), 306 Station Workshop EME.

Please find enclosed herewith a copy of the order dated 27.3.09 passed in O.A./R.A./M.P./E.P./C.P. No.134/2006 by this Tribunal and do needful.

Encl: As above

By Order

SECTION OFFICER (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

164

Original Application No.134 of 2006.

Date of Order : This, the 27th day of March, 2009.

THE HON'BLE MR. A.K.GAUR, JUDICIAL MEMBER

THE HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Prabhat Chandra Das
S/o Late Gopal Chandra Das
Qtr. No.DM 30/4
Deodgenline
Shillong Cantt.
Shillong

...Applicant.

By Advocates: Mr.M.Chanda. Mr.S.Nath & Mr.G.N.Chakraborty

- Versus -

1. The Union of India represented by the
Secretary to the Govt. of India
Ministry of Defence, South Block
New Delhi - 110 001.

The Director General (Civ)
Master General of Ordnance Branch
Army Headquarters, DHQ Post
New Delhi - 110 011.

3. Major General
Electrical Mechanical Engineering (MGEME)
HQ Eastern Command (EME Branch)
Fort William
Kolkata-21.

4. Station Commander
Station Headquarters, EME
Shillong.

5. Officer Commanding
306 Station Workshop
EME, C/o 99 APO..

6. Asstt. Executive Engineer (AEE)
306 Station Workshop EME



C/o 99 APO.

7. Lt. Col JS Bains
Officer Commanding
306 Station Workshop EME
C/o 99 APO.
8. Shri R.C.Nath
Subedar
JC-750768X
306 Station Workshop EME
C/o 99 APO.

... Respondents.

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

ORDER (ORAL)



A.K.GAUR, MEMBER (J) :

We have heard M.Chanda, learned counsel for the Applicant and Mr. M.U.Ahmed, learned Addl. Standing counsel for the Government of India.

2. It has been argued by the learned counsel for the Applicant that the order passed by the appellate authority is not a reasoned and speaking one and the appellate authority has passed the said order dated 08.05.2006 in a most casual and perfunctory manner without application of mind without considering all the grounds taken in the appeal dated 06.12.2005. To support his contention, learned counsel for the Applicant has placed reliance on the following Supreme Court decisions in order to buttress the contention that it is the bounden duty of the appellate authority to consider each and every ground raised in the memorandum of appeal:-

- (i) 2006 SCC L&S 840 (Narinder Mohan Arya. vs. United Insurance Co. Ltd & Others);
- (ii) AIR 1986 SC 1173 (Ram Chander vs. Union of India & Others)
- (iii) (2005) 7 SCC 597 (National Fertilizers Ltd. and Another vs. P.K.Khanna; and lastly

- (iv) 2006 (11) SCC 147 (Director of Indian Oil Corporation vs. Santosh Kumar)

3. We have given our anxious thought to the arguments advanced by the counsel for the parties. In view of the aforesaid decisions, we are fully satisfied that the appellate authority had not at all considered the grounds taken in the appeal dated 06.12.2005, the appellate order has been passed in a most casual and perfunctory manner without application of mind. Accordingly, we quash and set aside the appellate order dated 08.05.2006 and remit back the matter to the appellate authority to reconsider the appeal of the Applicant by passing a reasoned and speaking order in accordance with the provisions of rules, within a period of three months from the date of receipt of a copy of this order.

4. With the above observations and direction, the O.A. is disposed of as above.

SD/- Member (J)

SD/- Member (A)

TRUE CO
प्रतिलिपि
29/4/09
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
29/4/09

1. Original Application No. _____
2. Misc Petition No. 53/67 in OA 134/06
3. Contempt Petition No. _____
4. Review Application No. _____
Applicant(s) Prabhat Ch. Das vs Union of India & Ors

Advocate for the Applicant(s) M. Chanda
Mr. S. Nath, Mr. L. Dutta
Mr. N. Ch. Sharma

Advocate for the Respondent(s) Asst Case

Notes of the Registry Date _____
Order of the Tribunal

25.6.07



The Misc. Petition has been filed by the petitioner challenging the order dated 14.6.07 (Annexure D) wherein the direction was given by the respondents to vacate the quarter within 30 days of the date of publication of this order. It appears that in Annexure D order dated 14.6.07 is different cause of action and the consequential relief cannot be granted in which the applicant has been relief sought challenging the O.A.

M.P. is dismissed/disposed of accordingly. However, liberty is given to the applicant to approach this Tribunal with appropriate forum.

TRUE COPY

प्रतिलिपि

(Signature)

अनुमोदित अधिकारी 25/6/07

Section Officer (Judl)

Central Administrative Tribunal

गुवाहाटी न्यायपीठ

GUWAHATI BENCH

गुवाहाटी-5

Sd/ VICE CHAIRMAN

(Signature)
11/7

99 APO.

7. Col JS Bains
Officer Commanding
306 Station Workshop S.M.E
C/o 99 APO.

8. Shri R.C.Nath
Subedar
IC-750768X
306 Station Workshop S.M.E
C/o 99 APO.

... Respondents.

By M. M.U.Ahmed, Addl. C.G.&C.

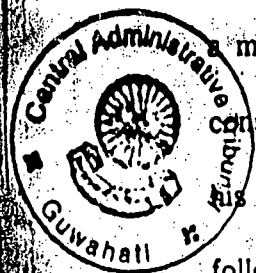
ORDER (ORAL)

A.K.GAUR, MEMBER (J) :

We have heard M.Chanda, learned counsel for the Applicant and Mr. M. Ahmed, learned Addl. Standing counsel for the Government of India.

2. It has been argued by the learned counsel for the Applicant that the order passed by the appellate authority is not a reasoned and speaking one and the appellate authority has passed the said order dated 08.05.2005 in a most casual and perfunctory manner without application of mind without considering all the grounds taken in the appeal dated 06.12.2005. To support his contention, learned counsel for the Applicant has placed reliance on the following Supreme Court decisions in order to buttress the contention that it is the undeniable duty of the appellate authority to consider each and every ground raised in the memorandum of appeal:-

- (i) 2006 SCC L&T 840 (Narinder Mohan Arya. vs. United India Insurance Co. Ltd & Others);
- (ii) AIR 1986 SC 1173 (Ram Chander vs. Union of India & Others)
- (iii) (2005) 7 SCC 97 (National Fertilizers Ltd. and Another vs. P.K.Khanna; & lastly



(iv), 2006 (11) SCC 147 (Director of Indian Oil Corporation vs. Santosh Kumar)

3. We have given our anxious thought to the arguments advanced by the counsel for the parties. In view of the aforesaid decisions, we are fully satisfied that the appellate authority had not at all considered the grounds taken in the appeal dated 06.12.2005, the appellate order has been passed in a most casual and perfunctory manner without application of mind. Accordingly we quash and set aside the appellate order dated 08.05.2006 and remit back the matter to the appellate authority to reconsider the appeal of the Applicant by passing a reasoned and speaking order in accordance with the provisions of rule within a period of three months from the date of receipt of a copy of this order.

4. With the above observations and direction, the O.A. is disposed of as above.



SD Member (S)
SD Member (A)

TRUE CO
प्रतिकृति
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी ब्याच
Guwahati Bench
गुवाहाटी/Guwahati

27/5/09

06/5

35848

FAX

04/5

URGENT

To.

The Major General
Electrical Mechanical Engineering (MCEME)
(Appellate Authority)
Fort William Kolkata- 21.

Sub: - Intimation regarding judgment and order dated 27.03.2009 in O.A No. 134/2006 (Shri Prabhut Chandru Das - Vs - U.O.I & Ors.) passed by the Hon'ble CAT, Guwahati Bench; compliance of

Sir,

Most humbly I beg to state that being aggrieved with the penalty order bearing letter No. 10401/169/Civ dated 15.04.2005, issued by the disciplinary authority as well as against the impugned appellate order dated 08.05.2006, I had approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati through O.A No. 134/2006. In the said Original Application I also prayed for a direction upon the authority to reinstate me in service at least from the date of dismissal of service. However, the Hon'ble Tribunal vide judgment and order dated 27.03.2009 pleased set aside the Appellate order bearing No. 332229/2/EME Civ 09.05.2008 and further directed to consider appeal of the undersigned with the provisions of law. Hence this appeal before Your Honour with the prayer to consider the following facts and to drop the penalty order dated 15.04.2005 and to reinstate me in service at least from the date of dismissal of service.

1. That Sir, while I was working as Vehicle Mechanic (Motor Vehicle), in the 306 Station Workshop EME, C/o 99 APO, I was holding the post of Vice-President of the Station Workshop, Civilian Workers Union, Shillong.
2. That Sir, during tea break on 01.06.2001 in the Civilian Recreation Room in between 1030 hrs to 1045 hrs wherein the undersigned (Vice President) and Shri Bihari Singha, the General Secretary were busy with the most important works of the Union, mainly on the issue of long standing medical reimbursement claims of the members of the Union, which was initiated by Asstt. Labour Commissioner (Central), Guwahati. In the nick of time all of a sudden, the Officer Commanding (Lt. Col. JS Bains) along with Nb Sub RC Nath and the staff car driver Nk. Purn Singh rushed into the said Civilian

FR	DR

Recreational Room (at around 1045 hrs) compelling all other Defence Civilians, present therein, instantly to scuttle away from the said room out of fear except the undersigned and Shri Bihari Singha, the General Secretary. Having seen both of us in such an un-staggered position there, the Officer Commanding (Lt. Col. JS Bains) seemed to have lost his temper beyond his control, for reasons best known to him only. However, both I and Shri Bihari Singha, while wishing Officer Commanding Lt. Col. Shri JS Bains, politely informed him about the aforesaid burning issues of the Union and at the same time, tried to show him a letter received from the ALC (Central), Guwahati out of the Union file in this regard. But ironically, instead of reciprocating it, the said Officer Commanding started behaving like a person not commensurate with his official status and that was evident from his unparliamentary and un-ethical words, like, "Go to Hell your Union", "Abhi tum log ko suspend karta hoan" etc. and in no time he threw away the said Union file and practically he did what he uttered i.e. both the undersigned and Shri Bihari Singha, the General Secretary were instantly placed under suspension on this very day of 1st June 2001. Only God knows, how things could so happen and that too, so quickly, if there was no preponderance.

3. That Sir, thereafter memorandum of charge sheet bearing No. 21208/169/EST-IND/LC dated 11.07.2001 was served upon me. In the said memorandum of charge sheet in as much as 5 allegations is brought against me as follows:

"1. On 01 Jun 2001, JC-750768X Nb Sub RC Nath of 306 Str Wksp EME went to civilian rest room at 0830h and requested the workers to come to the shop floor for work. T. No. 172 Shri Bihari Singha and T. No. 169 Shri PC Das informed that they will not come out as they wanted to discuss about the picketing by Khasi Student Union on 02 Jun 2001. JC-750768X Nb Sub RC Nath returned back and waited for them for about one hour but 6 of workers did not come to shop floor. JC-750768X Nb Sub RC Nath again went to the civilian rest room along with Nk Puran Singh, Nk SC Singh, Hav J Kushwaha and Hav Lalan Sah at 0930h on 01 Jun 2001. On reaching the rest room of civilian, all other workers except T. No. 172 Shri Bihari Singha and T.

No. 169 Shri PC Das left for the work. They were going through some files. Shri PC Das shouted at Nab Sub RC Nath and said "Hamara Koi Claim Pass Nahi Hota, Yahan Par Sab Gandu Offr Aur JCO Hai, Hum Bharat Varash Ke Employee Hain Yahan Par Dil Karega Bathengi". Shri PC Das again raised his hands to hit Nab Sub RC Nath and said "AAP Chor Ho, FIP Ka Paise Khaya Hai". He made a gesture to hit Nab Sub RC Nath with both hands but Nab Sub RC Nath ducked and saved himself."

On a mere reading of the article of charge it appears that the Officer Commanding Lt. Col. JS Bains has issued the memorandum of charge sheet with whom the alleged incident has taken place on 01.06.2001 since Lt. Col. JS Bains, Officer Commanding is involved in the instant alleged incident on 1st June 2001 as such Lt. Col. JS Bains should not have issued the memorandum of charge sheet since he is an interested party and at his instance the applicant was placed under suspension and further departmental proceeding has been initiated. In the statement of imputation of misconduct the said disciplinary authority tactfully alleged that the incident has taken place in between the applicant and Nab Sub RC Nath without referring his name and his presence at the time of alleged incidence on 1st June 2001. In fact the alleged incident was created by Shri JS Bains himself but in order to impose major penalty in a well planned manner Shri JS Bains tactfully did not show his presence at the place of incidence rather terror was created by Shri Bains alone and on that score alone the memorandum of charge sheet bearing letter No. 21208/169/EST-IND/LC dated 11.07.2001 is liable to be dropped.

That Sir, I beg to say that on a mere reading of the Article of charge, more particularly the charge alleged in Sl. No. 4 and 5 of the article of charge that the I was continuously and willfully neglecting my duty from 1st February 2001 to 1st June 2001 on all working days and continuously and willfully disobedience of order for refusing to proceed to place of work from 1st Feb' 2001 to 1st June 2001 on all working days. Therefore, it appears that the concerned sectional in-charge deliberately did not take any action against me from 1st Feb' 2001 to 1st June 2001 and the allegation of non-performing of

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duties has not reported to the higher authorities by the Section In-Charge and assuming but not admitting that the undersigned has refused to perform the assigned duties than a duty cast on the Section In-Charge to report the matter immediately to the higher authority and in the instant case higher authority is Officer Commanding i.e. Lt. Col. J S Bains and the disciplinary authority ought to have taken action against me on the alleged ground of non-performing his duties for such a long period i.e. about 5 months, whereas no memo or show cause was issued at any point of time since February, 2001 to 1st June 2001 rather I was paid full salary since February 2001 to 1st June 2001. As such, it can rightly be presumed that all the charges labeled against me are false, concocted and baseless not based on any record as because the entire allegation or charges were based on only two lists of documents.

5. That Sir, the disciplinary authority by the impugned letter bearing No. 10401/169/Civ/INQ/2005 dated 15.04.2005, forwarded the impugned penalty order to me. The disciplinary authority by the order dated 15.04.05 imposed the extreme penalty of dismissal from service w.e.f. 15.04.05, interestingly in the penalty order the disciplinary did not consider any of the grounds raised by me in my representation dated 29.11.03 but mechanically followed the inquiry report submitted by the inquiry officer.
6. That Sir, the contention of the disciplinary authority to the effect that the charged official neither opted to cross-examine any witness nor submitted any defence thereof is categorically denied; rather the charged official has been denied reasonable opportunity to advance his defence in the inquiry proceeding in the following manner:
 - (i) Firstly, the applicant was not intimated regarding appointment of the inquiry officer as well as appointment of presenting officer by the disciplinary authority as required under the rule, however the same was intimated to the applicant by the disciplinary authority much after the commencement of the proceeding.

(ii) Listed documents relied upon by the disciplinary authority to substantiate the charges contained in the memorandum of charge sheet has not been supplied to the applicant along with the memorandum of charge sheet even those listed documents also not supplied at any stage of the inquiry proceeding in spite of specific request and thereby reasonable opportunity has been denied to the applicant to take adequate defence to the charges.

(iii) That the inquiry authority deliberately and willfully did not intimate the date of hearing on many occasion when ex parte proceeding was held and in some occasion the inquiry officer deliberately send the intimation of hearing after the expiry of the schedule dates of hearing. The details of delayed communication of hearing dates as well as non-communication of hearing dates are quoted below for perusal since the inquiry proceeding conducted ex parte.

Schedule date of hearing	Date on which intimation of hearing received	Non-receipt of intimation regarding hearing.
20.09.2001	26.09.2001	
09.10.2001	21.11.2001	
22.10.2001	21.11.2001	
16.11.2001	21.11.2001	
17.01.2002	04.03.2002	Since letter dated 22.02.02 received by the applicant on 04.03.02, wherein it is directed to the applicant to appear inquiry on every alternative day.
06.02.2002	04.03.2002	
12.03.2002	04.03.2002	I went to the office but gate was closed due to holiday of Shiv Ratri.
14.03.2002		I appeared in the proceeding.
18.03.2002		I appeared in the proceeding.
20.03.2002		I appeared but it is informed that there is no sitting of inquiry.
21.03.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed me to appear on every alternative day before the inquiry proceeding but inquiry

		held in violation programme fixed by letter dated 22.02.02 that too without intimation.
30.03.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
04.02.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed to me appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
23.04.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.
03.06.2002	No intimation to me.	As per direction contained in the letter dated 22.02.02 it was directed to me to appear on every alternative day before the inquiry proceeding but inquiry held in violation programme fixed by letter dated 22.02.02 that too without intimation.

- (iv) It is categorically submitted that the intimation regarding date of hearing on 20.09.01 has been intimated to the applicant at a later stage after the inquiry was over on the schedule date. Moreover, in terms of the letter dated 22.02.2002 received by the applicant on 04.03.2002, wherein it has been instructed that the proceeding will be held on every alternate day. The applicant thereafter as per instruction appeared on 14.03.02, 18.03.02 and participated in the inquiry proceeding in spite of inhuman torture and humiliation as indicated in preceeding paragraph. Again he went to attend inquiry on 20.03.02

but it was informed by the security personal at the gate that there was no sitting of the inquiry proceeding whereas as per order dated 22.02.02 hearing is supposed to take place on every alternative date but it appears that hearing has been conducted on 21.03.02, 30.03.02, 23.04.02, 03.06.02 in violation of the instructions contained in the letter dated 22.02.02 that too without any intimation to the applicant and thereby denied reasonable opportunity to the applicant.

(v) That the documents relied upon by the disciplinary authority has not been examined as required under the rule.

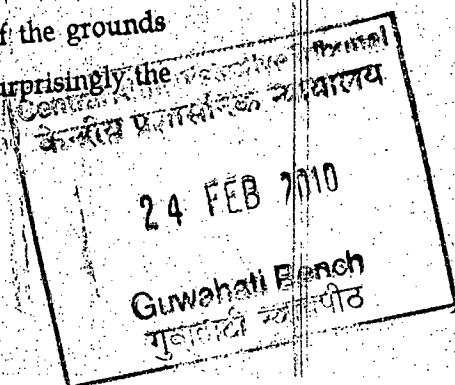
(vi) Out of 9 listed witnesses only stereotype deposition of 5 interested state witnesses has been recorded more or less on the similar fashion on the dictation of the inquiry authority as well as of the higher authority. But the remaining 4 state witnesses have not been examined for the reasons best known to the authority.

(vii) That the statement of deposition of the interested witnesses has been prepared and got signed by them through Nb Sub Shri RC Nath.

(viii) That the charge of continual and willful disobedience of the order of supervisory staff and non-performing of duties w.e.f. 01.02.01 to 01.06.01 has held to be proved by the inquiry officer without examining any evidence on record and also without examining the listed documents but on the basis of deposition of the interested witnesses which was confirmed by the disciplinary authority without any discussion of evidence in his impugned order of penalty dated 15.04.05.

(ix) That the inquiry officer failed to give any specific finding as to whether charge is proved or not in his inquiry report dated 07.07.03 which was forwarded to the applicant vide letter dated 21.11.03 that is after lapse of about more than 4 months.

(x) That the disciplinary authority did not consider any of the grounds raised by me in my representation dated 29.11.03 and surprisingly the



disciplinary authority did not discuss a single evidence in the impugned order of penalty dated 15.04.05 whereby major penalty have been imposed mechanically without application of mind and also without taking into consideration the record of the inquiry proceeding.

- (xi) That the complain lodged by Nb R.C.Nath listed document (a) relied upon by the disciplinary authority neither supplied to the applicant nor examined in ex parte inquiry proceeding but relied upon by the inquiry officer and the D.A. passed the order of penalty on the alleged ground of creating a riotous and disorderly situation in the rest room on 1st June, 2001.
- (xii) Listed document no. (b) whereby allegation of continual and willful absence from work place w.e.f. 01.02.01 to 01.06.01 neither supplied to me nor examined in ex parte inquiry proceeding which is heavily relied upon by the disciplinary authority.
- (xiii) Findings of the I.O and P.O without considering the listed documents relied upon by the D.A is not sustainable in the eye of law.
- (xiv) No show cause notice or warning or memo given to the applicant for alleged continuous willful absence from the place of work w.e.f. 01.02.01 to 01.06.01 by the supervisory officer as alleged even in the list of document (b) which is relied upon by the disciplinary authority as an evidence for alleged absence not even supplied to the applicant in spite of repeated request nor it was examined in the inquiry proceeding.
- (xv) Listed documents relied upon by the D.A not supplied to the applicant in spite of his specific request.
- (xvi) I.O failed to give any specific findings as to whether charge is proved or not in his inquiry report dated 07.07.03.
- (xvii) Col. J.S. Bains, disciplinary authority personally involved in the alleged incident on 01.06.01 who attacked the charged official on

Attested

[Signature]
(Advocate)

24 FEB 2010

Current 11.12.2009

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Annexum 2

ORDERS BY THE APPELLATE AUTHORITY IN RESPECT OF APPEAL
FILED BY T/NO 169 CIV VM(MV) SHRI PC DAS

Tele Mil : 2790

Headquarters
Eastern Command (EME Branch)
Fort William, Kolkata-21

332230/2/PCD/EME Civ

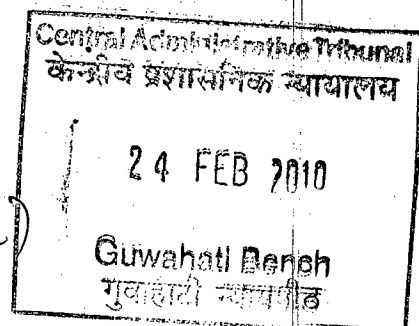
Feb 10

ORDER

1. I have examined the appeal dated 01 Apr 2009 filed by Shri T/No 169/VM (Now Mate) Civ Shri PC Das of Stn Wksp EME, Shillong against the order passed by the disciplinary Authority for dismissing the services of T/o 169 Civ/VM (Now Mate) Shri PC Das and his prayer for setting aside the dismissal order No 10401/169//Civ/Inq/05 date 15 Apr 2005 and for re-instating T/No 169 Civ/VM (Now Mate) Shri PC Das with effect from the date of dismissal.
2. I have also examined the order (Oral) 27th March 2009 of the Hon'ble Mr AK Gaur, Judicial Member and the Hon'ble Mr Khoshiraw, Judicial Member Central Administrative Tribunal, Guwahati Bench for reconsidering the appeal of T/No 169 Shri PC Das for passing a reasoned speaking order in accordance with the provisions of rule within three months from the date of receipt of the copy of this order.
3. The appellant has prayed for the following redressals :-
 - (a) To set aside and quash the order of disciplinary auth issued vide case No 10401//169/Civ/Inq/05 dt 15 Apr 2005 being illegal and arbitrary and to re-instate the appellant/petitioner with consequent benefit.
 - (b) To review the case and pass suitable orders.
4. A perusal of letter No 10401/169/Civ/Inq/05 dated 15 Apr 05 shows that said disciplinary authority had examined all the issues involved therein at great length and disposed off all issues deliberately in detail. I have examined the contentions of the appellant against the order of the disciplinary authority in the light of connected records of the case and I find it being devoid of merit and warrants no interference at this count as the impugned order dated 15 Apr 05 is comprehensive and entail no illegality. The procedure was followed in accordance with the provisions of law affording all the applicable privileges and rights to the appellant. The order was preceded by a detail inquiry, recommendation of inquiry officer, application of mind on the part of disciplinary authority and consideration of commensurating punishment under the provisions of Rule 11 (5) of CCS (CCA) 1965 in shape of major penalty of dismissal from the service.
5. Further the contention of the appellant that Lt Col JS Bains, Officer Commanding, Stn Wksp EME, Shillong and disciplinary authority was involved in the instant incident on 01 Jun 2001 is second thought a blatant lie and primarily aimed at misleading the proceedings. The memorandum of charge sheet bearing letter No 21208/169/Est-IND/LC dt 11 Jul 2001 is just fair and does not warrant any re-consideration.

CONFIDENTIAL


Attested
(Advocate)



6. I have perused the records of the case and am of the considered opinion that the process of disciplinary case against T/No 169 Civ/VM(Now Mate) Shri PC Das has been carried out in fairness and by adopting correct procedures as per provisions of CCS (CCA) Rules 1965 and the representation is found to be unjustified, devoid of merit and does not warrant any consideration.

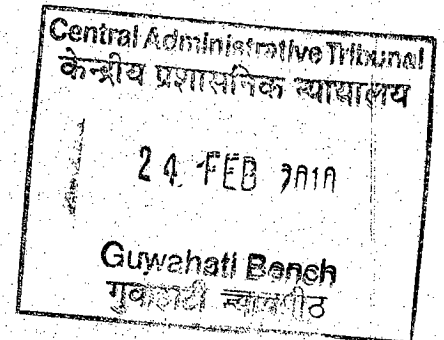
7. The contention of the appellant that consideration has not been given to his representation dated 29 Nov 2003 is wrong and baseless. On the contrary, adequate evidence exists on record to show that he is a habitual offender. Offender takes law in his own hands and has been showing disobedience to the supervisory staff throughout his service career.


8. I have perused the inquiry officers report, record of the inquiry and representation received from the charged official and the evaluation of the disciplinary authority on each article of charge and the subsequent order issued vide letter no 10401/169/Civ/Inq/05 dt 15 Apr 05 and I am of the opinion that the process of disciplinary case against T/No 169 Civ/VM Shri) PC Das has correctly been followed as per provisions of CCS(CCA) Rules 1965 and the findings of guilty are consistent to the evidence and are thus just and legal and the representation being devoid of merit does not warrant any consideration. Hence the appeal is rejected in the interest of Govt service.


(S.C Jain)
Maj Gen
MGEME
Appellate Authority

Copy to :-

T.No 169 Civ VM(MV)
Shri PC Das
Qtr No D-181/2
Burmā Lines
Shillong Cantt




Advocate